

Act No. 10-73

1st Reading 11/4/97
2nd Reading 11/11/97

TENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST SPECIAL SESSION, 1997

C.B. NO. 10-102 , CD3

A BILL FOR AN ACT

To further amend title 19 of the Code of the Federated States of Micronesia, as amended by Public laws Nos. 7-9, 7-114 and 8-49, by repealing title 19 in its entirety, and enacting a new title 19 in lieu thereof, to establish a National Maritime Code, and for other purposes.

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

1 Section 1. Title 19 of the Code of the Federated States
2 of Micronesia is hereby further amended by repealing the title
3 in its entirety.

4 Section 2. Title 19 of the Code of the Federated States
5 of Micronesia is hereby enacted by adding a new chapter 1
6 entitled "General Provisions".

7 Section 3. Title 19 of the Code of the Federated States
8 of Micronesia is hereby enacted by adding a new section 101 to
9 chapter 1 to read as follows:

10 "Section 101. Short title. This Act is known and
11 may be cited as the "National Maritime Act, 1997."

12 Section 4. Title 19 of the Code of the Federated States
13 of Micronesia is hereby enacted by adding a new section 102 to
14 chapter 1 to read as follows:

15 "Section 102. Application.

16 (1) Unless otherwise stated in specific
17 sections, this title shall apply to:

18 (a) all vessels required to be registered
19 in the Federated States of Micronesia, wherever
20 located, and their owners;

21 (b) all other vessels and small craft
22 which operate outside of lagoons in the waters of
23 the Federated States of Micronesia or engage in
24 interstate or foreign commerce, and their owners;

25 (c) all foreign vessels which enter,

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1 operate in, or are located in waters of the
2 Federated States of Micronesia; and

3 (d) all seamen employed on vessels which
4 are registered in the Federated States of Micronesia
5 and any citizens or nationals of the Federated
6 States of Micronesia employed on any foreign vessel.

7 (2) Nothing in this title shall permit any
8 lien or authorize proceedings in rem against any
9 Government Vessel engaged in non-commercial
10 services."

11 Section 5. Title 19 of the Code of the Federated States
12 of Micronesia is hereby enacted by adding a new section 103 to
13 chapter 1 to read as follows:

14 "Section 103. Regulations. The Secretary may
15 promulgate regulations, including fees, to implement
16 this title, which regulations shall have the force
17 and effect of law."

18 Section 6. Title 19 of the Code of the Federated States
19 of Micronesia is hereby enacted by adding a new section 104 to
20 chapter 1 to read as follows:

21 "Section 104. Delegation of authority. The
22 Secretary, Registrar, Principal Surveyor, Principal
23 Shipping Officer, Aids to Navigation Officer, and
24 Receiver of Wreck may delegate in writing all or any
25 of their powers under this title, except this power

1 of delegation."

2 Section 7. Title 19 of the Code of the Federated States
3 of Micronesia is hereby enacted by adding a new section 105 to
4 chapter 1 to read as follows:

5 "Section 105. Admiralty jurisdiction. The Supreme
6 Court of the Federated States of Micronesia shall
7 have exclusive, original jurisdiction in maritime
8 and admiralty matters and in all matters pertaining
9 to this title and regulations."

10 Section 8. Title 19 of the Code of the Federated States
11 of Micronesia is hereby enacted by adding a new section 106 to
12 chapter 1 to read as follows:

13 "Section 106. Definitions. As used in this title:

14 (1) "Authorized officer" means any officer of
15 the Division of Security and Investigation of the
16 Government of the Federated States of Micronesia or
17 any other person authorized in writing by the
18 Attorney General to be an authorized officer;

19 (2) "Authorized Pilot" means a person who has
20 a current, valid Pilotage Certificate issued by the
21 Principal Shipping Officer certifying that the
22 person is competent to provide pilotage services for
23 a specified pilotage area;

24 (3) "Collisions Convention" means the
25 Convention on the International Regulations for

Preventing Collisions at Sea, 1972, as modified by
its protocols, and as amended from time to time;

(4) "Crew" means those persons employed on
board a vessel, but does not include a master,
pilot, supercargo, or a person temporarily employed
on board the vessel while it is in port;

(5) "Dangerous goods" means any goods
classified as dangerous goods in the International
Maritime Dangerous Goods Code, 1965, ("IMDG Code")
published by the International Maritime
Organization, London, as amended from time to time;

(6) "Department" means the Department of
Transportation and Communications of the Federated
States of Micronesia;

(7) "Fishing vessel," for the purposes of this
title only, means any vessel used commercially for
catching fish or other living resources of the sea,
except vessels exclusively used;

(a) for sport or recreation; or

(b) for research and training;

(8) "Government" means the National Government
of the Federated States of Micronesia, or a state
government, or any agency or instrumentality of
either;

(9) "Government Vessel" means a vessel or a

1 class of vessel that:

2 (a) belongs to or is chartered and
3 controlled by the Government; or

4 (b) is held by any person on behalf of,
5 or for the benefit of, the Government;

6 (10) "The Hague-Visby Rules" means the
7 International Convention for the Unification of
8 Certain Rules of Law Relating to Bills of Lading,
9 signed at Brussels on August 25, 1924, as modified
10 by its protocols and as amended from time to time;

11 (11) "Limitation of Liability Convention"
12 means the Convention on Limitation of Liability for
13 Maritime Claims done at London on November 19, 1976,
14 as modified by its protocols and as amended from
15 time to time;

16 (12) "Load Line Convention" means the
17 International Convention on Load Lines, 1966, as
18 modified by its protocols and as amended from time
19 to time;

20 (13) "The MLM Convention" means the
21 International Convention on Maritime Liens and
22 Mortgages, 1993, as modified by its protocols and as
23 amended from time to time;

24 (14) "Marine aid to navigation" means any
25 structure, device, or apparatus the principal

1 purpose of which is to assist in the navigation of
2 vessels and small craft, and includes lights, radio
3 beacons, electronic position fixing devices, buoys,
4 fixed structures, illuminating and reflective
5 devices and any other such apparatus;

6 (15) "Master" means the person having lawful
7 command or charge of the vessel but does not include
8 a pilot;

9 (16) "National Government" means the National
10 Government of the Federated States of Micronesia;

11 (17) "Owner" means the owner, managing owner,
12 demise charterer or operator of a vessel, except
13 where the word is specifically defined differently
14 in a chapter or section, and includes all owners, if
15 there is more than one;

16 (18) "Passenger" means a person carried on
17 board a vessel with the knowledge and consent of the
18 owner or master, other than a person engaged in the
19 business of the vessel;

20 (19) "Passenger vessel" means a vessel which
21 is carrying or capable of carrying more than 12
22 passengers;

23 (20) "Person" means any natural person and any
24 sole proprietorship, partnership, corporation, or
25 any other business or commercial entity or

1 ²⁷
2 (26) "Register" means the official written
3 record of vessels which are registered or have been
4 registered in the Federated States of Micronesia;

5 ²⁸
6 (27) "Registered Vessel" means a vessel
7 registered under this title which is entitled to fly
8 the flag of the Federated States of Micronesia;

9 ²⁹
10 (28) "Registrar" means an employee of the
11 National Government of the Federated States of
12 Micronesia, Department of Transportation and
13 Communications, appointed by the Secretary, to
14 maintain the Register and implement and enforce the
15 provisions of this title relating to the
16 registration of vessels in the Federated States of
17 Micronesia;

18 ³⁰
19 (29) "Safety Convention" means the
20 International Convention for the Safety of Life at
21 Sea, 1974, as modified by its protocols and as
22 amended from time to time;

23 ³¹
24 (30) "Salvage Convention" means the
25 International Convention on Salvage, 1989, as
26 modified by its protocols and as amended from time
27 to time;

28 ³²
29 (31) "Seaman" means a person engaged or
30 employed in any capacity on board a vessel other
31 than a pilot, supercargo, or a person temporarily

1 employed on board the vessel while it is in port,
2 and includes the master and officers;

3 ²⁴
4 (32) "Secretary" means the Secretary of the
5 Department of Transportation and Communications of
6 the Federated States of Micronesia;

7 ²⁴
8 (33) "Shipping Articles" means the written
9 employment contract between the owner or master of a
10 vessel and a seaman to be employed on board the
11 vessel setting forth the terms and conditions of
12 employment;

13 ²⁴
14 (34) "Small craft" means vessels of less than
15 12 meters in length of any kind or type used or
16 capable of being used as a means of transportation
17 on water, vessels of any length used exclusively for
18 private, non-commercial recreation and pleasure, and
19 traditional canoes of any length, but not including:

20 (a) craft belonging to the defense forces
21 of any nation; and

22 (b) fishing vessels;

23 ²⁴
24 (35) "STCW Convention" means the International
25 Convention on Standards of Training, Certification
26 and Watchkeeping for Seafarers, 1978, as modified by
27 its protocols and as amended from time to time;

28 ²⁴
29 (36) "Stowaway" means a person carried to sea
30 without the knowledge and consent of the master or

1 other authorized person;

2 ³⁷
~~(37)~~ "Supreme Court" or "Court" means the
3 Supreme Court of the Federated States of Micronesia;

4 ³⁸
~~(38)~~ "Tonnage Measurement Convention" means -
5 the International Convention on Tonnage Measurement
6 of Ships, 1969, as modified by its protocols and as
7 amended from time to time;

8 ³⁹
~~(39)~~ "Vessel" means every type or kind of
9 watercraft used or capable of being used as a means
10 of transportation on water, including fishing
11 vessels, but not including:

12 (a) any craft belonging to the defense
13 forces of any nation;

14 (b) watercraft used exclusively for
15 private, non-commercial recreation and pleasure; or

16 (c) any small craft operated solely
17 within lagoons or on lakes and rivers;

18 ⁴⁰
~~(40)~~ "Waters of the Federated States of
19 Micronesia" means the internal waters, Territorial
20 Sea, and Exclusive Economic Zone as defined in title
21 18 of the Code of the Federated States of
22 Micronesia;

23 ⁴¹
~~(41)~~ "Wreck" means a vessel or any portion
24 thereof which has sustained a casualty causing
25 damage to the vessel to the extent that the

1 seaworthiness of the vessel is threatened or
2 destroyed, and also includes the vessel's cargo, and
3 any jetsam, flotsam, lagan and derelict."

4 Section 9. Title 19 of the Code of the Federated States
5 of Micronesia is hereby enacted by adding a new chapter 2
6 entitled "National Flag and Nationality".

7 Section 10. Title 19 of the Code of the Federated States
8 of Micronesia is hereby enacted by adding a new section 201 to
9 chapter 2 to read as follows:

10 "Section 201. National flag.

11 (1) A Registered Vessel shall fly the national
12 flag of the Federated States of Micronesia during
13 daylight hours when:

14 (a) in the Territorial Sea of the
15 Federated States of Micronesia;

16 (b) in the Territorial Sea of any other
17 nation;

18 (c) outside the Territorial Sea of the
19 Federated States of Micronesia or any other nation
20 on the approach of any other vessel; or

21 (d) in port.

22 (2) No national colors other than the national
23 flag of the Federated States of Micronesia shall be
24 flown on board a Registered Vessel except as a
25 courtesy ensign.

1 (3) The master of a Registered Vessel shall
2 ensure compliance with subsections (1) and (2).

3 (4) A master of a Registered Vessel commits a
4 civil offense if the master knowingly violates this
5 section, and shall be liable to a fine not exceeding
6 \$50,000."

7 Section 11. Title 19 of the Code of the Federated States
8 of Micronesia is hereby enacted by adding a new section 202 to
9 chapter 2 to read as follows:

10 "Section 202. Falsely assuming nationality of the
11 Federated States of Micronesia.

12 (1) It shall be a national offense to
13 knowingly fly the national flag of the Federated
14 States of Micronesia so as to falsely appear to be a
15 Registered Vessel, punishable by a fine not
16 exceeding \$100,000 or imprisonment for not more than
17 1 year, or both.

18 (2) In addition to any other penalties, flying
19 the national flag of the Federated States of
20 Micronesia in violation of subsection (1) shall be
21 sufficient grounds for the vessel to be forfeited to
22 the National Government."

23 Section 12. Title 19 of the Code of the Federated
24 States of Micronesia is hereby enacted by adding a new section
25 203 to chapter 2 to read as follows:

1 "Section 203. Concealment of nationality.

2 (1) The name and port of registry shall be
3 clearly marked on the hull of a vessel.

4 (2) An owner or master of a vessel shall not
5 conceal the nationality of the vessel.

6 (3) It shall be a national offense to violate
7 this section, punishable by a fine not exceeding
8 \$100,000 or imprisonment for not more than 1 year,
9 or both.

10 (4) In addition to any other penalties,
11 violation of this section shall be grounds for the
12 vessel to be forfeited to the National Government."

13 Section 13. Title 19 of the Code of the Federated States
14 of Micronesia is hereby enacted by adding a new section 204 to
15 chapter 2 to read as follows:

16 "Section 204. Authentication of nationality. A
17 vessel about to leave for a foreign port, may be
18 'detained until the master or person in charge has
19 authenticated the nationality of the vessel to the
20 relevant Government authorities by the production of
21 the Certificate of Registry."

22 Section 14. Title 19 of the Code of the Federated States
23 of Micronesia is hereby enacted by adding a new chapter 3
24 entitled "Registration of Vessels, Mortgages and Liens".

25 Section 15. Title 19 of the Code of the Federated States

1 of Micronesia is hereby enacted by adding a new section 301 to
2 chapter 3 to read as follows:

3 "Section 301. Obligation to register.

4 (1) All vessels 12 meters and over which are
5 wholly owned by Qualified Persons, if not registered
6 under the laws of another nation, shall be
7 registered in the Federated States of Micronesia.

8 (2) All vessels 12 meters and over entering or
9 operating within the waters of the Federated States
10 of Micronesia shall be duly registered either in
11 accordance with the laws of the Federated States of
12 Micronesia or another nation.

13 (3) An owner or master of any vessel who
14 knowingly allows the vessel to enter the waters of
15 the Federated States of Micronesia or operate within
16 such waters, unless the vessel is duly registered in
17 accordance with the laws of the Federated States of
18 Micronesia or another nation, commits a civil
19 offense and shall be liable to a fine not exceeding
20 \$50,000. The burden of proof shall lie on the owner
21 or master of the vessel to demonstrate that the
22 vessel is duly registered.

23 (4) A vessel may be detained until the master
24 of the vessel produces its Certificate of Registry.

25 (5) In addition to any other penalties,

1 continued violation of this section shall be grounds
2 for the vessel to be forfeited to the National
3 Government."

4 Section 16. Title 19 of the Code of the Federated States
5 of Micronesia is hereby enacted by adding a new section 302 to
6 chapter 3 to read as follows:

7 "Section 302. Qualifications for vessel
8 registration.

9 (1) For the purposes of this title, a
10 Qualified Person is:

11 (a) a person who is a citizen of the
12 Federated States of Micronesia or which is
13 established in accordance with the laws of the
14 Federated States of Micronesia or any of its states,
15 wholly owned by citizens, whose principal place of
16 business is in the Federated States of Micronesia;

17 (b) a person holding a current and valid
18 foreign investment permit duly issued by the
19 National Government to operate a vessel in
20 interstate or international commerce who or which
21 has its principal place of business in the Federated
22 States of Micronesia; or

23 (c) the national and state governments of
24 the Federated States of Micronesia and their
25 instrumentalities.

(2) Every vessel which is owned by a Qualified Person as defined under subsection (1)(b) shall only be registered in the Federated States of Micronesia if it operates from, and the majority of its voyages begin or end, in the Federated States of Micronesia.

(3) The Registrar shall require the production of satisfactory documentary evidence demonstrating that the owner is a Qualified Person and the vessel meets the requirements for registration.

(4) Ownership of any share of a vessel by a person who is not a Qualified Person shall constitute cause for removal of the vessel from the Registry and forfeiture to the National Government.

(5) A vessel which has ceased to meet the requirements for registration under this chapter shall be struck off the Registry.

(6) Any person who is not a Qualified Person who purports to be a Qualified Person for the purpose of registering a vessel under this title, commits a national offense punishable by a fine not exceeding \$100,000 or imprisonment of not more than 1 year, or both."

Section 17. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 303 to chapter 3 to read as follows:

1 "Section 303. Declaration of Qualified Person. A
2 person shall not be registered as owner of a vessel
3 unless the person has filed a Declaration of
4 Qualified Person with the Registrar, declaring:

5 (1) that the person is a Qualified Person;

6 (2) that no person other than a Qualified
7 Person has any interest in the vessel; and

8 (3) in the case of a vessel to be purchased,
9 that the person to be named as the transferee in the
10 bill of sale is a Qualified Person."

11 Section 18. Title 19 of the Code of the Federated States
12 of Micronesia is hereby enacted by adding a new section 304 to
13 chapter 3 to read as follows:

14 "Section 304. Status of ownership if not a
15 Qualified Person.

16 (1) If a person who is not a Qualified Person:

17 (a) acquires any ownership interest in a
18 Registered Vessel other than by purchase and does
19 not transfer that interest to a Qualified Person or
20 become a Qualified Person within 90 days, that
21 interest shall be struck off the Registry;

22 (b) purchases any ownership interest in a
23 Registered Vessel, and within 90 days does not
24 remove the vessel from the Registry or become a
25 Qualified Person that interest shall be null and

void and shall not be registered under this title.

(2) Where equity demands, the Secretary shall have discretion to extend any time period set forth in this section."

Section 19. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 305 to chapter 3 to read as follows:

"Section 305. Voluntary registration of other vessels wholly owned by Qualified Person(s).

Vessels which are not required by this title to be registered in the Federated States of Micronesia, but are wholly owned by Qualified Persons and not registered in any other nation, may be registered in accordance with this title."

Section 20. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 306 to chapter 3 to read as follows:

"Section 306. Continuation of registration.

Vessels which were duly registered in the Federated States of Micronesia before the date on which this Act became law shall be deemed to be registered under this title."

Section 21. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 307 to chapter 3 to read as follows:

1 "Section 307. Liability of owners.

2 (1) Where a person has an undisclosed and
3 unregistered ownership interest in a Registered
4 Vessel and another person is registered as owner,
5 both shall be subject to all pecuniary penalties
6 imposed on the owners of vessels, and proceedings
7 may be taken against either or both of them, with or
8 without joining the other of them.

9 (2) This section does not apply to holders of
10 maritime liens or to a mortgagee, except a mortgagee
11 in possession or control of a vessel."

12 Section 22. Title 19 of the Code of the Federated States
13 of Micronesia is hereby enacted by adding a new section 308 to
14 chapter 3 to read as follows:

15 "Section 308. Ports of Registry. The Secretary may
16 designate Ports of Registry by regulation."

17 Section 23. Title 19 of the Code of the Federated States
18 of Micronesia is hereby enacted by adding a new section 309 to
19 chapter 3 to read as follows:

20 "Section 309. Registrar and Register.

21 (1) The Registrar shall be appointed by the
22 Secretary, and shall keep the Register and any
23 instruments required to be deposited with the
24 Registrar.

25 (2) The Register shall be open to public

inspection during normal business hours.

(3) Extracts from the Register and copies of
the instruments shall be obtainable from the
Registrar upon payment of the fee prescribed in
regulations."

Section 24. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
310 to chapter 3 to read as follows:

"Section 310. Recording of particulars in Register.

(1) A bill of sale, conveyance, mortgage,
assignment of mortgage, or the transfer of any
interest in any Registered Vessel shall not be valid
with respect to such vessel against any person other
than the grantor or mortgagor, his or her heirs or
devisees and persons having actual notice thereof,
until the instrument evidencing such transaction is
recorded in the Register.

(2) The Registrar shall record in the Register
the particulars contained in the instruments as soon
as they are received.

(3) The Registrar shall also record in the
Register:

(a) the name of the vessel;

(b) the names and addresses of the
parties;

1 (c) the time and date of receipt of the
2 instrument;

3 (d) the interest in the vessel
4 transferred or affected;

5 (e) the amount and date of maturity of
6 any mortgage; and

7 (f) any other information prescribed by
8 regulation.

9 (4) After the Registrar has recorded the
10 particulars of the instruments deposited in the
11 Registry, the Registrar shall file the original
12 documents in a separate file for each vessel."

13 Section 25. Title 19 of the Code of the Federated States
14 of Micronesia is hereby enacted by adding a new section 311 to
15 chapter 3 to read as follows:

16 "Section 311. Application for Registration. An
17 Application for Registration under this title shall
18 , be made by the owner in accordance with the
19 regulations."

20 Section 26. Title 19 of the Code of the Federated States
21 of Micronesia is hereby enacted by adding a new section 312 to
22 chapter 3 to read, as follows:

23 "Section 312. Tonnage Certificate.

24 (1) Before registration under this title, a
25 vessel must be inspected by a qualified Surveyor

1 appointed by the Secretary, who shall be authorized
2 to ascertain the tonnage of the vessel and issue a
3 tonnage survey report.

4 (2) On receipt of a tonnage survey report the
5 Principal Surveyor shall, on payment of the
6 prescribed fee, issue a Tonnage Certificate."

7 Section 27. Title 19 of the Code of the Federated States
8 of Micronesia is hereby enacted by adding a new section 313 to
9 chapter 3 to read as follows:

10 "Section 313. Marking.

11 (1) A vessel shall not be registered under
12 this title unless it is marked permanently and in
13 accordance with the regulations.

14 (2) Any person who conceals, removes, alters,
15 defaces or obliterates any mark on any vessel
16 commits a civil offense, and shall be liable to a
17 fine not exceeding \$10,000."

18 Section 28. Title 19 of the Code of the Federated States
19 of Micronesia is hereby enacted by adding a new section 314 to
20 chapter 3 to read as follows:

21 "Section 314. Improper description of vessel in
22 required documentation or marking. An owner or
23 master of a Registered Vessel who permits the vessel
24 to be described by a name other than its registered
25 name in required documentation or marking, commits a

1 civil offense, and shall be liable to a fine not
2 exceeding \$50,000."

3 Section 29. Title 19 of the Code of the Federated
4 States of Micronesia is hereby enacted by adding a new section
5 315 to chapter 3 to read as follows:

6 "Section 315. Entries in the Register.

7 (1) Entries in the Register shall be made in
8 accordance with the regulations.

9 (2) No vessel may be registered under this
10 title by the same name as a vessel already
11 registered."

12 Section 30. Title 19 of the Code of the Federated States
13 of Micronesia is hereby enacted by adding a new section 316 to
14 chapter 3 to read as follows:

15 "Section 316. Change of ownership.

16 (1) Where a Registered Vessel is sold,
17 conveyed or otherwise transferred to a Qualified
18 Person, the vessel shall be transferred by a bill of
19 sale in the prescribed form and executed by the
20 transferor and the transferee and, in the case of a
21 corporation, by affixing the corporate seal.

22 (2) Where an interest in a Registered Vessel
23 changes ownership, the owner shall, within ten days
24 after such change, register the vessel in accordance
25 with the Vessel Registration Regulations, and a new

1 Certificate of Registry shall be issued, provided
2 the vessel still qualifies for registration."

3 Section 31. Title 19 of the Code of the Federated States
4 of Micronesia is hereby enacted by adding a new section 317 to
5 chapter 3 to read as follows:

6 "Section 317. Recording of bills of sale.

7 (1) A bill of sale or related document
8 transferring an interest in a Registered Vessel or
9 any other instrument related thereto shall not be
10 recorded in the Register unless it states the
11 interest of the grantor in the vessel and the
12 interest sold or conveyed.

13 (2) Upon payment of the prescribed fee, the
14 Registrar shall record the documents in subsection
15 (1) in the order of their receipt and sign each
16 document stating the time and date that each was
17 received."

18 Section 32. Title 19 of the Code of the Federated States
19 of Micronesia is hereby enacted by adding a new section 318 to
20 chapter 3 to read as follows:

21 "Section 318. Certificate of Registry.

22 (1) When all the prescribed requirements for
23 registration have been met with respect to a vessel,
24 the Registrar shall issue a Certificate of Registry.

25 (2) The Certificate of Registry shall contain an

1 accurate description of the vessel and list any and
2 all ownership interests in the vessel.

3 (3) The Certificate of Registry shall be kept on
4 board the vessel.

5 (4) The Certificate of Registry is not a document
6 which transfers title in a vessel and shall not be
7 subject to detention except as is provided in
8 subsection (6).

9 (5) Any owner or master who knowingly uses or
10 allows the use of a Certificate of Registry for any
11 purpose which would mislead or deceive or have the
12 tendency to mislead or deceive any other person,
13 commits a civil offense and shall be liable to a
14 fine not exceeding \$50,000.

15 (6) Surrender of certificate.

16 (a) Any person who holds a Certificate of
17 Registry shall surrender it on demand to the person
18 entitled to its custody for the lawful navigation of
19 the vessel, to the Registrar, or to any other person
20 entitled by law to require its delivery.

21 (b) Any person who fails to comply with this
22 subsection commits a civil offense and shall be
23 liable to a fine not exceeding \$50,000."

24 Section 33. Title 19 of the Code of the Federated States
25 of Micronesia is hereby enacted by adding a new section 319 to

1 chapter 3 to read as follows:

2 "Section 319. Provisional Certificate of Registry.

3 (1) Where a vessel is acquired outside the
4 Federated States of Micronesia by a Qualified
5 Person, the Registrar may issue a Provisional
6 Certificate of Registry.

7 (2) The owner or master of a provisionally
8 Registered Vessel shall, within 10 days after the
9 arrival of the vessel in the Federated States of
10 Micronesia, deliver the Provisional Certificate of
11 Registry to the Registrar.

12 (3) The Registrar may only issue a Certificate
13 of Registry after the vessel has fully complied with
14 all the requirements of the Vessel Registration
15 Regulations."

16 Section 34. Title 19 of the Code of the Federated States
17 of Micronesia is hereby enacted by adding a new section 320 to
18 chapter 3 to read as follows:

19 "Section 320. Alterations. Where a Registered
20 Vessel is so altered that the Tonnage Certificate or
21 the description of the vessel contained in the
22 Register is no longer accurate, the owner shall
23 register the alteration within 7 days after
24 completion of the alteration."

25 Section 35. Title 19 of the Code of the Federated States

1 of Micronesia is hereby enacted by adding a new section 321 to
2 chapter 3 to read as follows:

3 "Section 321. Duty to provide information to
4 Registrar. The owner of any Registered Vessel who
5 is directed in writing by the Registrar to provide
6 information concerning the vessel or its owners
7 shall comply within 10 days."

8 Section 36. Title 19 of the Code of the Federated States
9 of Micronesia is hereby enacted by adding a new section 322 to
10 chapter 3 to read as follows:

11 "Section 322. Notification of vessel loss or
12 destruction. The owner of a Registered Vessel shall
13 immediately notify the Registrar in writing if the
14 vessel is lost or destroyed, or any owner ceases to
15 be a Qualified Person."

16 Section 37. Title 19 of the Code of the Federated States
17 of Micronesia is hereby enacted by adding a new section 323 to
18 chapter 3 to read as follows:

19 "Section 323. Liabilities of unregistered vessels.
20 Where a vessel is required to be registered but is
21 not, the vessel, its owners and master shall:

22 (1) not be entitled to any benefits,
23 privileges, advantages or protections enjoyed by
24 Registered Vessels;

25 (2) not be relieved of obligations under this

title and regulations by reason of the fact that the vessel is not registered;

(3) remain liable for the payment of all dues, fees, fines or other charges, for forfeiture, and for punishment for offenses in the same manner as if the vessel were registered."

Section 38. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 324 to chapter 3 to read as follows:

"Section 324. Recording of mortgages.

(1) A Registered Vessel may be made security for a loan or other financial obligation by way of a mortgage in the prescribed form.

(2) A mortgage shall not be recorded in the Registrar unless it states the interest of the mortgagor in the vessel and the term and conditions of the mortgage on the vessel.

(3) Upon payment of the prescribed fee, the Register shall record mortgages in the order of their receipt and sign each mortgage stating the time and date that each was received.

(4) The Registrar shall endorse on the Certificate of Registry of the vessel covered by the mortgage:

(a) the names of the mortgagor and

1 mortgagee;

2 (b) the amount and date of maturity of
3 the mortgage; and

4 (c) the time and date the mortgage was
5 recorded."

6 Section 39. Title 19 of the Code of the Federated States
7 of Micronesia is hereby enacted by adding a new section 325 to
8 chapter 3 to read as follows:

9 "Section 325. Recording of notices of claim of
10 lien.

11 (1) The Registrar shall upon the request of
12 any person record in the Register notice of such
13 person's claim to a lien on a Registered Vessel,
14 supported by credible documentary evidence, together
15 with the nature, date of creation, and amount of the
16 lien and the name and address of the person.

17 (2) Any person who has caused notice of a
18 claim of lien to be so recorded shall, upon
19 discharge of the indebtedness, forthwith file a
20 certificate of such discharge with the Registrar,
21 who shall record the discharge of the indebtedness
22 giving rise to the lien."

23 Section 40. Title 19 of the Code of the Federated States
24 of Micronesia is hereby enacted by adding a new section 326 to
25 chapter 3 to read as follows:

1 "Section 326. Priority of maritime liens and
2 mortgages.

3 (1) All claims secured by maritime liens on
4 any Registered Vessel shall take priority over all
5 registered mortgages and charges which have been
6 duly recorded by the Registrar in the Register, and
7 no other claim shall take priority over such
8 maritime liens or over such mortgages or charges.

9 (2) Each of the following claims against the
10 owner, demise charterer, manager or operator of a
11 Registered Vessel shall be secured by a maritime
12 lien on the vessel:

13 (a) claims for wages and other sums due
14 to the master, officers and other members of the
15 crew in respect of their employment on the vessel,
16 including costs of repatriation and social insurance
17 contributions payable on their behalf;

18 (b) claims in respect of loss of life or
19 personal injury occurring, whether on land or on
20 water, in direct connection with the operation of
21 the vessel;

22 (c) claims for reward for the salvage of
23 the vessel;

24 (d) claims for port, canal, and other
25 waterway dues and pilotage dues;

1 (e) claims based on tort arising out of
2 physical loss or damage caused by the operation of
3 the vessel other than loss of or damage to cargo,
4 containers and passengers" effects carried on the
5 vessel.

6 (3) (a) The maritime liens set out in
7 subsection (2) shall rank in the order listed,
8 PROVIDED HOWEVER, that maritime liens securing
9 claims for reward for the salvage of a vessel shall
10 take priority over all other maritime liens which
11 have attached to the vessel prior to the time when
12 the salvage operations giving rise to the salvage
13 claims were performed.

14 (b) Where a claim for reward for the
15 salvage of a vessel is recorded in the Register, the
16 maritime liens set out in each of subsections (a),
17 (b), (d) and (e) of subsection (2) shall rank pari
18 passu as among themselves.

19 (4) The maritime liens securing claims for
20 reward for the salvage of a vessel shall rank in the
21 inverse order of the time when the claims secured
22 thereby accrued. Such claims shall be deemed to
23 have accrued on the date on which each salvage
24 operation was terminated.

25 (5) (a) The assignment of or subrogation to a

claim secured by a maritime lien entails the simultaneous assignment of or subrogation to such a maritime lien.

(b) Claimants holding maritime liens may not be subrogated to the compensation payable to the owner of the vessel under an insurance contract.

(6) A maritime lien shall be extinguished after a period of 1 year, unless extended by an order of the Supreme Court.

(7) Where there is more than one mortgage recorded in the Register in respect of the same vessel, the mortgagees shall, notwithstanding any expressed, implied, or constructive notice, be entitled in priority one over the other according to the time and date on which each mortgage was recorded in the Register and not according to the date of each mortgage itself.

(8) A registered mortgage shall not be affected by any act of bankruptcy or insolvency committed by the mortgagor after the date of recording of the mortgage, notwithstanding that the bankrupt or insolvent mortgagor had, at the time of the insolvency, the vessel in his possession, order or disposition.

(9) Any such registered mortgage shall have

1 priority over any right, claim, or interest in the
2 vessel of the other creditors of the bankrupt or any
3 trustee or assignee on their behalf."

4 Section 41. Title 19 of the Code of the Federated States
5 of Micronesia is hereby enacted by adding a new section 327 to
6 chapter 3 to read as follows:

7 "Section 327. Mortgages in default.

8 (1) A mortgagee of a Registered Vessel shall
9 not by reason of the mortgage be deemed to be the
10 owner of the vessel, nor shall the mortgagor be
11 deemed to have ceased to be the owner of the vessel.
12 (2) On default of any term of a mortgage, a
13 mortgagee may enforce a claim for outstanding
14 indebtedness secured by the mortgaged vessel in a
15 civil action in personam in the Supreme Court
16 against the mortgagor, maker, co-maker, or guarantor
17 for the amount of the outstanding indebtedness or
18 any deficiency in full payment of that indebtedness.
19 (3) In the event of default of the mortgage,
20 the registered mortgagee shall be entitled to
21 recover the amount due under the mortgage by
22 applying to the Supreme Court for an order,
23 directing that the mortgaged vessel, or any share
24 therein, be sold by tender or at a public auction,
25 and that the proceeds of the sale be used to

1 satisfy:

2 (a) the expenses of conducting the sale;

3 (b) the amount outstanding to the

4 mortgagee under the mortgage; and

5 (c) the amount outstanding to subsequent

6 mortgagees, with the balance being distributed to

7 the mortgagor.

8 (4) Upon receiving an application from the

9 mortgagee for the order mentioned in subsection (3),

10 the Supreme Court may set a date for a hearing

11 concerning the default of mortgage.

12 (5) The mortgagee shall cause notice to be

13 personally served on the mortgagor and any

14 subsequent mortgagees, but if such required notice

15 cannot be personally served, then an application may

16 be made to the Supreme Court providing for the date

17 of the hearing to be publicized on at least one

18 radio station at the location of mortgagor and

19 subsequent mortgagees and by any other means having

20 wider circulation, and such shall be considered to

21 be service of adequate notice on the parties.

22 (6) Where the Supreme Court has found the

23 mortgage to be in default, it may order the forced

24 sale of the vessel, or any share therein, and for

25 this purpose the Supreme Court shall appoint a

person as an Officer of the Court to conduct the
sale and distribute the proceeds in accordance with
the order.

(7) An Officer of the Court shall not be
liable for any act or omission in conducting the
sale or distributing the proceeds if acting in good
faith.

(8) Where more than one person is registered
as mortgagee of the same vessel, a subsequent
mortgagee shall not make an application to sell the
vessel without the concurrence of every prior
mortgagee, except under an order of the Supreme
Court.

(9) Where a vessel has been sold in accordance
with subsection (6), the Supreme Court shall, by
order, vest ownership of the vessel in the
purchaser, which order shall be recorded in the
Register by the Registrar."

Section 42. Title 19 of the Code of the Federated States
of Micronesia is hereby enacted by adding a new section 328 to
chapter 3 to read as follows:

"Section 328. Notice of action to enforce mortgage.

(1) Actual notice of a civil action brought in
the Supreme Court to enforce a mortgage shall be
personally served on:

1 (a) the owner, master or individual in
2 charge of the vessel or his agent for service of
3 process;

4 (b) a subsequent mortgagee of an
5 undischarged mortgage recorded under this chapter;
6 and

7 (c) any person who has recorded a
8 maritime lien on the vessel.

9 (2) Personal service of notice is not required
10 if, after search satisfactory to the Supreme Court,
11 persons entitled to such notice have not been found
12 in the Federated States of Micronesia."

13 Section 43. Title 19 of the Code of the Federated States
14 of Micronesia is hereby enacted by adding a new section 329 to
15 chapter 3 to read as follows:

16 "Section 329. Operation of vessel pending
17 disposition. When a civil action has been commenced
18 in the Supreme Court:

19 (1) the Court may appoint and authorize a
20 person to manage and operate the mortgaged vessel
21 but shall retain in rem jurisdiction over the vessel
22 even if the vessel operates outside the Federated
23 States of Micronesia; and

24 (2) the Court may request the Attorney General
25 to direct the national police or other authorized

1 officer to take possession of a mortgaged vessel
2 even if the vessel is in the possession of or under
3 the control of a person claiming a possessory lien."

4 Section 44. Title 19 of the Code of the Federated States
5 of Micronesia is hereby enacted by adding a new section 330 to
6 chapter 3 to read as follows:

7 "Section 330. Continuation of mortgagee's interest.

8 (1) The interest of a mortgagee in a
9 Registered Vessel shall not be terminated by a
10 forfeiture of the vessel for a violation of any of
11 the laws of the Federated States of Micronesia,
12 unless the mortgagee authorized, consented or
13 conspired to effect the illegal act, failure, or
14 omission which constituted such violation.

15 (2) In the event of forfeiture resulting in a
16 forced sale of the vessel by tender or public
17 auction, the proceeds of the sale shall be used to
18 satisfy:

19 (a) the expenses of conducting the sale;

20 (b) the amount outstanding to the
21 mortgagee under the mortgage; and

22 (c) the amount outstanding to subsequent
23 mortgagees.

24 (3) Any remaining balance from the proceeds of
25 the sale shall not be paid to the mortgagor, but

1 shall be paid into the General Fund of the Federated
2 States of Micronesia."

3 Section 45. Title 19 of the Code of the Federated States
4 of Micronesia is hereby enacted by adding a new section 331 to
5 chapter 3 to read as follows:

6 "Section 331. Transfer of mortgage.

7 (1) A registered mortgage of a vessel may be
8 transferred to any person by registration of an
9 instrument of transfer of that mortgage in the
10 prescribed form.

11 (2) On the production to the Registrar of an
12 instrument of transfer of a registered mortgage and
13 of the mortgage to which the instrument relates, the
14 Registrar shall register the transfer by making an
15 entry of the transfer in the Register, and endorse
16 and sign the mortgage and the instrument of transfer
17 to the effect that the entry has been made and
18 stating the date and time of making the entry."

19 Section 46. Title 19 of the Code of the Federated States
20 of Micronesia is hereby enacted by adding a new section 332 to
21 chapter 3 to read as follows:

22 "Section 332. Discharge of mortgage. The
23 mortgagee, upon a complete discharge of the mortgage
24 indebtedness, shall forthwith file a Certificate of
25 Discharge of Mortgage duly executed by the

1 mortgagee, his successors or assigns, with the
2 Registrar, who shall forthwith record the discharge
3 of the mortgage."

4 Section 47. Title 19 of the Code of the Federated States
5 of Micronesia is hereby enacted by adding a new section 333 to
6 chapter 3 to read as follows:

7 "Section 333. Status of mortgage on foreign vessel.

8 In addition to a mortgage made under this chapter,
9 any mortgage or similar charge created as security
10 on any foreign vessel duly and validly executed and
11 registered in accordance with the laws of the nation
12 where the vessel is registered, may be enforced in
13 the Supreme Court if the vessel is in the waters of
14 the Federated States of Micronesia."

15 Section 48. Title 19 of the Code of the Federated States
16 of Micronesia is hereby enacted by adding a new section 334 to
17 chapter 3 to read as follows:

18 "Section 334. Disclosure of liens and priority.

19 (1) Where the owner of a Registered Vessel has
20 received a service or the vessel has caused loss of
21 life or personal injury giving rise to a claim which
22 creates a maritime lien against the vessel, the lien
23 holder may require the Registrar to record the lien
24 against the vessel in the Register.

25 (2) Irrespective of whether the maritime lien

1 is registered in accordance with subsection (1), the
2 person who provided the service or who has suffered
3 injury, or the next of kin or executor of the estate
4 of the person who has lost his or her life as a
5 result of the action of the vessel or any other lien
6 holder having a claim against a vessel can exercise
7 that lien against the vessel while it is owned by
8 the original debtor.

9 (3) A maritime lien against a Registered
10 Vessel shall not be enforceable against the vessel
11 subsequently purchased by a bona fide purchaser for
12 value without notice unless it has been recorded in
13 the Register.

14 (4) The failure of a lien holder to register a
15 maritime lien against a Registered Vessel shall not
16 prejudice the claim against the vessel owner who
17 received services or whose vessel caused damage
18 giving rise to the lien in the first instance.

19 (5) A mortgagor, before executing a mortgage
20 in respect of a Registered Vessel, shall disclose to
21 the mortgagee in writing the existence of any
22 maritime lien, prior mortgage, or other obligation
23 or liability upon the vessel to be mortgaged, which
24 is known to the mortgagor.

25 (6) After the execution of such mortgage and

1 before the mortgagee has had a reasonable time to
2 record it and have proper endorsements made upon the
3 Certificate of Registry of the vessel, the
4 mortgagor, without the consent of the mortgagee,
5 shall not incur any contractual obligation creating
6 a lien upon the vessel, having priority over a
7 mortgage other than liens for wages of the crew of
8 the vessel or for salvage.

9 (7) A mortgagor, including an officer,
10 director, agent or employee of a company which owns
11 a vessel the financing of which is secured by a
12 mortgage, who, with intent to defraud:

13 (a) fails to disclose the existence of
14 any prior mortgage, maritime lien, or other
15 obligation or liability upon the vessel; or

16 (b) incurs any contractual obligation
17 giving rise to a lien before the mortgagee has had a
18 reasonable time to record the mortgage, commits a
19 civil offense, liable to a fine not exceeding
20 \$200,000.

21 (8) Upon commission of any civil offense set
22 forth in subsection (7) the mortgage indebtedness
23 shall become immediately due and payable at the
24 election of the mortgagee."

25 Section 49. Title 19 of the Code of the Federated States

1 of Micronesia is hereby enacted by adding a new section 335 to
2 chapter 3 to read as follows:

3 "Section 335. Necessaries.

4 (1) Any person who furnishes stores,
5 provisions, fuel, towage, repairs, use of dry dock
6 or marine railway, or other necessities, to any
7 foreign or domestic vessel upon the order of the
8 owner or person authorized by the owner, shall have
9 a maritime lien on the vessel which shall:

10 (a) subject to sections 334 and 338,
11 follow the vessel notwithstanding any change of
12 ownership, registration or flag;

13 (b) in case of assignment or subrogation
14 of the claim secured by a maritime lien on the
15 vessel, entail the simultaneous assignment of or
16 subrogation to such a maritime lien;

17 (c) be extinguished at the expiration of
18 the lesser period of either:

19 (i) six months from the time when
20 the claims secured thereby arose unless, prior to
21 the expiration of such period, the vessel has been
22 arrested or seized, such arrest or seizure leading
23 to a forced sale; or

24 (ii) sixty days following a sale to
25 a bona fide purchaser of the vessel, such period to

1 commence on the date on which the sale is made in
2 accordance with this chapter:
3 (d) rank after the maritime liens set out
4 in section 326 and also after registered mortgages
5 or charges recorded in accordance with this chapter.
6 (2) The owner, owner's agent, master or any
7 person to whom the management of the vessel is
8 entrusted, shall be presumed to have authority from
9 the owner to procure such necessities.
10 (3) This section shall not confer a lien when
11 persons providing the services referred to in
12 subsection (1) know, or by exercise of reasonable
13 diligence should have ascertained, that because of
14 the terms of a charter party, agreement of sale of
15 the vessel, or for any other reason, the person
16 ordering necessities was without authority to bind
17 the vessel."
18 Section 50. Title 19 of the Code of the Federated States
19 of Micronesia is hereby enacted by adding a new section 336 to
20 chapter 3 to read as follows:
21 "Section 336. Waiver of maritime lien for
22 necessities. This chapter shall not prevent a
23 person who holds a maritime lien for necessities for
24 stores, provisions, fuel, towage, repairs, use of
25 dry dock or marine railway, or other necessities,

1 from waiving the right to a lien against the vessel
2 at any time, by agreement or otherwise."

3 Section 51. Title 19 of the Code of the Federated States
4 of Micronesia is hereby enacted by adding a new section 337 to
5 chapter 3 to read as follows:

6 "Section 337. Arrest of vessels.

7 (1) A Registered Vessel may be arrested in
8 respect of default in payment on claims secured by
9 maritime liens or mortgages against the vessel
10 recorded in the Register.

11 (2) Where sufficient evidence is provided to
12 the Supreme Court to warrant the arrest of a
13 Registered Vessel, the Court may issue an order for
14 the arrest of the vessel.

15 (3) A vessel which has been arrested may only
16 be released by an order of the Court if sufficient
17 security has been provided in the amount and form
18 satisfactory to the claimant; or, if the sufficiency
19 and form is disputed, the Supreme Court may order
20 that security be provided in an amount which shall
21 not exceed the value of the vessel.

22 (4) Upon application of the owner the Court
23 may, in its discretion, as a condition for the
24 arrest of the vessel, impose upon the claimant the
25 obligation to provide security of a kind and for an

1 amount on such terms as the Court deems appropriate
2 and for any loss which may be incurred by the owner
3 or defendant as a result of the arrest.

4 (5) Where sufficient security cannot be
5 obtained by the owner as guarantee for the payment
6 of the maritime lien or mortgage, the lien holder or
7 mortgagee shall file an application with the Supreme
8 Court for an order for the forced sale of the
9 vessel."

10 Section 52. Title 19 of the Code of the Federated States
11 of Micronesia is hereby enacted by adding a new section 338 to
12 chapter 3 to read as follows:

13 "Section 338. Forced sale of vessels.

14 (1) In the event of a forced sale of a
15 Registered Vessel or a foreign vessel, the claimant
16 shall, prior to the forced sale of the vessel,
17 ensure that notice is provided to:

18 (a) the Registrar or the registrar in the
19 nation of the vessel's registration;

20 (b) all holders of registered mortgages
21 or charges;

22 (c) all holders of maritime liens; and

23 (d) the registered owner of the vessel.

24 (2) Such notice shall be provided at least 30
25 days prior to the forced sale, and shall contain the

1 particulars concerning the forced sale as well as
2 the proceeding leading to the forced sale.

3 (3) All registered mortgages or charges,
4 except those assumed by the purchaser with the
5 consent of the holders, and all maritime liens and
6 other encumbrances of whatsoever nature attached to
7 the vessel at the time of the forced sale shall
8 cease to be attached to the vessel provided that:

9 (a) at the time of the sale, the vessel
10 is within the jurisdiction of the Supreme Court; and

11 (b) the sale has been effected in
12 accordance with this chapter.

13 (4) The costs and expenses arising out of the
14 arrest or seizure and subsequent sale of the vessel
15 shall be paid first out of the proceeds of the sale.
16 Such costs and expenses include the costs for the
17 upkeep of the vessel, the master and crew as well as
18 wages, repatriation, social insurance contributions
19 payable on behalf of the master and crew, and other
20 sums and costs referred to in section 326 incurred
21 from the time of arrest or seizure. The balance of
22 the proceeds shall be distributed in accordance with
23 this chapter to the extent necessary to satisfy the
24 respective claims. Upon satisfaction of all
25 claimants, any residue of the proceeds shall be paid

1 to the owner and shall be freely transferable.

2 (5) If at the time of the forced sale the
3 vessel is in the possession of a builder or of a
4 repairer who, under the law of the Federated States
5 of Micronesia enjoys a right of retention, such
6 builder or repairer shall surrender possession of
7 the vessel to the purchaser, but shall be entitled
8 to obtain satisfaction of his claim out of the
9 proceeds of the sale after the satisfaction of the
10 claims of holders of maritime liens.

11 (6) When a vessel has been the object of a
12 forced sale, the Registrar shall, in accordance with
13 the order of the Supreme Court and at the request of
14 the purchaser, issue a certificate to the effect
15 that the vessel is sold free of all registered
16 mortgages or charges, except those assumed by the
17 purchaser, and of all liens and other encumbrances,
18 provided that the requirements set out in
19 subsections (3)(a) and (b) have been complied with.

20 (7) Where the vessel is a Registered Vessel,
21 the Registrar shall delete all registered mortgages
22 or charges except those assumed by the purchaser,
23 issue a Certificate of Deletion for the purpose of
24 new registration, and shall, if the purchaser is a
25 Qualified Person and wishes to register the vessel

1 in the Federated States of Micronesia, proceed in
2 accordance with the requirements of the Vessel
3 Registration Regulations to have the vessel
4 registered in the Register under the name of the
5 purchaser as the new owner.

6 (8) The order of the Supreme Court shall
7 provide that any proceeds of the forced sale are
8 actually available and freely transferable."

9 Section 53. Title 19 of the Code of the Federated States
10 of Micronesia is hereby enacted by adding a new section 339 to
11 chapter 3 to read as follows:

12 "Section 339. Designation of owner; communications
13 and service of process.

14 (1) Where a Registered Vessel is owned by more
15 than one person, one owner shall be designated
16 owner.

17 (2) Communications from the Government may be
18 sent to and service of legal process may be made on
19 the owner at the address on file with the Registrar.
20 Any communication to the owner shall be deemed to be
21 a communication to all owners."

22 Section 54. Title 19 of the Code of the Federated States
23 of Micronesia is hereby enacted by adding a new section 340 to
24 chapter 3 to read as follows:

25 "Section 340. Regulations governing maritime liens

1 and mortgages. The Secretary may promulgate
2 regulations relating to maritime liens and
3 mortgages, taking into account the provisions of the
4 MLM Convention."

5 Section 55. Title 19 of the Code of the Federated States
6 of Micronesia is hereby enacted by adding a new chapter 4
7 entitled "Safety of Vessels".

8 Section 56. Title 19 of the Code of the Federated States
9 of Micronesia is hereby enacted by adding a new section 401 to
10 chapter 4 to read as follows:

1 "Section 401. Application of chapter.

2 (1) Unless otherwise specified herein, this
3 chapter applies to:

4 (a) Registered Vessels (including
5 Government Vessels) wherever located;

6 (b) non-registered small craft which
7 navigate outside lagoons, or navigate within lagoons
8 in such a way as to affect interstate or
9 international commerce;

10 (c) foreign vessels at a port or within
11 the waters of the Federated States of Micronesia.

12 (2) This chapter does not apply to vessels
13 which are compelled by stress of weather or force
14 majeure to enter any of the ports or waters of the
15 Federated States of Micronesia to take refuge."

16 Section 57. Title 19 of the Code of the Federated States
17 of Micronesia is hereby enacted by adding a new section 402 to
18 chapter 4 to read as follows:

19 "Section 402. Regulations relating to international
20 maritime safety conventions. The Secretary may
21 promulgate regulations for maritime safety taking
22 into account international maritime safety
23 conventions, including without limitation, the
24 Collisions Convention, the Load Line Convention, the
25 Safety Convention, the Tonnage Measurement

1 Convention, and the IMDG Code which regulations
2 shall have the force and effect of law."

3 Section 58. Title 19 of the Code of the Federated States
4 of Micronesia is hereby enacted by adding a new section 403 to
5 chapter 4 to read as follows:

6 "Section 403. Regulations for small craft. The
7 Secretary may promulgate regulations necessary to
8 provide for the safety and control of foreign and
9 domestic small craft including those used for
10 fishing."

11 Section 59. Title 19 of the Code of the Federated States
12 of Micronesia is hereby enacted by adding a new section 404 to
13 chapter 4 to read as follows:

14 "Section 404. Principal Surveyor and Surveyors.

15 (1) The Secretary may appoint the Principal
16 Surveyor who shall oversee the implementation and
17 enforcement of this chapter.

18 (2) The Principal Surveyor shall be
19 responsible for the issuing of Safety Certificates.

20 (3) The Secretary may also appoint any
21 qualified surveyor or classification society to be a
22 Surveyor of vessels.

23 (4) The Secretary shall determine by
24 regulation the credentials and experience necessary
25 to qualify for the position of Principal Surveyor or

1 Surveyor."

2 Section 60. Title 19 of the Code of the Federated States
3 of Micronesia is hereby enacted by adding a new section 405 to
4 chapter 4 to read as follows:

5 "Section 405. Powers of Surveyors.

6 (1) A Surveyor may at any reasonable time:

7 (a) go on board and inspect any vessel or
8 small craft, its equipment, cargo or articles on
9 board and any document required to be carried;

10 (b) upon reasonable notice to the owner
11 or master, require the production of books, papers
12 and documents relating to the vessel;

13 (c) conduct other surveys and inspections
14 of the vessel; and

15 (d) require repairs be made to the
16 vessel.

17 (2) The Principal Surveyor may direct any
18 owner or master to move or otherwise prepare a
19 vessel for survey or inspection.

20 (3) The Principal Surveyor may order that a
21 vessel be detained pursuant to section 422.

22 (4) A Surveyor shall not unreasonably detain
23 or delay a vessel."

24 Section 61. Title 19 of the Code of the Federated States
25 of Micronesia is hereby enacted by adding a new section 406 to

1 chapter 4 to read as follows:

2 "Section 406. Survey prior to registration. It
3 shall be a condition precedent to registration that
4 all vessels be surveyed and issued all required
5 Safety Certificates prescribed by regulations."

6 Section 62. Title 19 of the Code of the Federated States
7 of Micronesia is hereby enacted by adding a new section 407 to
8 chapter 4 to read as follows:

9 "Section 407. Safety Certificates.

10 (1) Every Registered Vessel shall display in a
11 prominent and accessible place all current Safety
12 Certificates required to be carried under this title
13 or regulations or a certified copy thereof.

14 (2) No Registered Vessel may go to sea without
15 the required Safety Certificates displayed in
16 accordance with subsection (1).

17 (3) Every vessel in the waters of the
18 Federated States of Micronesia which is required to
19 carry a certificate issued under any international
20 maritime convention or law of the Federates States
21 of Micronesia shall produce those certificates on
22 the request of any duly authorized Surveyor.

23 (4) No foreign vessel may go to sea in the
24 waters of the Federated States of Micronesia without
25 producing the certificates in accordance with

1 subsection (3).

2 (5) Any master, owner or person in charge of a
3 vessel who violates subsections (2) or (4) commits a
4 civil offense, and shall be liable to a fine not
5 exceeding \$50,000."

6 Section 63. Title 19 of the Code of the Federated States
7 of Micronesia is hereby enacted by adding a new section 408 to
8 chapter 4 to read as follows:

9 "Section 408. Certificates to be produced before
10 vessel goes to sea. Before a vessel goes to sea,
11 the master must produce for inspection all required
12 certificates or the statement referred to in section
13 409(2)."

14 Section 64. Title 19 of the Code of the Federated States
15 of Micronesia is hereby enacted by adding a new section 409 to
16 chapter 4 to read as follows:

17 "Section 409. Vessel may go to sea without Safety
18 Certificate in certain circumstances.

19 (1) The Principal Surveyor may allow a vessel
20 to go to sea without a required Safety Certificate
21 if the Principal Surveyor is satisfied that it may
22 proceed without danger to the vessel, crew, or its
23 passengers.

24 (2) If a vessel is allowed to proceed under
25 subsection (1), the Principal Surveyor shall give to

1 the master a written statement of the circumstances
2 and conditions under which the vessel is allowed to
3 go to sea, and the master shall comply with the
4 circumstances and conditions so specified.

5 (3) This section does not apply to vessels
6 which are not required to have Safety Certificates."

7 Section 65. Title 19 of the Code of the Federated States
8 of Micronesia is hereby enacted by adding a new section 410 to
9 chapter 4 to read as follows:

10 "Section 410. Suspension or revocation of Safety
11 Certificate.

12 (1) The Principal Surveyor shall suspend or
13 revoke any Safety Certificate issued upon false or
14 erroneous information, or issued to a vessel which
15 has become unseaworthy, and shall notify the owner
16 or master of the revocation or period of suspension.

17 (2) An owner or master notified of the
18 suspension or revocation of a Safety Certificate
19 shall immediately surrender it to the Principal
20 Surveyor.

21 (3) The Principal Surveyor may resurvey a
22 vessel before issuing a new certificate or removing
23 a suspension."

24 Section 66. Title 19 of the Code of the Federated States
25 of Micronesia is hereby enacted by adding a new section 411 to

1 chapter 4 to read as follows:

2 "Section 411. Change in the condition of the
3 vessel. Where a Registered Vessel has undergone a
4 significant modification to its hull or
5 superstructure or where the operation or safety of a
6 Registered Vessel is impaired because of a change in
7 its condition, the owner or master shall notify the
8 Principal Surveyor within 7 days."

9 Section 67. Title 19 of the Code of the Federated States
10 of Micronesia is hereby enacted by adding a new section 412 to
11 chapter 4 to read as follows:

12 "Section 412. Requirement to carry certain safety
13 equipment.

14 (1) All vessels and small craft shall be
15 equipped with and carry all safety equipment
16 required by applicable regulations, in good order
17 and ready for use.

18 (2) Any person who takes a vessel to sea
19 without all of the safety equipment required by
20 regulations, in good order and ready for use,
21 commits a national offense, punishable by a fine not
22 exceeding \$100,000 or imprisonment for not more than
23 1 year, or both.

24 (3) Any person who takes a small craft to sea
25 without all of the safety equipment required by

1 regulations, in good order and ready for use,
2 commits a national offense, punishable by a fine not
3 exceeding \$10,000 or imprisonment for not more than
4 1 year, or both."

5 Section 68. Title 19 of the Code of the Federated States
6 of Micronesia is hereby enacted by adding a new section 413 to
7 chapter 4 to read as follows:

8 "Section 413. Equivalents. The Principal Surveyor
9 may allow any fitting, material, appliance or
10 apparatus to be fitted or carried or any other
11 provision to be made, if the Principal Surveyor is
12 satisfied that it is at least as effective as that
13 required by the applicable regulations."

14 Section 69. Title 19 of the Code of the Federated States
15 of Micronesia is hereby enacted by adding a new section 414 to
16 chapter 4 to read as follows:

17 "Section 414. Manning of vessels.

18 (1) A vessel at sea shall carry at least the
19 number of qualified seamen required by regulations
20 for a vessel of that size and type.

21 (2) A vessel at sea which does not carry the
22 number of qualified seamen prescribed by regulations
23 shall be deemed to be an unsafe vessel.

24 (3) No vessel shall proceed to sea without the
25 minimum number of qualified seamen prescribed by

1 regulations.

2 (4) An owner and master of a vessel which
3 proceeds to sea without the minimum number of
4 qualified seamen prescribed by regulations commits a
5 national offense, punishable by a fine not exceeding
6 \$100,000 or imprisonment for not more than 1 year,
7 or both."

8 Section 70. Title 19 of the Code of the Federated States
9 of Micronesia is hereby enacted by adding a new section 415 to
10 chapter 4 to read as follows:

11 "Section 415. Vessels to carry qualified radio
12 personnel.

13 (1) All vessels at sea shall be required to
14 carry qualified radio personnel.

15 (2) The Secretary shall prescribe by
16 regulations the specific requirements for radio
17 personnel according to type of vessel, and shall
18 prescribe the delimitation of mandatory radio
19 reporting areas in which each vessel shall be
20 required to report its movements."

21 Section 71. Title 19 of the Code of the Federated States
22 of Micronesia is hereby enacted by adding a new section 416 to
23 chapter 4 to read as follows:

24 "Section 416. Carriage of dangerous goods.

25 (1) Dangerous goods shall be loaded, unloaded,

1 stowed, carried or used in a vessel in a safe
2 manner, as determined by regulations.

3 (2) Where the Principal Surveyor believes that
4 dangerous goods would endanger a vessel or
5 constitute a danger to human life, property, or the
6 environment, the Principal Surveyor may:

7 (a) detain the vessel;

8 (b) prohibit the loading, unloading,
9 stowage, carriage or use of any dangerous goods;

10 (c) order the removal from the vessel of
11 any dangerous goods; and

12 (d) direct the manner of stowage of any
13 dangerous goods."

14 Section 72. Title 19 of the Code of the Federated States
15 of Micronesia is hereby enacted by adding a new section 417 to
16 chapter 4 to read as follows:

17 "Section 417. Powers of the master in relation to
18 dangerous goods. Without liability, a master may
19 refuse to take on board or open and inspect any
20 package which the master reasonably suspects may
21 contain dangerous goods, and may destroy or
22 otherwise dispose of goods which appear to be
23 dangerous goods, and which have been shipped on
24 board the vessel without the master's consent."

25 Section 73. Title 19 of the Code of the Federated States

1 of Micronesia is hereby enacted by adding a new section 418 to
2 chapter 4 to read as follows:

3 "Section 418. Offenses regarding carriage of goods
4 in a dangerous manner.

5 (1) Anyone who loads, unloads, stows, carries
6 or uses any cargo, goods or substances in an unsafe
7 manner so as to endanger a vessel or constitute a
8 danger to human life, property or the environment
9 commits a civil offense and shall be liable on
10 conviction to a fine not exceeding \$500,000.

11 (2) Anyone who falsely describes any dangerous
12 goods, with the intent to conceal their character
13 commits a national offense, punishable by a fine not
14 exceeding \$500,000 or imprisonment for a term not
15 exceeding 2 years, or both."

16 Section 74. Title 19 of the Code of the Federated States
17 of Micronesia is hereby enacted by adding a new section 419 to
18 chapter 4 to read as follows:

19 "Section 419. Forfeiture of dangerous goods. Any
20 dangerous goods consigned to a vessel for interstate
21 or foreign commerce, or shipped, carried, or used in
22 a vessel in violation of this title or the
23 regulations shall be subject to forfeiture to the
24 National Government."

25 Section 75. Title 19 of the Code of the Federated States

1 of Micronesia is hereby enacted by adding a new section 420 to
2 chapter 4 to read as follows:

3 "Section 420. Carriage and safety of passengers.

4 (1) This section applies to passenger vessels,
5 and the Secretary may promulgate regulations to
6 implement this section. This section shall not
7 apply to fishing vessels.

8 (2) No vessel may carry more persons than the
9 maximum number stated in its Safety Certificate.
10 Anyone who violates this subsection commits a civil
11 offense and shall be liable to a fine not exceeding
12 \$100,000.

13 (3) No small craft may carry more persons than
14 the maximum number stated in the regulations.
15 Anyone who violates this subsection commits a civil
16 offense and shall be liable to a fine not exceeding
17 \$50,000.

18 (4) The Principal Surveyor shall notify the
19 master in writing if he finds any danger or
20 potential danger to the safety, comfort, health or
21 well-being of passengers on the vessel.

22 (5) After such notice, passengers may not be
23 carried on the vessel until the Principal Surveyor
24 determines and notifies the master in writing that
25 passengers may be carried without danger to their

safety, comfort, health or well-being. Anyone who
violates this subsection commits a civil offense and
shall be liable to a fine not exceeding \$100,000."

Section 76. Title 19 of the Code of the Federated States
of Micronesia is hereby enacted by adding a new section 421 to
chapter 4 to read as follows:

"Section 421. Submerged load line.

(1) Vessels shall not be so loaded that when
they are in salt water the subdivision load line
mark appropriate to the particular voyage and
condition of service is submerged.

(2) A vessel so loaded is an unsafe vessel
subject to the provisions of section 422."

Section 77. Title 19 of the Code of the Federated States
of Micronesia is hereby enacted by adding a new section 422 to
chapter 4 to read as follows:

"Section 422. Unsafe vessels.

(1) A vessel that is unfit to go to sea
without danger to the vessel, human life, property
or the environment is an unsafe vessel.

(2) Unsafe vessels shall not be sent or taken
to sea or allowed to operate within the waters of
the Federated States of Micronesia.

(3) The Principal Surveyor may detain an
unsafe vessel, PROVIDED, however, written notice of

the reasons for detention shall be immediately
provided to the owner or master.

(4) Unsafe small craft may be detained by
Government authorities until such time as the small
craft is made safe.

(5) Any person who takes a vessel, which the
Principal Surveyor has found to be unsafe, to sea
commits a civil offense and shall be liable to a
fine not exceeding \$500,000."

Section 78. Title 19 of the Code of the Federated States
of Micronesia is hereby enacted by adding a new section 423 to
chapter 4 to read as follows:

"Section 423. Port State control relating to safety
certificates.

(1) While in one of the ports of the Federated
States of Micronesia, every foreign vessel shall be
subject to control by a Surveyor in so far as this
control is directed toward verifying that the Safety
Certificates required to be carried by the vessel
are valid.

(2) Such certificates, if valid, shall be
accepted unless there are clear grounds for
believing that the condition of the vessel or of its
equipment does not correspond substantially with the
particulars of any of the certificates or that the

1 vessel and its equipment are not in compliance with
2 the provisions of the Safety Convention.

3 (3) In the circumstances given in subsection
4 (2) or where a certificate has expired or ceased to
5 be valid, the Principal Surveyor shall take steps to
6 ensure that the vessel shall not sail until it can
7 proceed to sea or leave the port for the purpose of
8 proceeding to the appropriate repair yard without
9 danger to the vessel or persons on board.

10 (4) In the event of this control giving rise
11 to an intervention of any kind, the Secretary shall
12 forthwith inform in writing, through diplomatic
13 channels, the maritime authority of the nation whose
14 flag the vessel is entitled to fly of all the
15 circumstances in which intervention was deemed
16 necessary. In addition, nominated surveyors or
17 recognized organizations responsible for the issue
18 of the certificates shall also be notified.

19 (5) The Principal Surveyor shall relay all
20 relevant information about the vessel to the
21 authorities of the next port of call, in addition to
22 the parties mentioned in subsection (4) above, if it
23 is unable to take action as specified in subsections
24 (3) and (4) above or if the vessel has been allowed
25 to proceed to the next port of call.

1 (6) When exercising control under this section
2 all possible efforts shall be made to avoid unduly
3 detaining or delaying a vessel. If a vessel is
4 unduly detained or delayed it shall be entitled to
5 compensation for any loss or damage suffered."

6 Section 79. Title 19 of the Code of the Federated States
7 of Micronesia is hereby enacted by adding a new section 424 to
8 chapter 4 to read as follows:

9 "Section 424. Duty to report dangers to navigation.

10 (1) When any vessel is within the waters of
11 the Federated States of Micronesia and the master
12 has sighted or otherwise becomes aware of a danger
13 to navigation, the master shall immediately
14 communicate information about such danger to
15 navigation by all means at his or her disposal to
16 vessels in the vicinity and also to the competent
17 authorities at the first point on the coast with
18 which he or she can communicate.

19 (2) Any person who fails to act as required by
20 subsection (1) commits a civil offense and shall be
21 liable to a fine not exceeding \$10,000."

22 Section 80. Title 19 of the Code of the Federated States
23 of Micronesia is hereby enacted by adding a new section 425 to
24 chapter 4 to read as follows:

25 "Section 425. Assistance to persons in danger at

1 sea; false distress signal.

2 (1) A master shall render assistance to any
3 person found at sea and in distress or in danger of
4 being lost if this assistance can be rendered
5 without endangering the vessel, crew or passengers.

6 (2) Failure to render assistance in violation
7 of subsection (1) shall be a national offense
8 punishable by a fine not exceeding \$100,000 or
9 imprisonment for not more than 1 year, or both.

10 (3) The use or exhibition of any distress
11 signal except for the purpose of indicating distress
12 and need of assistance, and the use of any other
13 signals which may be easily confused with a distress
14 signal shall be a national offense punishable by a
15 fine not exceeding \$100,000 or imprisonment for not
16 more than 1 year, or both.

17 (4) This section shall not affect the right to
18 salvage."

19 Section 81. Title 19 of the Code of the Federated States
20 of Micronesia is hereby enacted by adding a new section 426 to
21 chapter 4 to read as follows:

22 "Section 426. Duty of vessel to assist in case of
23 collision.

24 (1) Where two or more vessels are involved in
25 a collision, the master or person in charge of each

vessel shall, if possible without serious danger to
the vessel, crew or passengers:

(a) render such assistance as is
necessary;

(b) stay by the other vessel until it has
no need of further assistance; and,

(c) give to the master or person in
charge of the other vessel its own name and home
port, and the ports from and to which it is bound.

(2) Violation of this section shall be a
national offense punishable by a fine not exceeding
\$100,000 or imprisonment for not more than 1 year,
or both."

Section 82. Title 19 of the Code of the Federated States
of Micronesia is hereby enacted by adding a new section 427 to
chapter 4 to read as follows:

"Section 427. Reporting of marine incidents and
casualties. The master of a vessel shall
immediately report to the Secretary whenever the
vessel:

(1) is involved in an accident, marine
incident, or casualty resulting in damage of any
kind to the vessel, property or the environment, or
any personal injury or loss of life;

(2) receives damage which may render it

1 unsafe;

2 (3) has been in a position of great peril;

3 (4) fouls or does damage to a pipeline,

4 submarine cable or marine aid to navigation; or

5 (5) is in difficulty and is required to put

6 back into a port in the Federated States of

7 Micronesia."

8 Section 83. Title 19 of the Code of the Federated States
9 of Micronesia is hereby enacted by adding a new section 428 to
10 chapter 4 to read as follows:

11 "Section 428. Investigation of marine casualties.

12 Upon the occurrence of any event or incident set

13 forth in section 427 the Secretary may order a

14 preliminary investigation or a Marine Inquiry, or

15 both."

16 Section 84. Title 19 of the Code of the Federated States
17 of Micronesia is hereby enacted by adding a new section 429 to
18 chapter 4 to read as follows:

19 "Section 429. Preliminary investigations.

20 (1) The Secretary may appoint a person to

21 conduct a Preliminary Investigation who may go on

22 board any vessel involved in the casualty, make any

23 and all inquiries, and require the production of any

24 document or certificate relating to any vessel

25 involved in the casualty.

1 (2) On receipt of the investigator's report,
2 or pending the outcome of a Marine Inquiry, the
3 Secretary may order the suspension of any
4 certificate issued by the Department, including a
5 certificate issued to a qualified seaman."

6 Section 85. Title 19 of the Code of the Federated States
7 of Micronesia is hereby enacted by adding a new section 430 to
8 chapter 4 to read as follows:

9 "Section 430. Marine Inquiries.

10 (1) The Secretary may appoint a Board of
11 Marine Inquiry, which shall consist of a chairperson
12 and two other members, and which shall conduct an
13 inquiry in accordance with regulations promulgated
14 by the Secretary.

15 (2) The Board may:

16 (a) go on board any vessel;

17 (b) subpoena witnesses and documents;

18 (c) examine witnesses and producers of
19 documents under oath; and

20 (d) call upon the advice of experts.

21 (3) Decisions and recommendations of the Board
22 shall be made by the majority of the members and
23 shall be in writing, but any member may dissent."

24 Section 86. Title 19 of the Code of the Federated States
25 of Micronesia is hereby enacted by adding a new section 431 to

Preliminary Investigation or Marine Inquiry shall be used in a court or private litigation.

(5) No safety advisory, safety information, hazard notification or other publication issued by the Department on the advice or recommendation of any Preliminary Investigation or Marine Inquiry shall be used in a court or private litigation.

(6) No officer conducting a Preliminary Investigation or a member of a Board of Marine Inquiry shall offer a guarantee of confidentiality to a witness in return for the witness's testifying as to the events leading up to and the cause of the casualty.

(7) An officer conducting a Preliminary Investigation or a member of a Board of Marine Inquiry shall advise a witness of the manner in which the information he or she provides will be treated as privileged under this section.

(8) An officer conducting a Preliminary Investigation or a member of a Board of Marine Inquiry shall not grant any witness immunity from prosecution; PROVIDED HOWEVER, that the Secretary, on the advice of the Attorney General, on being satisfied that the enhancement of safety would be advanced, may grant immunity to a witness from

1 civil, criminal or regulatory proceedings resulting
2 from the occurrence being investigated.

3 (9) Notwithstanding anything contained in this
4 section, the Chairman of the Board of Marine Inquiry
5 or the Secretary may release any type of information
6 obtained during a Preliminary Investigation or
7 Marine Inquiry at any time under such circumstances
8 where an immediate perceived danger to life or
9 public safety is involved, and the person releasing
10 such information shall be relieved of any liability
11 for any action taken in good faith under this
12 section."

13 Section 87. Title 19 of the Code of the Federated States
14 of Micronesia is hereby enacted by adding a new section 432 to
15 chapter 4 to read as follows:

16 "Section 432. Powers of the Board as to
17 certificates.

18 (1) The Board may recommend the suspension or
19 revocation of any certificate issued by the
20 Department or may censure a seaman, where the Board
21 finds that the seaman:

22 (a) is unfit because of incompetence or
23 misconduct or for any other reason which caused or
24 contributed to the casualty; or

25 (b) has been seriously negligent in the

1 discharge of duty thereby causing or contributing to
2 the casualty.

3 (2) Where the Board has recommended the
4 suspension or revocation of a certificate issued by
5 the Department, the Secretary may suspend or revoke
6 such certificate under procedures set forth in title
7 17 of the Code of the Federated States of Micronesia
8 and order the master or seaman to deliver such
9 certificate to the Principal Shipping Officer within
10 15 days.

11 (3) When a certificate is suspended or revoked
12 by the Secretary, the adversely affected person may
13 appeal that decision pursuant to title 17 of the
14 Code of the Federated States of Micronesia."

15 Section 88. Title 19 of the Code of the Federated States
16 of Micronesia is hereby enacted by adding a new chapter 5
17 entitled "Certification of Seamen".

18 Section 89. Title 19 of the Code of the Federated States
19 of Micronesia is hereby enacted by adding a new section 501 to
20 chapter 5 to read as follows:

21 "Section 501. Application of chapter. Except for
22 section 511 which shall apply to foreign seamen of
23 any nationality employed on foreign vessels, this
24 chapter applies to citizens and nationals of the
25 Federated States of Micronesia employed on any

vessel, whether or not such vessel is registered,
and includes citizens of the Federated States of
Micronesia employed on foreign vessels."

Section 90. Title 19 of the Code of the Federated States
of Micronesia is hereby enacted by adding a new section 502 to
chapter 5 to read as follows:

"Section 502. Regulations for certification of
seamen.

(1) The Secretary shall promulgate regulations
relating to the certification of seaman, taking into
account the standards of training, certification and
watchkeeping contained in the STCW Convention, and
these regulations shall have the force and effect of
law.

(2) Where the STCW Convention requires
education and training arrangements, the Secretary
may provide for equivalent arrangements."

Section 91. Title 19 of the Code of the Federated States
of Micronesia is hereby enacted by adding a new section 503 to
chapter 5 to read as follows:

"Section 503. Appointment of Principal Shipping
Officer and Shipping Officers.

(1) The Secretary shall appoint a Principal
Shipping Officer who shall oversee the
implementation and enforcement of the provisions of

this chapter relating to training, qualifications,
and certification of seamen.

(2) The Secretary shall also appoint other
Shipping Officers to assist the Principal Shipping
Officer in matters relating to training,
qualifications and certification of seamen.

(3) The Secretary shall by regulation
determine the credentials and experience necessary
to qualify as a Shipping Officer."

Section 92. Title 19 of the Code of the Federated States
of Micronesia is hereby enacted by adding a new section 504 to
chapter 5 to read as follows:

"Section 504. Certificates of Competency.

(1) The Secretary shall determine by
regulation the requirements for the issuance of
Certificates of Competency for each class and
designation of qualified seamen and the procedures
to be followed in order to meet the requirements.

(2) The Principal Shipping Officer shall issue
Certificates of Competency to seamen who meet the
requirements prescribed by regulation.

(3) A Certificate of Competency is valid
evidence that the holder has met all requirements
for seamen in the class and designation specified on
the certificate and that the holder is competent to

perform all duties of seamen in such class and designation, subject to any condition which may be specified on the certificate.

(4) Upon request, a qualified seaman shall produce the seaman's Certificate of Competency to any Shipping Officer or to the owner or master of a vessel on which the seaman is employed.

(5) A person who goes to sea falsely purporting to be a seaman qualified in a class or designation for which the person has not been issued a Certificate of Competency commits a civil offense and shall be liable to a fine not exceeding \$50,000."

Section 93. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 505 to chapter 5 to read as follows:

"Section 505. Certificates of Sea Service.

(1) The master of all vessels to which this chapter applies shall issue to seamen upon discharge from the vessel a Certificate of Sea Service in a form approved by the Secretary, specifying:

(a) the name of the seaman;

(b) the name, official number, nationality and type of vessel on which the seaman was employed;

(c) the capacity in which the seaman was employed;

(d) the period of the seaman's service on the vessel;

(e) the date and place of the seaman's engagement and discharge; and

(f) conduct and performance evaluations of the seaman during the period of service on the vessel.

(2) Anyone who fraudulently alters or forges a Certificate of Sea Service commits a civil offense and shall be liable to a fine not exceeding \$10,000."

Section 94. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 506 to chapter 5 to read as follows:

"Section 506. Identity cards and record books. The Principal Shipping Officer may issue and require seamen to carry a seaman's identity card and keep a seaman's employment record book in the form prescribed in the regulations."

Section 95. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 507 to chapter 5 to read as follows:

"Section 507. Register of Seamen. The Principal

1 Shipping Officer shall keep a Register of Seamen at
2 the Department, which shall be available and open
3 for inspection by the public during normal business
4 hours."

5 Section 96. Title 19 of the Code of the Federated States
6 of Micronesia is hereby enacted by adding a new section 508 to
7 chapter 5 to read as follows:

8 "Section 508. Requirement for Certified Seamen.

9 (1) All Registered Vessels shall carry the
10 proper number of certificated seamen required by
11 regulations.

12 (2) No vessel shall proceed to sea without
13 carrying the number of certificated seamen
14 prescribed for that type and size of vessel.

15 (3) An owner or master who fails to comply
16 with subsections (1) and (2) commits a national
17 offense, punishable by a fine not exceeding \$100,000
18 or imprisonment for not more than 1 year, or both."

19 Section 97. Title 19 of the Code of the Federated States
20 of Micronesia is hereby enacted by adding a new section 509 to
21 chapter 5 to read as follows:

22 "Section 509. Suspension or revocation of
23 Certificates of Competency.

24 (1) Where there are reasonable grounds to
25 believe that the holder of a Certificate of

Competency is unfit for duty for any reason, the
Principal Shipping Officer may immediately suspend
the seaman's certificate after notice to the seaman,
PROVIDED HOWEVER, that a hearing shall be set within
10 days on the action to be
taken against the seaman who shall be given written
notice of such hearing.

(2) The notice of hearing shall state:

(a) the time, date and place of hearing;

(b) the facts upon which the finding of
unfitness was based;

(c) that the seaman's Certificate of
Competency may be suspended or revoked; and

(d) that the seaman has the right to
contest any action to be taken against him.

(3) The hearing shall be conducted in
accordance with title 17 of the Code of the
Federated States of Micronesia.

(4) A seaman may waive his right to a hearing
under this section and agree to the proposed
suspension or revocation, PROVIDED HOWEVER, such
waiver shall be in writing, and shall contain a
statement that the seaman has had the opportunity to
discuss the matter with the seaman's own attorney.

(5) At the hearing, unless the hearing is

waived by the seaman under subsection (4), if the finding of unfitness is sustained, and the evidence so warrants, the Secretary may suspend or revoke the seaman's Certificate of Competency, or issue a public or private reprimand to the seaman.

(6) Where the decision is to suspend or revoke a Certificate of Competency, the written notice of decision shall:

(a) state the reasons for the suspension or the revocation;

(b) state the dates of suspension or the date of revocation; and

(c) require delivery of the certificate to the Principal Shipping Officer.

(7) A seaman whose Certificate of Competency has been revoked or suspended shall deliver the certificate to the Principal Shipping Officer within 15 days."

Section 98. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 510 to chapter 5 to read as follows:

"Section 510. Appeals.

(1) Where a Certificate of Competency is revoked or suspended or a seaman is issued a reprimand, the seaman may seek judicial review in

1 the Trial Division of the Supreme Court, pursuant to
2 title 17 of the Code of the Federated States of
3 Micronesia.

4 (2) If an appeal is not filed within 60 days
5 of the date on which the decision of the Secretary
6 was made, the decision of the Secretary shall become
7 final and may not be appealed.

8 (3) The decision of the Secretary shall remain
9 in effect pending final outcome of any appeal."

10 Section 99. Title 19 of the Code of the Federated States
11 of Micronesia is hereby enacted by adding a new section 511 to
12 chapter 5 to read as follows:

13 "Section 511. Port State control regarding
14 certification of foreign seamen.

15 (1) While in any of the ports of the Federated
16 States of Micronesia, every foreign vessel shall be
17 subject to inspection by a Shipping Officer to
18 verify that all seamen serving on board who are
19 required to hold a Certificate of Competency or its
20 equivalent are so certificated or hold an
21 appropriate dispensation. Certificates of
22 Competency or their equivalents issued to foreign
23 seamen shall be accepted unless there are clear
24 grounds for believing that a certificate has been
25 fraudulently obtained or that the holder of a

1 certificate is not the person to whom the
2 certificate was originally issued.

3 (2) Inspections conducted by a Shipping
4 Officer under subsection (1) shall be limited to the
5 following:

6 (a) verification that all seamen serving
7 on board who are required by the STCW Convention to
8 be certificated hold a valid Certificate of
9 Competency or its equivalent, or a valid
10 dispensation;

11 (b) assessment of the ability of the
12 seamen on board the vessel to maintain watchkeeping
13 standards as required by the STCW Convention if
14 there are clear grounds for believing that such
15 standards are not being maintained because, while in
16 any of the ports or waters of the Federated States
17 of Micronesia, any of the following has occurred:

18 (i) the vessel has been involved in
19 a collision, grounding, or stranding;

20 (ii) there has been a discharge of
21 any substance from the vessel when underway, at
22 anchor or at berth, which discharge may violate the
23 laws of the Federated States of Micronesia or any of
24 its states, or violate an international convention
25 to which the Federated States of Micronesia is a

party, or international customary law;

(iii) the vessel has been maneuvered
in an erratic or unsafe manner, or navigational
course markers or traffic separation schemes have
not been followed.

(3) In the event that any deficiencies are
found under subsection (1) or under the inspection
procedures conducted under subsection (2), the
Secretary shall inform the master of the vessel in
writing and, through appropriate diplomatic
channels, the maritime authority of the nation whose
flag the vessel is entitled to fly, so that
appropriate action may be taken. Such notification
shall specify the details of the deficiencies found
and the grounds on which the Shipping Officer has
determined that the deficiencies pose a danger to
persons, property or the environment.

(4) Any of the following shall constitute
deficiencies as set forth in subsection (3):

(a) failure of seamen employed on the
vessel to have any certificate required under the
STCW Convention, or a valid dispensation therefor;

(b) failure of navigational or
engineering watch arrangements to conform to the
requirements specified for the vessel by the flag

1 nation;

2 (c) absence in a watch of a person
3 qualified to operate equipment essential to safe
4 navigation or the prevention of pollution; or

5 (d) inability of the master to provide
6 rested persons for the first watch at the
7 commencement of a voyage and subsequent relieving
8 watches.

9 (5) If, taking into account the size and type
10 of the vessel and the length and nature of the
11 voyage, the deficiencies referred to in subsection
12 (4) are not corrected and it is determined that any
13 such deficiency poses a danger to persons, property
14 or the environment, the Secretary shall direct the
15 Principal Shipping Officer to take steps to ensure
16 that the vessel does not sail unless and until these
17 deficiencies have been corrected to the extent that
18 the danger has been removed.

19 (6) Failure to correct the deficiencies
20 referred to in subsection (4) shall be grounds for
21 detaining the vessel."

22 Section 100. Title 19 of the Code of the Federated
23 States of Micronesia is hereby enacted by adding a new chapter
24 6 entitled "Employment and Welfare of Seamen".

25 Section 101. Title 19 of the Code of the Federated

1 States of Micronesia is hereby enacted by adding a new section
2 601 to chapter 6 to read as follows:

3 "Section 601. Application of chapter. This chapter
4 applies to all seamen employed on vessels registered
5 in the Federated States of Micronesia, and to
6 citizens and nationals of the Federated States of
7 Micronesia employed on any foreign vessel."

8 Section 102. Title 19 of the Code of the Federated
9 States of Micronesia is hereby enacted by adding a new section
10 602 to chapter 6 to read as follows:

11 "Section 602. Shipping Officers.

12 (1) The Principal Shipping Officer shall
13 oversee the implementation and enforcement of the
14 provisions of this chapter relating to employment
15 and welfare of seamen.

16 (2) Other Shipping Officers appointed by the
17 Secretary shall assist the Principal Shipping
18 Officer in matters relating to employment and
19 welfare of seamen."

20 Section 103. Title 19 of the Code of the Federated
21 States of Micronesia is hereby enacted by adding a new section
22 603 to chapter 6 to read as follows:

23 "Section 603. Exemption of vessels. The Secretary
24 may by regulation exempt a vessel or class of
25 vessels from any requirement of this chapter for a

1 specified period or for one or more voyages."

2 Section 104. Title 19 of the Code of the Federated
3 States of Micronesia is hereby enacted by adding a new section
4 604 to chapter 6 to read as follows:

5 "Section 604. Employment of seamen. The Secretary
6 may promulgate regulations prescribing:

7 (1) the condition of employment of seamen on
8 vessels, and

9 (2) that a certain proportion of the crew of a
10 Registered Vessel be citizens of the Federated
11 States of Micronesia."

12 Section 105. Title 19 of the Code of the Federated
13 States of Micronesia is hereby enacted by adding a new section
14 605 to chapter 6 to read as follows:

15 "Section 605. Freedom of association. Seamen shall
16 have the right to establish and to become members of
17 any lawful organization."

18 Section 106. Title 19 of the Code of the Federated
19 States of Micronesia is hereby enacted by adding a new section
20 606 to chapter 6 to read as follows:

21 "Section 606. Shipping Articles.

22 (1) The owner or master of a vessel shall
23 enter into a written employment agreement with each
24 and every seaman employed on board, which agreement
25 shall be called Shipping Articles.

1 (2) All Shipping Articles shall provide
2 adequate protection for the interests of the seamen,
3 shall comply with the law, and shall be approved by
4 the Principal Shipping Officer before they are
5 signed by the seamen.

6 (3) The Principal Shipping Officer shall
7 ensure that each seaman has read the Shipping
8 Articles or has had them read to the seaman, and
9 that each seaman understands the terms and
10 conditions of employment set forth in the Shipping
11 Articles.

12 (4) The term of such Shipping Articles may be
13 for one or more voyages on a particular vessel or on
14 one or more vessels of the same owner, but such term
15 shall not exceed a period of 1 year.

16 (5) The owner or master shall file a copy of
17 the Shipping Articles with the Principal Shipping
18 Officer before a vessel goes to sea.

19 (6) A master shall not take a vessel to sea
20 unless each and every seaman employed on board has
21 signed the approved Shipping Articles.

22 (7) A master who takes a vessel to sea without
23 complying with the terms of this section commits a
24 civil offense and shall be liable to a fine not
25 exceeding \$100,000."

1 Section 107. Title 19 of the Code of the Federated
2 States of Micronesia is hereby enacted by adding a new section
3 607 to chapter 6 to read as follows:

4 "Section 607. Seaman prohibited from waiving
5 protection of this chapter.

6 (1) The Principal Shipping Officer shall not
7 approve the Shipping Articles if they purport to
8 modify any rights under this chapter.

9 (2) Shipping Articles shall not contain a
10 provision to waive a seaman's right to salvage
11 unless the vessel is primarily engaged in salvage
12 operations.

13 (3) The Shipping Articles shall contain a
14 provision specifying that any vessel on which the
15 seaman is to be employed is, and shall remain,
16 seaworthy."

17 Section 108. Title 19 of the Code of the Federated
18 States of Micronesia is hereby enacted by adding a new section
19 608 to chapter 6 to read as follows:

20 "Section 608. Termination of Shipping Articles.

21 (1) Shipping Articles may be terminated by:

22 (a) mutual consent;

23 (b) the total loss or inoperability of
24 the vessel;

25 (c) deregistration or deletion of the

vessel from the Register;

(d) the lawful discharge of the seaman;

or

(e) the suspension of the seaman,

PROVIDED that the termination shall be only for the
term of the suspension.

(2) Shipping Articles may not be terminated at
a place away from the proper return port of the
seaman without the consent of the Principal Shipping
Officer."

Section 109. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
609 to chapter 6 to read as follows:

"Section 609. Minimum age for employment.

(1) Persons under the age of 16 years shall
not be employed on vessels engaged in foreign trade,
except on school ships, training vessels, or vessels
on which only members of the person's family are
employed.

(2) The master of a vessel shall keep a
register of all persons under the age of 18 years
employed on board the vessel which shall be filed
with the Principal Shipping Officer before the
commencement of each voyage."

Section 110. Title 19 of the Code of the Federated

1 States of Micronesia is hereby enacted by adding a new section
2 610 to chapter 6 to read as follows:

3 "Section 610. Working hours and overtime.

4 (1) This section does not apply to seamen
5 employed on fishing vessels.

6 (2) The normal hours of work for seamen in
7 port and at sea shall be 8 per day; PROVIDED, that
8 Saturdays and Sundays shall be included as regular
9 workdays.

10 (3) A seaman who, in any 24 hour period, works
11 more than 8 hours shall be compensated at the
12 overtime rate of one and one-half times the rate of
13 basic pay for any period of time worked over 8
14 hours.

15 (4) The number of seamen to be employed on
16 each vessel, to ensure safety of life at sea and to
17 avoid excessive work burdens, shall be in accordance
18 with the manning requirements set out in the
19 appropriate certificate of the vessel."

20 Section 111. Title 19 of the Code of the Federated
21 States of Micronesia is hereby enacted by adding a new section
22 611 to chapter 6 to read as follows:

23 "Section 611. Vacation and public holidays. Every
24 master and seaman employed on a vessel other than a
25 fishing vessel shall be entitled to vacation and

1 public holidays as set forth in regulations
2 promulgated by the Secretary."

3 Section 112. Title 19 of the Code of the Federated
4 States of Micronesia is hereby enacted by adding a new section
5 612 to chapter 6 to read as follows:

6 "Section 612. Stowaways.

7 (1) A stowaway is not entitled to wages, nor
8 to maintenance and cure as provided in this chapter.

9 (2) Stowaways shall be provided with, and may
10 be required to work for, accommodation and
11 subsistence.

12 (3) The master shall discharge stowaways at
13 the first convenient port of call.

14 (4) It shall be a national offense to stowaway
15 on a vessel or to aid and abet a stowaway,
16 punishable by a fine not exceeding \$50,000 or
17 imprisonment for not more than 2 years, or both."

18 Section 113. Title 19 of the Code of the Federated
19 States of Micronesia is hereby enacted by adding a new section
20 613 to chapter 6 to read as follows:

21 "Section 613. Seamen's wages.

22 (1) Each seaman's wages shall commence on the
23 day specified and agreed to in the Shipping Articles
24 or at the time the seaman reports on board the
25 vessel for the purpose of commencing work, whichever

1 first occurs, and shall terminate on the day of the
2 seaman's discharge or upon expiration of the
3 Shipping Articles.

4 (2) In the absence of any agreement to the
5 contrary, the owner or master of the vessel shall
6 pay to every seaman the seaman's wages, overtime and
7 any unpaid leave entitlement within 2 days after the
8 expiration of the Shipping Articles or at the time
9 when the seaman is discharged, whichever first
10 occurs.

11 (3) Before the seaman is discharged or the
12 Shipping Articles expire, every master shall deliver
13 to the seaman a full and true account in the
14 prescribed form of the seaman's wages, including any
15 and all deductions made therefrom."

16 Section 114. Title 19 of the Code of the Federated
17 States of Micronesia is hereby enacted by adding a new section
18 614 to chapter 6 to read as follows:

19 "Section 614. Advances and allotment of wages.

20 (1) Upon request to the master a seaman is
21 entitled to receive one-half of the seaman's wages
22 actually earned in local currency, less allotments
23 and previous advances of wages, payable at every
24 intermediate port but not more than once in any 10-
25 day period. In case of failure to pay a seaman his

wages on demand, the seaman shall be entitled to
file a complaint with the Principal Shipping Officer
who shall investigate the complaint. If the
complaint is upheld, the seaman may terminate the
Shipping Articles and be entitled to payment of the
balance of wages, overtime and leave earned.

(2) No master shall pay any seaman's wages
before they are actually earned, or pay unearned
wages or make any order, note or other evidence of
indebtedness against future wages to any other
person.

(3) The owner, master and any seaman may agree
to make an allotment of a portion of the seaman's
wages payable to a spouse, children, grandchildren,
parents, grandparents, brothers, or sisters, or to a
bank account in the name of the seaman."

Section 115. Title 19 of the Code of the Federated States of
Micronesia is hereby enacted by adding a new section 615 to
chapter 6 to read as follows:

"Section 615. Assignment of wages or salvage.
Except for allotments, assignment of wages or
salvage made prior to the accruing thereof shall not
bind the seaman."

Section 116. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section

1 616 to chapter 6 to read as follows:

2 "Section 616. Wages, personal effects and equipment
3 exempt from attachment. The wages, personal effects
4 and equipment of a seaman shall not be subject to
5 attachment or arrest by any court."

6 Section 117. Title 19 of the Code of the Federated
7 States of Micronesia is hereby enacted by adding a new section
8 617 to chapter 6 to read as follows:

9 "Section 617. Agreements void as to loss of lien or
10 right to wages. Any agreement is null and void in
11 which a seaman purports to:

12 (1) forfeit the seaman's lien upon the vessel
13 or be deprived of any remedy for the recovery of
14 wages to which the seaman would otherwise have been
15 entitled;

16 (2) abandon the seaman's right to wages in the
17 case of the loss of the vessel or any right to
18 salvage."

19 Section 118. Title 19 of the Code of the Federated
20 States of Micronesia is hereby enacted by adding a new section
21 618 to chapter 6 to read as follows:

22 "Section 618. Wages not dependent on freight
23 earned. A seaman's right to wages shall not depend
24 on the earning of freight by the vessel; PROVIDED,
25 that nothing in this section shall be construed to

1 prevent profit-sharing by seamen in addition to
2 their established wages."

3 Section 119. Title 19 of the Code of the Federated
4 States of Micronesia is hereby enacted by adding a new section
5 619 to chapter 6 to read as follows:

6 "Section 619. Wages, maintenance, and benefits for
7 sick and injured seamen.

8 (1) When a seaman becomes unable to work as a
9 result of illness or injury and is under Shipping
10 Articles with an owner or master of a vessel, the
11 seaman shall be entitled to:

12 (a) full wages, as long as he is sick or
13 injured and remains on board the vessel:

14 (b) reasonable medical and surgical
15 treatment and supply of proper and sufficient
16 medicines and therapeutic appliances as are
17 reasonably available, up to a period of 30 weeks, or
18 until declared by a physician to have reached a
19 maximum cure or to be incurable;

20 (c) where it is necessary to put the
21 seaman ashore:

22 (i) board and lodging of
23 equivalent quality to that received on board the
24 vessel up to a maximum period of 30 weeks, PROVIDED
25 that such entitlements shall terminate prior thereto

1 when the seaman is declared by a physician to be fit
2 to work and return to the vessel, to have reached
3 maximum cure, or to be incurable; and

4 (ii) one-third of his base wages
5 during any portion of such period subsequent to his
6 landing from the vessel but not to exceed a maximum
7 period of sixteen weeks commencing from the day of
8 injury or commencement of the sickness.

9 (d) repatriation to the seaman's proper
10 return port including all expenses for
11 transportation, accommodation, and food;

12 (e) other benefits as listed in the disability
13 schedule set forth in regulations promulgated by the
14 Secretary.

15 (2) The master shall take adequate measures
16 for safeguarding property left on board by a sick,
17 injured, or deceased seaman, and shall deliver all
18 property of a deceased seaman to a Shipping Officer.

19 (3) The seaman shall not be entitled to any of
20 the benefits of this section:

21 (a) if such illness or injury resulted
22 from the seaman's intentional act or failure to act,
23 or misconduct;

24 (b) if such illness or injury developed
25 from a condition which the seaman intentionally

concealed from the owner or master at or during the
seaman's engagement under the Shipping Articles;

(c) if the seaman refuses or fails to
avail himself of medical treatment for such illness
or injury or is denied such treatment because of
misconduct or default;

(d) if, at the time of the seaman's
engagement, he refused to be medically examined when
requested by the owner or master.

(4) The seaman shall have a maritime lien
against the vessel for any wages due the seaman
under this section.

(5) The master shall take adequate measures
for safeguarding property left on board by a sick,
injured, or deceased seaman and shall deliver all
property of a deceased seaman to a Shipping
Officer."

Section 120. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
620 to chapter 6 to read as follows:

"Section 620. Death of seaman on board a vessel or
on shore. If a seaman who is under Shipping
Articles dies on board the vessel or on shore, the
employer shall:

(1) forthwith return the seaman's remains to

1 the seaman's proper return port;

2 (2) defray reasonable local burial expenses;

3 (3) be liable for and pay the base wages of
4 the deceased seaman through the end of the month in
5 which the death occurs;

6 (4) pay the wages, maintenance and benefits
7 due the seaman to his estate; and

8 (5) pay the death benefit in the amount listed
9 in the payment schedule set forth in regulations
10 promulgated by the Secretary."

11 Section 121. Title 19 of the Code of the Federated
12 States of Micronesia is hereby enacted by adding a new section
13 621 to chapter 6 to read as follows:

14 "Section 621. Procedures in respect of death on
15 board a vessel.

16 (1) In the event of a death on board a vessel,
17 the master shall make an entry in the official
18 logbook witnessed by an officer.

19 (2) The logbook entry shall contain the
20 deceased's full name, gender, citizenship, date and
21 place of birth, cause of death, place of death
22 (latitude, longitude), date and time of death, place
23 of address, and the names of next-of-kin, if known.

24 (3) If the deceased person is a seaman, the
25 entry shall also contain the seaman's rank or rating

1 and the number and date of issuance of the seaman's
2 certificate.

3 (4) The master shall report the death to the
4 appropriate authorities at the next port of arrival.

5 (5) Where an attending physician is aboard the
6 vessel when a death occurs the physician shall also
7 complete a written report on the cause of death.

8 (6) The master shall forthwith submit to the
9 Principal Shipping Officer a signed statement
10 containing all relevant information and copies of
11 entries, reports and documents produced, attaching a
12 list of personal effects and amounts of money left
13 on board the vessel, and an account of wages for
14 deceased seamen."

15 Section 122. Title 19 of the Code of the Federated
16 States of Micronesia is hereby enacted by adding a new section
17 622 to chapter 6 to read as follows:

18 "Section 622. Exclusiveness of remedy.

19 (1) If a seaman sustains a disabling injury or
20 illness while employed on board a vessel, he shall
21 be entitled to recover from his employer the
22 compensation and benefits set forth in this chapter.

23 (2) The right to recover such benefits and
24 compensation shall exclude all other liability of
25 the employer to the seaman, his spouse, next of kin,

dependents, legal representative, or anyone else who
would otherwise be entitled to recover damages from
the employer on account of the disabling injury,
illness, or death.

(3) This section shall not apply if the
employer has failed to provide the seaman with the
benefits and compensation to which he is entitled
under this chapter."

Section 123. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
623 to chapter 6 to read as follows:

"Section 623. Liability of persons other than the
employer.

(1) When a seaman sustains a work-related
injury, illness or death for which benefits and
compensation are payable pursuant to this chapter
under circumstances creating in some person other
than the employer a legal liability to pay damages
on account thereof, the seaman or the seaman's
estate may bring an action to recover damages from
such third person.

(2) If the seaman or the seaman's estate
commences an action as provided for in subsection
(1), the seaman's employer shall be served with a
copy of the complaint by personal service or

1 registered mail without delay and may join the
2 action as a party plaintiff at any time before
3 commencement of trial.

4 (3) If the seaman or the seaman's estate
5 recovers damages in a suit against a third person
6 brought under subsection (1), the employer is
7 entitled to reimbursement of the benefits or
8 compensation paid to the seaman under this chapter
9 up to the amount of the damages recovered by the
10 seaman against the third person.

11 (4) If an action has not been brought against
12 a third person by the seaman or his estate within 1
13 year after the date of the work-related injury,
14 illness or death for which benefits and compensation
15 are payable under this chapter, the employer shall
16 be subrogated to the rights of the seaman or his
17 estate, and may bring an action against such third
18 person. The seaman or his estate may at any time
19 commence an action or join in any action commenced
20 by the employer against such third person.

21 (5) No release or settlement of any claim or
22 action under this section is valid without the
23 written consent of the employer and the seaman or
24 the seaman's estate. Any settlement payment or
25 judgment obtained from a third person is subject to

the employer's right of reimbursement of
compensation payments made under this chapter."

Section 124. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
624 to chapter 6 to
read as follows:

"Section 624. Wrongful death of seamen. Whenever
the death of a seaman is caused by gross negligence,
misconduct, or intentional act, notwithstanding
section 623, the personal representative of the
deceased seaman may bring an action for wrongful
death, for the benefit of the deceased's spouse,
parent, child, or dependent relative, against the
vessel, owner, employer, master, or any other party
which would have been liable had death not
occurred."

Section 125. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
625 to chapter 6 to read as follows:

"Section 625. Wages after wreck or loss of vessel.
A seaman whose employment is terminated because a
vessel is wrecked, lost or unable to proceed is
entitled to wages for 30 days after the employment
is terminated."

Section 126. Title 19 of the Code of the Federated

1 States of Micronesia is hereby enacted by adding a new section
2 626 to chapter 6 to read as follows:

3 "Section 626. Repatriation.

4 (1) Any seaman who is put ashore at a port
5 other than the proper return port, for reasons for
6 which the seaman is not responsible, shall be
7 returned at no expense to the seaman to:

8 (a) the proper return port; or

9 (b) another port, agreed to between the
10 seaman and the owner or master, if the seaman does
11 not wish to return to the proper return port.

12 (2) Any seaman whose period of employment is
13 not terminated shall continue to receive wages and
14 benefits until the seaman has arrived at the proper
15 return port.

16 (3) Any seaman whose period of employment is
17 terminated by reason of completion of the voyage for
18 which the seaman was engaged or by expiration of the
19 Shipping Articles or other employment contract,
20 shall be entitled to repatriation, at no expense to
21 the seaman to:

22 (a) the proper return port; or

23 (b) another port, agreed to between the
24 seaman and the owner or master.

25 (4) The seaman shall lose his right to

repatriation if within 1 week from the time the
seaman is in a condition to be repatriated:

(a) he fails to comply with any
arrangement made for his repatriation; or

(b) he refuses to be repatriated.

(5) A seaman shall forfeit the right of
repatriation under the seaman's Shipping Articles if
the seaman enters into a new employment agreement or
Shipping Articles with:

(a) the same owner after his discharge;

or

(b) a new owner within 1 week after his
discharge.

(6) A seaman shall forfeit the seaman's right
of repatriation if the seaman commits any national
offense or civil offense under this chapter.

Section 127. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
627 to chapter 6 to read as follows:

"Section 627. Abandonment of seamen.

(1) No master or person in charge of a vessel
in any foreign port or place may, without
justifiable cause, refuse to bring any seaman to the
seaman's proper return port if the seaman is
physically able to proceed when the master is ready

1 to proceed.

2 (2) An abandoned seaman shall retain his right
3 to repatriation."

4 Section 128. Title 19 of the Code of the Federated
5 States of Micronesia is hereby enacted by adding a new section
6 628 to chapter 6 to read as follows:

7 "Section 628. Seaman left behind. A master shall
8 notify a Shipping Officer by the quickest possible
9 means as soon as it is learned that a seaman has
10 been or must be left behind somewhere other than the
11 seaman's proper return port."

12 Section 129. Title 19 of the Code of the Federated
13 States of Micronesia is hereby enacted by adding a new section
14 629 to chapter 6 to read as follows:

15 "Section 629. Grounds for discharge. The master
16 may discharge a seaman for justifiable cause,
17 including any of the following grounds:

18 (1) unjustified failure to report on board at
19 such times and dates as may be specified by the
20 master;

21 (2) incompetence to perform duties for which
22 the seaman has represented himself as qualified;

23 (3) theft, embezzlement, or willful
24 destruction of any part of the vessel, its cargo, or
25 stores;

(4) serious insubordination, willful
disobedience or willful refusal to perform assigned
duties;

(5) mutiny or desertion;

(6) habitual intoxication, quarreling, or
fighting;

(7) possession of dangerous weapons,
narcotics, prohibited drugs, other illicit
substances or contraband articles;

(8) smuggling;

(9) intentional concealment of a condition
which resulted in illness or injury;

(10) assistance to stowaways; or

(11) violation of the laws of the Federated
States of Micronesia."

Section 130. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
630 to chapter 6 to read as follows:

"Section 630. Compensation for unjustifiable
discharge before completing one month of employment.

Any seaman who has signed Shipping Articles and is
unjustifiably discharged before the commencement of
the voyage or before 1 month's wages are earned,
shall be entitled to receive in addition to wages
already earned, compensation amounting to 1 month's

1 wages."

2 Section 131. Title 19 of the Code of the Federated
3 States of Micronesia is hereby enacted by adding a new section
4 631 to chapter 6 to read as follows:

5 "Section 631. Offenses against the internal order
6 of the vessel.

7 (1) Any seaman on a vessel who does any of the
8 following acts commits an offense against the
9 internal order of the vessel and may, in addition to
10 any criminal penalties provided under this title,
11 incur civil penalties as follows:

12 (a) forfeiture of up to 2 days' wages for
13 any of the following offenses:

14 (i) failure, without reasonable
15 cause, to join the vessel or to proceed to sea;

16 (ii) absence without leave at any
17 time within 24 hours of the vessel's sailing from
18 any port;

19 (iii) absence from the vessel at any
20 time, without permission or justifiable cause;

21 (iv) absence from the seaman's duty
22 station when assigned to keep watch;

23 (b) forfeiture of up to 4 days' wages and
24 physical restraint for any of the following
25 offenses:

(i) intoxication from alcohol or
drugs while the vessel is at sea;

(ii) willful disobedience to any
lawful command;

(c) forfeiture of up to 6 days" wages for
every 24 hours continuation of the behavior and
physical restraint until cessation of the behavior
which forms the basis of the offense, for any of the
following offenses:

(i) intoxication from alcohol or
drugs which impairs ability to perform duties;

(ii) willful disobedience to any
lawful command;

(iii) willful neglect of duty;

(d) forfeiture of up to 12 days" wages
for any of the following offenses:

(i) willfully damaging the vessel;

(ii) embezzling ship's funds or
property, or wrongfully converting, or willfully
damaging any part of the stores or cargo, whether on
board the vessel, in boats, or ashore;

(iii) for any act of smuggling;

(e) forfeiture of up to 90 days" wages
for any of the following offenses:

(i) assaulting any master, pilot, or

1 officer;

2 (ii) mutiny or desertion.

3 (2) All wages forfeited as a result of
4 penalties imposed by the master pursuant to this
5 section shall be subject to review by the Principal
6 Shipping Officer, and shall not be unreasonable
7 under the prevailing circumstances. Forfeited wages
8 shall first be applied to reimburse the master or
9 owner for any loss or damage resulting from the act
10 for which the forfeiture was imposed. Any remaining
11 balance shall be transferred to the Principal
12 Shipping Officer for deposit into a charitable fund
13 for the benefit of seamen and their families. A
14 full accounting of forfeited wages shall be provided
15 by the master to the Principal Shipping Officer
16 within 30 days."

17 Section 132. Title 19 of the Code of the Federated
18 States of Micronesia is hereby enacted by adding a new section
19 632 to chapter 6 to read as follows:

20 "Section 632. Endangering vessel, cargo, or persons
21 aboard. It shall be a national offense, punishable
22 by a fine not exceeding \$500,000 or imprisonment for
23 not more than 2 years, or both, for a seaman or
24 other person on any vessel to knowingly or while
25 under the influence of alcohol or drugs to:

(1) commit any act which causes or could cause the immediate loss or destruction of, or serious damage to, the vessel or its cargo;

(2) commit any act which endangers or could endanger life or body or the life or body of any person belonging to or on board such vessel;

(3) refuse or omit to do any lawful act which is necessary for the preservation of the vessel or the cargo from immediate loss, destruction, or serious damage; or

(4) refuse or omit to do any lawful act which is necessary to protect any person on such vessel from immediate danger to life or body."

Section 133. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 633 to chapter 6 to read as follows:

"Section 633. Desertion.

(1) Any seaman who leaves a vessel before the expiration of the seaman's Shipping Articles, and without permission, or intentionally fails to return to the vessel before its scheduled sailing time commits the national offense of desertion, punishable by a fine not exceeding \$10,000 or imprisonment for not more than 1 year, or both.

(2) The master shall make an entry of all

desertions in the Official Logbook and file a report
thereof with the Principal Shipping Officer. The
master shall notify the local authorities of the
port or place of desertion and request assistance in
the apprehension and return of the seaman to the
vessel."

Section 134. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
634 to chapter 6 to read as follows:

"Section 634. Mutiny; incitement to mutiny.

(1) It shall be a national offense, punishable
by a fine not exceeding \$50,000 or imprisonment for
not more than 10 years, or both, for a seaman other
than the master of a vessel to:

(a) unlawfully and with force, or by
fraud or intimidation, usurp command of the vessel
from the master or other lawful officer in command;

(b) deprive the master or a lawful
officer in command of authority and command on board
the vessel;

(c) resist or prevent the master or a
lawful officer in command in the free and lawful
exercise of his authority and command;

(d) transfer the authority and command of
the master to another not lawfully entitled thereto;

or

(e) physically restrain or confine the master without the master's consent.

(2) Any seaman other than the master who conspires with, solicits, or incites another to do any of the acts set forth in subsection (1) above, commits a national offense, punishable by a fine not exceeding \$50,000 or imprisonment for not more than 10 years, or both."

Section 135. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 635 to chapter 6 to read as follows:

"Section 635. Riot. It shall be a national offense, punishable by a fine not exceeding \$50,000 or imprisonment for not more than 5 years, or both, for a seaman other than the master of a vessel to assemble with others in a tumultuous and mutinous manner while on the vessel."

Section 136. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 636 to chapter 6 to read as follows:

"Section 636. Entry in Official Logbook.

(1) Every Registered Vessel shall carry an Official Logbook, Deck Logbook, Engine Logbook, and Oil Record Book; PROVIDED that the Principal

Surveyor may waive this requirement for certain classes of vessels.

(2) The master of a Registered Vessel shall enter in the Official Log Book all events relating to the operation of the vessel and affairs of the crew as prescribed in regulations.

(3) The master of a Registered Vessel shall cause to be kept and accurately maintained a Deck Logbook, Engine Logbook, and Oil Record Book.

(4) Upon the commission of any offense, the master shall enter the offense in the Official Logbook, together with any penalty or forfeiture of pay imposed, on the day on which the offense was committed. The entry shall be signed by the master and witnessed by the mate or one of the crew.

(5) The offender, if still on the vessel, shall immediately be provided with a copy of the entry and have it read to him. The offender may make any reply he or she thinks fit which shall be recorded in the Official Logbook.

(6) The master shall record in the Official Logbook that the requirements of this section have been met."

Section 137. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section

1 637 to chapter 6 to read as follows:

2 "Section 637. Disciplinary Reports.

3 (1) Where a disciplinary offense has occurred
4 on board a vessel, the master, upon reaching a port
5 in the Federated States of Micronesia, shall make a
6 Disciplinary Report to the Principal Shipping
7 Officer of all findings of disciplinary offenses or
8 discharges for justifiable cause since the last
9 report. The Disciplinary Report shall include the
10 text of the Official Logbook entry, including the
11 seaman's reply, if any, and any other relevant facts
12 and documents.

13 (2) The Principal Shipping Officer shall
14 notify the seaman by personal service or registered
15 mail sent to the seaman's last known address, of the
16 seaman's right to file a written explanation or
17 defense."

18 Section 138. Title 19 of the Code of the Federated
19 States of Micronesia is hereby enacted by adding a new section
20 638 to chapter 6 to read as follows:

21 "Section 638. Principal Shipping Officer's review
22 of disciplinary action.

23 (1) The Principal Shipping Officer shall
24 conduct a review of each Disciplinary Report and the
25 seaman's explanation, if any, filed under section

637 and within 15 days of the completion of the review, make written findings as to whether or not any sanctions taken against the seaman, including discharge, forfeiture of wages or other penalties, were justified in the circumstances. The written findings of the Principal Shipping Officer shall be kept on file at the Department together with the Disciplinary Report, the seaman's reply, if any, and all other relevant documents.

(2) The Principal Shipping Officer shall notify the master and the seaman of his or her findings under subsection (1), by personal service or by registered mail.

(3) If the Principal Shipping Officer finds that any monetary sanctions imposed against the seaman were unjustified, the owner or master shall be required to reimburse the seaman immediately for all amounts paid or forfeited.

(4) The master and the seaman shall have the right to challenge the findings of the Principal Shipping Officer in accordance with procedures set forth in title 17 of the Code of the Federated States of Micronesia."

Section 139. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section

1 639 to chapter 6 to read as follows:

2 "Section 639. Corporal punishment prohibited.

3 (1) Flogging and all other forms of corporal
4 punishment are prohibited on board any vessel.

5 (2) Violation of this section is a national
6 offense, punishable by a fine not exceeding \$100,000
7 or imprisonment for not more than 1 year, or both."

8 Section 140. Title 19 of the Code of the Federated
9 States of Micronesia is hereby enacted by adding a new section
10 640 to chapter 6 to read as follows:

11 "Section 640. Crew accommodations, provisions and
12 supplies. The owner or master shall not permit a
13 vessel to go to sea if the owner or master knows or
14 should have known that the vessel does not conform
15 to regulations regarding:

16 (1) crew accommodations;

17 (2) provisions; and

18 (3) medical supplies and medical personnel."

19 Section 141. Title 19 of the Code of the Federated
20 States of Micronesia is hereby enacted by adding a new section
21 641 to chapter 6 to read as follows:

22 "Section 641. Crew lists. The owner shall keep a
23 crew list of each vessel in a safe place onshore,
24 and the master shall carry a copy on the vessel."

25 Section 142. Title 19 of the Code of the Federated

1 States of Micronesia is hereby enacted by adding a new section
2 642 to chapter 6 to read as follows:

3 "Section 642. Approval of employment on foreign
4 vessels. No person shall employ a citizen or a
5 national of the Federated States of Micronesia as a
6 seaman on a foreign vessel that is bound for a
7 foreign port, without the written approval of the
8 Principal Shipping Officer, whose approval shall be
9 given if the requirements are met."

10 Section 143. Title 19 of the Code of the Federated
11 States of Micronesia is hereby enacted by adding a new section
12 643 to chapter 6 to read as follows:

13 "Section 643. Master's lien. A master shall have a
14 maritime lien for all disbursements or liabilities
15 properly made or incurred by the master on account
16 of the vessel."

17 Section 144. Title 19 of the Code of the Federated
18 States of Micronesia is hereby enacted by adding a new chapter
19 7 entitled "Pilotage".

20 Section 145. Title 19 of the Code of the Federated
21 States of Micronesia is hereby enacted by adding a new section
22 701 to chapter 7 to read as follows:

23 "Section 701. State Port Authority is pilotage
24 authority. The Port Authority of each of the states
25 shall be the pilotage authority for that state,

responsible for the provision of pilotage services
within that state, and except as otherwise provided
herein, shall regulate all pilotage services."

Section 146. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
702 to chapter 7 to read as follows:

"Section 702. Pilotage areas. The Secretary may by
regulation declare an area within or adjacent to a
port to be a pilotage area."

Section 147. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
703 to chapter 7 to read as follows:

"Section 703. Compulsory pilotage areas.

(1) The pilotage authority may determine that
pilotage is compulsory in the whole or in a
specified part of its pilotage area(s).

(2) The Secretary shall by regulation declare
and define compulsory pilotage areas as determined
in subsection (1)."

Section 148. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
704 to chapter 7 to read as follows:

"Section 704. Pilotage services.

(1) The Port Authority shall, where pilotage
is compulsory, and may, where pilotage is not

1 compulsory, provide pilotage services.

2 (2) Each Port Authority shall ensure an
3 adequate number of Authorized Pilots, pilot boats
4 with safety equipment, and trained boatmen at its
5 ports to ensure the timely and safe delivery and
6 recovery of pilots to and from vessels subject to
7 pilotage.

8 (3) Each Port Authority shall ensure that an
9 Authorized Pilot is available when a vessel subject
10 to pilotage requires a pilot."

11 Section 149. Title 19 of the Code of the Federated
12 States of Micronesia is hereby enacted by adding a new section
13 705 to chapter 7 to read as follows:

14 "Section 705. Vessels required to take Authorized
15 Pilots on board.

16 (1) Before a vessel enters, leaves, or moves
17 through a compulsory pilotage area, the master of
18 the vessel shall take on board an Authorized Pilot.

19 (2) The Secretary may by regulation, in
20 consultation with the Port Authority of each state,
21 exempt any vessel from the requirements of
22 subsection (1).

23 (3) A vessel piloted by a holder of a Pilotage
24 Exemption Certificate valid for that vessel and
25 pilotage area, shall be exempt from the requirements

1 of subsection (1).

2 (4) Where there is a special risk or danger
3 within a pilotage area, the Port Authority may
4 require the master of the vessel, including vessels
5 exempted under subsections (2) and (3), to take an
6 Authorized Pilot on board.

7 (5) Any vessel required to take an Authorized
8 Pilot on board which does not do so shall be liable
9 to pay the same fee as if a pilot had been taken.

10 (6) Any vessel required to take an Authorized
11 Pilot which does not do so on a second occasion
12 shall be required to pay twice the fee, and on the
13 third occasion, triple the fee, and in ensuing
14 occasions the standard fee multiplied by the number
15 of occasions it has not taken an Authorized Pilot."

16 Section 150. Title 19 of the Code of the Federated
17 States of Micronesia is hereby enacted by adding a new section
18 706 to chapter 7 to read as follows:

19 "Section 706. Authorized pilot not required in
20 certain circumstances. Where a vessel or a person
21 on board is in grave danger, and it is necessary in
22 the circumstances that the vessel be immediately
23 brought into, moved within, or taken out of a
24 compulsory pilotage area, an Authorized Pilot is not
25 required to be on board the vessel."

1 Section 151. Title 19 of the Code of the Federated
2 States of Micronesia is hereby enacted by adding a new section
3 707 to chapter 7 to read as follows:

4 "Section 707. Pilot Certificates and Pilotage
5 Exemption Certificates.

6 (1) The Secretary may by regulation, after
7 consultation with the Port Authority, determine the
8 number of Authorized Pilots for each of the ports
9 and the experience required for the issuance of:

10 (a) a Pilotage Certificate declaring that
11 a person is competent to be an Authorized Pilot for
12 a particular class of vessels within a specified
13 pilotage area; or

14 (b) a Pilotage Exemption Certificate
15 declaring that a person is competent to pilot a
16 particular vessel or class of vessels within a
17 specified pilotage area.

18 (2) The Principal Shipping Officer shall issue
19 and renew Pilotage Certificates and Pilotage
20 Exemption Certificates.

21 (3) The issuance or renewal of Pilotage
22 Certificates and Pilotage Exemption Certificates
23 shall be subject to such conditions as the Principal
24 Shipping Officer endorses on the certificate.

25 (4) A Pilotage Certificate or Pilotage

Exemption Certificate is valid only for the
particular vessel or class of vessels within the
pilotage area for which it is issued."

Section 152. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
708 to chapter 7 to read as follows:

"Section 708. Investigations; Pilotage Certificates
and Pilotage Exemption Certificates.

(1) The Secretary shall cause an investigation
to be conducted where there is reasonable cause to
believe that the holder of a Pilotage Certificate or
Pilotage Exemption Certificate:

(a) is unfit to discharge his duties;

(b) has been negligent in the discharge of
his duties; or

(c) has engaged in misconduct or
committed any violation of this title or regulations
promulgated thereto.

(2) The Principal Shipping Officer may
designate an investigating officer to conduct the
investigation.

(3) The investigating officer may:

(a) go on board any vessel relevant to
the case;

(b) enter upon any wharf or installation

1 adjacent to a pilotage area;

2 (c) make any and all inquiries; and

3 (d) require the production of any
4 relevant documents or certificates.

5 (4) The investigating officer shall report the
6 results of the investigation to the Principal
7 Shipping Officer within fourteen days after the
8 investigation is completed."

9 Section 153. Title 19 of the Code of the Federated
10 States of Micronesia is hereby enacted by adding a new section
11 709 to chapter 7 to read as follows:

12 "Section 709. Suspension of Pilotage Certificate or
13 Pilotage Exemption Certificate pending
14 investigation. Where public safety so requires, the
15 Principal Shipping Officer may suspend a Pilotage
16 Certificate or Pilotage Exemption Certificate
17 pending the outcome of an investigation conducted
18 ' under section 708."

19 Section 154. Title 19 of the Code of the Federated
20 States of Micronesia is hereby enacted by adding a new section
21 710 to chapter 7 to read as follows:

22 "Section 710. Suspension and Revocation of Pilotage
23 Certificate and Pilotage Exemption Certificates.

24 (1) The Principal Shipping Officer may suspend
25 or revoke a Pilotage Certificate or Pilotage

Exemption Certificate where the holder:

(a) is unfit to discharge his duties;

(b) has been negligent in the discharge
of his duties; or

(c) has engaged in misconduct or
committed any violation of this title or regulations
promulgated pursuant thereto.

(2) Proceedings for suspension or revocation
of a certificate under subsection (1) shall be
conducted in accordance with the procedure set forth
in title 17, section 109 of the Code of the
Federated States of Micronesia.

(3) Where a Pilotage Certificate or Pilotage
Exemption Certificate is suspended or revoked, the
holder of the Pilotage Certificate or Pilotage
Exemption Certificate shall immediately surrender
the certificate to the Principal Shipping Officer.

(4) Where a Pilotage Certificate or Pilotage
Exemption Certificate is suspended or revoked, the
holder may seek judicial review as set forth in
section 111 of title 17 of the Code of the Federated
States of Micronesia, PROVIDED, however, the
decision of the hearing officer shall remain in
effect until all avenues of appeal have been
exhausted."

1 Section 155. Title 19 of the Code of the Federated
2 States of Micronesia is hereby enacted by adding a new section
3 711 to chapter 7 to read as follows:

4 "Section 711. Production of authorized pilot
5 identification.

6 (1) An Authorized Pilot shall produce proper
7 identification issued by the Port Authority or his
8 Pilotage Certificate for inspection when requested
9 by the master of the vessel.

10 (2) An Authorized Pilot who fails to produce
11 identification as set forth in subsection (1)
12 commits a civil offense and shall be liable to a
13 fine not exceeding \$10,000."

14 Section 156. Title 19 of the Code of the Federated
15 States of Micronesia is hereby enacted by adding a new section
16 712 to chapter 7 to read as follows:

17 "Section 712. Unqualified persons not to act as
18 Authorized Pilot. A person who is not an Authorized
19 Pilot who holds himself out to be an Authorized
20 Pilot or pilot a vessel for which an Authorized
21 Pilot is requested to be on board commits a national
22 offense, punishable by a fine not exceeding \$500,000
23 or imprisonment for not more than 2 years, or both."

24 Section 157. Title 19 of the Code of the Federated
25 States of Micronesia is hereby enacted by adding a new section

1 713 to chapter 7 to read as follows:

2 "Section 713. Pilot misconduct. It shall be a
3 national offense, punishable by a fine not exceeding
4 \$500,000 or imprisonment for not more than 2 years,
5 or both, for a holder of a Pilotage Certificate or a
6 Pilotage Exemption Certificate to intentionally or
7 willfully, or while under the influence of alcohol
8 or drugs, do any act which causes, or is likely to
9 cause, the loss or destruction of or serious damage
10 to a vessel or the death of or serious injury to a
11 person on board a vessel, or fail to do anything
12 required to be done by him or her to preserve a
13 vessel from loss, destruction or serious damage or
14 protect any person on board a vessel from death or
15 serious injury."

16 Section 158. Title 19 of the Code of the Federated
17 States of Micronesia is hereby enacted by adding a new section
18 714 to chapter 7 to read as follows:

19 "Section 714. Port Authority and Authorized Pilot
20 not liable. The Port Authority and an Authorized
21 Pilot shall not be personally liable in any civil
22 proceeding for any damage or loss suffered as a
23 result of any act done by the Port Authority or the
24 Authorized Pilot or for any failure to do anything
25 required to be done by either while acting within

1 the scope of their duties unless such act or
2 omission arises from intentional or willful
3 misconduct, or from gross negligence."

4 Section 159. Title 19 of the Code of the Federated
5 States of Micronesia is hereby enacted by adding a new section
6 715 to chapter 7 to read as follows:

7 "Section 715. Presence of Authorized Pilot does not
8 diminish responsibility of the master.

9 (1) Subject to the authority of the master of
10 a vessel, the duty of an Authorized Pilot is to
11 pilot the vessel in pilotage areas.

12 (2) The master of a vessel is not relieved of
13 responsibility for the proper conduct and safe
14 navigation of the vessel by reason of the vessel
15 being in pilotage charge of an Authorized Pilot."

16 Section 160. Title 19 of the Code of the Federated
17 States of Micronesia is hereby enacted by adding a new section
18 716 to chapter 7 to read as follows:

19 "Section 716. Owner and master liable for damage in
20 compulsory pilotage areas. The owner and the master
21 of a vessel are jointly and severally liable for any
22 loss or damage caused by the vessel in a compulsory
23 pilotage area as a result of any fault in the
24 navigation of the vessel, whether or not an
25 Authorized Pilot was on board the vessel at the time

1 Section 163. Title 19 of the Code of the Federated
2 States of Micronesia is hereby enacted by adding a new section
3 719 to chapter 7 to read as follows:

4 "Section 719. Authorized Pilot not to be taken to
5 sea.

6 (1) Except in circumstances of unavoidable
7 necessity, an Authorized Pilot shall not be taken to
8 sea or taken beyond the limits of the pilotage area
9 without the pilot's consent.

10 (2) If an Authorized Pilot is taken to sea in
11 circumstances of unavoidable necessity, the vessel
12 owner and master shall be liable for all expenses of
13 the Authorized Pilot including repatriation, which
14 shall take place at the earliest opportunity."

15 Section 164. Title 19 of the Code of the Federated States of
16 Micronesia is hereby enacted by adding a new chapter 8 entitled
17 "Marine Aids to Navigation".

18 Section 165. Title 19 of the Code of the Federated
19 States of Micronesia is hereby enacted by adding a new section
20 801 to chapter 8 to read as follows:

21 "Section 801. Application. This chapter applies to
22 all marine aids to navigation situated in waters of
23 the Federated States of Micronesia used for guiding
24 seamen in the safe navigation of vessels near reefs,
25 shoals, and other dangers to navigation."

1 Section 166. Title 19 of the Code of the Federated
2 States of Micronesia is hereby enacted by adding a new section
3 802 to chapter 8 to read as follows:

4 "Section 802. Aids to Navigation Officer. The
5 Secretary shall appoint an Aids to Navigation
6 Officer who shall be responsible for the
7 implementation and enforcement of this chapter."

8 Section 167. Title 19 of the Code of the Federated
9 States of Micronesia is hereby enacted by adding a new section
10 803 to chapter 8 to read as follows:

11 "Section 803. Powers and duties of Aids to
12 Navigation Officer.

13 (1) The Aids to Navigation Officer shall
14 inspect marine aids to navigation on a regular basis
15 to ensure that they remain unobstructed and in good
16 condition.

17 (2) The Aids to Navigation Officer shall be
18 allowed to enter any public or private property if
19 required in order to gain access
20 to a marine aid to navigation for purposes of
21 inspection.

22 (3) Any person who obstructs or hinders an
23 Aids to Navigation Officer in the performance of the
24 officer's duties commits a civil offense, and shall
25 be liable to a fine not exceeding \$200,000."

1 Section 168. Title 19 of the Code of the Federated
2 States of Micronesia is hereby enacted by adding a new section
3 804 to chapter 8 to read as follows:

4 "Section 804. Coordination of marine aids to
5 navigation. The Aids to Navigation Officer shall
6 coordinate with the states in regard to the
7 establishment, maintenance, operation, alteration or
8 removal of marine aids to navigation in conformity
9 with international standards to maintain uniform
10 national standards as needed for the safe navigation
11 of vessels in the waters of the Federated States of
12 Micronesia."

13 Section 169. Title 19 of the Code of the Federated
14 States of Micronesia is hereby enacted by adding a new section
15 805 to chapter 8 to read as follows:

16 "Section 805. Unauthorized establishment,
17 alteration or removal of marine aids to navigation.

18 (1) Any person who alters or removes a marine
19 aid to navigation established by the Aids to
20 Navigation Officer without prior written approval of
21 the Aids to Navigation Officer commits a civil
22 offense and shall be liable to a fine not exceeding
23 \$200,000.

24 (2) No person may establish or operate a
25 private aid to navigation within any of the waters

1 of the Federated States of Micronesia used for
2 foreign or interstate commerce without prior written
3 approval of the Aids to Navigation Officer.

4 (3) If safety or convenience requires, the
5 Aids to Navigation Officer may, by written notice,
6 require the owner of any private aid to navigation
7 to move, remove, modify or alter it.

8 (4) Where the owner fails to comply with a
9 request made under subsection (3), or if notice
10 cannot be served on the owner, the Aids to
11 Navigation Officer may take possession or control of
12 the aid, and do anything which must be done for the
13 safety of marine navigation, and the owner shall pay
14 any and all costs incurred by the Government under
15 this subsection."

16 Section 170. Title 19 of the Code of the Federated
17 States of Micronesia is hereby enacted by adding a new section
18 806 to chapter 8 to read as follows:

19 "Section 806. Offenses in relation to marine aids
20 to navigation. In relation to marine aids to
21 navigation:

22 (1) No person may:

23 (a) make fast to, damage, destroy or
24 allow a vessel to foul a marine aid to navigation;

25 (b) cause the view of a marine aid to

navigation to be obstructed in such a manner as to
lessen its efficiency;

(c) interfere with a marine aid to
navigation so as to limit its effectiveness; or

(d) trespass on or in a marine aid to
navigation.

(2) A person who, or the master of a vessel
which, damages,
destroys, or interferes with a marine aid to
navigation shall notify the Aids to Navigation
Officer as soon as practicable.

(3) Anyone who knowingly or intentionally
interferes with or trespasses on a marine navigation
commits a national offense, punishable by a fine not
exceeding \$500,000 or imprisonment for not more than
2 years, or both.

(4) In addition to any other penalty provided
under this title for violation of this section, the
violation shall pay to the Secretary for disbursement
to the appropriate authorities, the cost of
repairing or replacing the marine aid to
navigation."

Section 171. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
807 to chapter 8 to read as follows:

1 "Section 807. Offenses in relation to submarine
2 cables or pipelines.

3 (1) Submarine cables or pipelines in this
4 section mean those cables or pipelines found
5 underwater outside of a lagoon or inside a lagoon if
6 affecting interstate and international commerce.

7 (2) It shall be a violation of this section to
8 negligently damage or destroy a submarine cable or
9 pipeline unless the damage or destruction was caused
10 by persons acting to save life or property.

11 (3) A vessel which damages, destroys, or fouls
12 a marine aid to navigation, or a submarine cable or
13 pipeline may be detained until the cost of repair or
14 replacement is paid.

15 (4) It shall be a national offense, punishable
16 by a fine not exceeding \$500,000 or imprisonment for
17 not more than 2 years, or both, to knowingly or
18 intentionally damage or destroy a submarine cable or
19 pipeline.

20 (5) If a person laying or repairing a
21 submarine cable or pipeline damages or destroys
22 another cable or pipeline that person shall pay the
23 cost of repair.

24 (6) If an anchor, a net or any other article
25 belonging to a vessel is sacrificed to avoid

1 injuring a submarine cable or pipeline, the owner of
2 the cable or pipeline shall pay for the loss."

3 Section 172. Title 19 of the Code of the Federated
4 States of Micronesia is hereby enacted by adding a new section
5 808 to chapter 8 to read as follows:

6 "Section 808. Advisory committee on marine aids to
7 navigation. The Aids to Navigation Officer may form
8 a marine aids to navigation advisory committee,
9 which may include at least two owners of vessels
10 which must pay dues for aids to navigation, to
11 assist the Aids to Navigation Officer in matters
12 relating to marine aids to navigation."

13 Section 173. Title 19 of the Code of the Federated
14 States of Micronesia is hereby enacted by adding a new section
15 809 to chapter 8 to read as follows:

16 "Section 809. Dues for aids to navigation.

17 (1) The owner or master of a vessel shall pay
18 dues for marine aids to navigation on every entry
19 into port.

20 (2) A vessel may be detained until its dues
21 for aids to navigation are paid."

22 Section 174. Title 19 of the Code of the Federated
23 States of Micronesia is hereby enacted by adding a new chapter
24 9 entitled "Wreck and Salvage".

25 Section 175. Title 19 of the Code of the Federated

1 States of Micronesia is hereby enacted by adding a new section
2 901 to chapter 9 to read as follows:

3 "Section 901. Application. The provisions of this
4 chapter relate to all vessels and small craft but
5 shall not apply in respect of salvage to:

6 (1) fixed or floating platforms or to mobile
7 offshore drilling units when such platforms or units
8 are on location and engaged in the exploration,
9 exploitation or production of seabed mineral
10 resources;

11 (2) craft of defense forces or other non-
12 commercial vessels entitled to sovereign immunity
13 under generally recognized principles of
14 international law, unless the flag states decide
15 otherwise."

16 Section 176. Title 19 of the Code of the Federated
17 States of Micronesia is hereby enacted by adding a new section
18 902 to chapter 9 to read as follows:

19 "Section 902. Receiver of Wreck.

20 (1) The Secretary shall be the Receiver of
21 wreck in the Federated States of Micronesia and
22 shall superintend all matters relating to wreck.

23 (2) The Receiver may delegate all or any
24 authority and responsibility as Receiver under this
25 chapter to the relevant state authority."

1 Section 177. Title 19 of the Code of the Federated
2 States of Micronesia is hereby enacted by adding a new section
3 903 to chapter 9 to read as follows:

4 "Section 903. Preservation of wreck.

5 (1) When any vessel is wrecked, stranded or in
6 distress, the Receiver may take command of all
7 persons present, assign duties, issue directions,
8 requisition assistance, and demand the use of any
9 nearby vehicle or equipment, if necessary to
10 preserve the vessel, the cargo, and lives.

11 (2) The Receiver shall not interfere between
12 the master of the vessel and his crew in matters
13 relating to the management of the vessel unless
14 requested to do so by the master.

15 (3) All cargo and other articles belonging to
16 a wrecked vessel that leave the vessel must be
17 delivered to the Receiver, and no person, including
18 an owner, may secrete or fail to deliver the same to
19 the Receiver.

20 (4) A rescuer may pass over any adjoining
21 lands if necessary and may deposit on such lands any
22 cargo or article recovered. All damage caused to
23 land or property by rescuers or cargo shall be a
24 salvage charge on the vessel, cargo, or articles.

25 (5) No person, including the owner or occupier

1 of any land over which rescuers must pass, may
2 impede or hinder any rescuer or impede the deposit
3 of cargo or other rescued articles."

4 Section 178. Title 19 of the Code of the Federated
5 States of Micronesia is hereby enacted by adding a new section
6 904 to chapter 9 to read as follows:

7 "Section 904. Duty to notify Receiver. An owner,
8 master, or any other person finding or taking
9 possession of any wreck shall notify the Receiver
10 and, if requested, deliver the wreck to the
11 Receiver."

12 Section 179. Title 19 of the Code of the Federated
13 States of Micronesia is hereby enacted by adding a new section
14 905 to chapter 9 to read as follows:

15 "Section 905. Liability for wreck.

16 (1) A vessel owner and master are liable for
17 the wrecked vessel and all damages to persons,
18 property and the environment accruing from the
19 wreck, its removal and any environmental clean-up
20 operations.

21 (2) An authorized officer may detain the
22 master, owner, or any crew members of a wrecked
23 vessel to ensure compliance with the
24 responsibilities for the wrecked vessel under this
25 chapter."

1 Section 180. Title 19 of the Code of the Federated
2 States of Micronesia is hereby enacted by adding a new section
3 906 to chapter 9 to read as follows:

4 "Section 906. Search allowed for secreted wreck.
5 Where a wreck or any cargo therefrom has been
6 secreted or not reported to the Receiver, the
7 Receiver may obtain a search warrant as provided by
8 law, and search for the wreck in any place."

9 Section 181. Title 19 of the Code of the Federated
10 States of Micronesia is hereby enacted by adding a new section
11 907 to chapter 9 to read as follows:

12 "Section 907. Notice by Receiver of having taken
13 possession of wreck. When the Receiver takes
14 possession of wreck, he shall cause a description of
15 the wreck to be:

16 (1) broadcast on at least one radio station in
17 each state;

18 (2) published in the local newspaper, if any,

19 (3) posted by notice describing the wreck at
20 the Department and in appropriate public places in
21 each state capital."

22 Section 182. Title 19 of the Code of the Federated
23 States of Micronesia is hereby enacted by adding a new section
24 908 to chapter 9 to read as follows:

25 "Section 908. Removing wreck from custody of

1 Receiver.

2 (1) No person shall remove or attempt to
3 remove a wrecked vessel, its cargo, or apparel from
4 the custody of the Receiver without the written
5 authorization of the Receiver.

6 (2) Violation of subsection (1) shall be a
7 national offense, punishable by a fine not exceeding
8 \$100,000 or imprisonment for not more than 1 year,
9 or both."

10 Section 183. Title 19 of the Code of the Federated
11 States of Micronesia is hereby enacted by adding a new section
12 909 to chapter 9 to read as follows:

13 "Section 909. Owner's right to claim wreck. Where
14 the owner of a wrecked vessel demonstrates lawful
15 ownership, the owner shall be entitled to claim the
16 wrecked vessel from the Receiver, PROVIDED payment
17 of any damages, expenses, fees, and salvage due has
18 been made in full, and PROVIDED the owner
19 establishes such claim within 1 year of the time the
20 Receiver takes possession."

21 Section 184. Title 19 of the Code of the Federated
22 States of Micronesia is hereby enacted by adding a new section
23 910 to chapter 9 to read as follows:

24 "Section 910. Unclaimed wreck. If the lawful owner
25 of a wrecked vessel fails to claim such vessel

within 1 year from the date the Receiver takes possession, the Receiver shall sell the wreck, pay all fees and other expenses, and pay the determined amount of salvage. Such action by the Receiver shall not relieve the owner or master of any liability for damages caused by the wreck. All remaining moneys shall be deposited into the General Fund of the Federated States of Micronesia."

Section 185. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 911 to chapter 9 to read as follows:

"Section 911. Vessels wrecked.

(1) Where a wrecked vessel is an obstruction or danger to interstate or foreign commerce or shipping within or outside a lagoon:

(a) The Receiver may require any owner to raise, remove or destroy the vessel or to mark its position with a light, buoy or other marker approved by the Receiver until such time as it is raised, removed or destroyed; or

(b) If the owner does not comply forthwith, the Receiver may raise, remove, destroy, sell, or otherwise deal with the wrecked vessel and any recovered property in such manner as he or she thinks fit. The Receiver shall deduct any and all

expenses incurred from the sale of the wreck and pay the proceeds to the persons entitled to them.

(2) In the event of a forced sale of the stranded or sunken vessel following its removal by the Receiver in the interest of safe navigation or the protection of the marine environment, the costs of such removal shall be paid out of the proceeds of the sale, before all other claims secured by a maritime lien on the vessel.

(3) Upon posting a notice in the manner described in section 907, the Receiver may declare an area around a wrecked vessel to be a prohibited area, and no person or vessel may enter this area.

(4) The Receiver may recover from any owner of a wrecked vessel any and all expenses incurred in guarding, lighting, buoying, raising, removing or destroying the vessel, which are not recovered from the proceeds of sale."

Section 186. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 912 to chapter 9 to read as follows:

"Section 912. Offenses relating to wreck.

(1) Anyone who knowingly obliterates or defaces any mark on a wrecked vessel or part thereof, its apparel or equipment, or any mark on

cargo recovered from a wrecked vessel commits a national offense, punishable by a fine not to exceed \$100,000 or imprisonment for not more than 1 year, or both.

(2) Anyone who takes to any foreign port with the intention to sell any stranded, derelict or otherwise distressed vessel, its cargo or apparel, or any wreck, found in the waters of the Federated States of Micronesia commits a national offense, punishable by a fine not to exceed \$100,000 or imprisonment for not more than 1 year, or both."

Section 187. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 913 to chapter 9 to read as follows:

"Section 913. Salvage contract.

(1) The master of a Registered Vessel requiring salvage services shall have the authority to enter into contracts for salvage operations on behalf of the owner of the vessel which shall bind the owner and be enforceable at law. The master or owner of the vessel shall have the authority to enter into contracts on behalf of the owners of the property on board the vessel which shall bind the owners of the property on board the vessel and be enforceable at law.

1 (2) Nothing in this section shall affect the
2 application of section 914 nor duties to prevent or
3 minimize damage to the environment."

4 Section 188. Title 19 of the Code of the Federated
5 States of Micronesia is hereby enacted by adding a new section
6 914 to chapter 9 to read as follows:

7 "Section 914. Annulment and modification of salvage
8 contract. A contract for the salvage of a vessel or
9 any property therein or any term thereof may be
10 annulled or modified by the Supreme Court if:

11 (1) the contract has been entered into under
12 duress or undue influence resulting from the stress
13 or immediacy of danger and its terms are deemed by
14 the court to be inadequate or excessive; or

15 (2) the payment under the salvage contract is
16 either grossly excessive or grossly inadequate for
17 the services actually rendered."

18 Section 189. Title 19 of the Code of the Federated
19 States of Micronesia is hereby enacted by adding a new section
20 915 to chapter 9 to read as follows:

21 "Section 915. Duties of salvors. The salvor shall
22 owe a duty to the owner of a vessel requiring
23 salvage or any property in danger:

24 (1) to carry out the salvage operation with
25 due care, including preventing or minimizing danger

1 to the environment;

2 (2) whenever circumstances reasonably require,
3 to seek assistance from other salvors; and

4 (3) to accept the intervention of other
5 salvors when reasonably requested to do so by the
6 owner or master of the vessel or other property in
7 danger; PROVIDED HOWEVER, that the amount of
8 original salvor's reward shall not be prejudiced
9 should it be found that such a request was
10 unreasonable."

11 Section 190. Title 19 of the Code of the Federated
12 States of Micronesia is hereby enacted by adding a new section
13 916 to chapter 9 to read as follows:

14 "Section 916. Duties of the owner or master. The
15 owner and master of any vessel or the owner of other
16 property in danger within the waters of the
17 Federated States of Micronesia which require salvage
18 operations shall owe a duty to the salvor:

19 (1) to cooperate fully with the salvor during
20 the course of the salvage operations;

21 (2) in so doing, to exercise due care to
22 prevent or minimize damage to the environment; and

23 (3) when the vessel or other property has been
24 brought to a place of safety within the Federated
25 States of Micronesia, to accept redelivery when

1 reasonably requested by the salvor to do so."

2 Section 191. Title 19 of the Code of the Federated
3 States of Micronesia is hereby enacted by adding a new section
4 917 to chapter 9 to read as follows:

5 "Section 917. Authority of the Receiver relating to
6 salvage.

7 (1) Nothing in this chapter shall affect the
8 authority of the Receiver to take appropriate
9 measures in accordance with generally accepted and
10 recognized principles of international law to
11 protect the coastline or any related interest within
12 the Federated States of Micronesia from pollution or
13 the threat of pollution following a casualty or acts
14 relating to such casualty which may reasonably be
15 expected to result in major harmful consequences,
16 including the authority to give directions to
17 salvage operations.

18 (2) In admitting vessels in distress into a
19 port in the Federated States of Micronesia, or in
20 providing facilities to salvors, the Receiver shall
21 take into account the need for cooperation among
22 salvors, other interested parties and public
23 authorities in order to ensure the efficient and
24 successful performance of salvage operations for the
25 purpose of saving life or property in danger, as

1 well as preventing damage to the environment in
2 general.

3 (3) In fulfilling the intentions of subsection
4 (2), the Receiver may request through the President
5 the assistance and cooperation of other concerned
6 offices and agencies of the Government to
7 temporarily relax immigration, customs and fiscal
8 laws or otherwise facilitate and expedite the
9 dispatch of experienced personnel, specialized
10 vessels and equipment to deal with the matter at
11 hand in order to save life or minimize damage to
12 property, the environment, livelihood and quality of
13 life of all the people of the Federated States of
14 Micronesia.

15 (4) The Receiver may promulgate regulations
16 relating to salvage, taking into account the
17 provisions of the Salvage Convention."

18 Section 192. Title 19 of the Code of the Federated
19 States of Micronesia is hereby enacted by adding a new section
20 918 to chapter 9 to read as follows:

21 "Section 918. Conditions for reward.

22 (1) Salvage operations undertaken within the
23 Federated States of Micronesia which have had a
24 useful result shall create the right to reward.

25 (2) Except as otherwise provided, no payment

1 is due under this chapter if the salvage operations
2 have had no useful result.

3 (3) This chapter shall apply, notwithstanding
4 that the salvaged vessel and the vessel undertaking
5 the salvage operations belong to the same owner."

6 Section 193. Title 19 of the Code of the Federated
7 States of Micronesia is hereby enacted by adding a new section
8 919 to chapter 9 to read as follows:

9 "Section 919. Criteria for fixing the reward.

10 (1) The reward shall be fixed with a view to
11 encouraging salvage operations, taking into account
12 the following criteria:

13 (a) the salvage value of the vessel and
14 other property;

15 (b) the skill and efforts of the salvors
16 in preventing or minimizing damage to the
17 environment;

18 (c) the measure of success obtained by
19 the salvor;

20 (d) the nature and degree of the danger;

21 (e) the skill and efforts of the salvors
22 in salvaging the vessel, other property and life;

23 (f) the time used and expenses and losses
24 incurred by the salvors;

25 (g) the risk of liability and other risks

run by the salvors or their equipment;

(h) the promptness of the services
rendered;

(i) the availability and use of vessels
or other equipment intended for salvage operations;

(j) the state of readiness and efficiency
of the salvor's equipment and the value thereof.

(2) Payment of a reward fixed according to
subsection (1) shall be made by vessels and other
property interests in proportion to their respective
salvage value. However, the Receiver may by
regulation provide that the payment of a reward has
to be made by one of these interests, subject to a
right of recourse of this interest against the other
interests in proportion to their respective
interests in the salvage of property.

(3) The rewards, exclusive of any interest and
recoverable legal costs that may be payable thereon,
shall not exceed the salvage value of the vessel and
other property."

Section 194. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
920 to chapter 9 to read as follows:

"Section 920. Special compensation for salvors.

(1) Where in the opinion of the Supreme Court

a salvor who has carried out salvage operations on a vessel which by itself or due to the nature of its cargo threatened damage to the environment in the waters of the Federated States of Micronesia, and the salvor failed to earn a reward at least equivalent to the special compensation assessable in accordance with this section, that salvor shall be entitled to special compensation from the owner of the vessel equivalent to his expenses as defined herein.

(2) Where, in the circumstances set out in subsection (1), the salvor by his salvage operations has prevented or minimized damage to the environment, the special compensation payable by the owner to the salvor under subsection (1) may be increased up to a maximum of 30% of the actual, audited expenses incurred by the salvor. However, the Supreme Court, if it deems it fair and just to do so and bearing in mind the relevant criteria in subsection (1) of section 919, may increase such special compensation further, but in no event shall the total increase be more than 100% of the expenses incurred by the salvor.

(3) Salvor's expenses for the purpose of subsections (1) and (2) means the out-of-pocket

expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into account the criteria set out in subsections (1)(h), (i) and (j) of section 919.

(4) The total special compensation under this section shall be paid only if and to the extent that such compensation shall be greater than any reward recoverable by the salvor.

(5) If the salvor has been negligent and has thereby failed to prevent or minimize damage to the environment, the salvor may be deprived of the whole or part of any special compensation due under this section.

(6) Nothing in this section shall affect any right of recourse on the part of the owner of the vessel."

Section 195. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 921 to chapter 9 to read as follows:

"Section 921. Apportionment of reward among salvors.

(1) The apportionment of a reward under section 919 as among salvors shall be made on the

basis of the criteria contained in that section.

(2) The apportionment of the reward under
section 919 shall be distributed equally among the
owner, master and other persons in the services of
each salvaging vessel. PROVIDED that each vessel
exerted the same degree of performance with respect
to efforts and skills as dictated by the criteria
enumerated under subsection (1) of section 919.

(3) Where there is no agreement as to the
degree of performance among salvaging vessels for the
apportionment of the reward, the settlement for the
apportionment shall be adjudicated by the Supreme
Court."

Section 196. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
922 to chapter 9 to read as follows:

"Section 922. Saving persons.

(1) No remuneration shall be due from persons
whose lives have been saved, but nothing in this
section shall prevent the salvor from asserting
against the owner any claims against the value of a
salvaged vessel or other property and for saving the
lives of passengers or personnel from the stricken
vessel.

(2) A saver of human life, who has taken part

in the services rendered on the occasion of the
accident giving rise to salvage, shall be entitled
to a fair share of the payment awarded to the salvor
for salvaging the vessel or other property or
preventing or minimizing damage to the environment,
which entitlement shall be determined by the Supreme
Court.

(3) Claims for saving lives shall be paid
before all other claims for salvage."

Section 197. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
923 to chapter 9 to read as follows:

"Section 923. Prohibition of salvage operations and
salvor's misconduct.

(1) Services rendered notwithstanding the
expressed and reasonable prohibition of the owner or
master of a vessel or the owner of any other
property in danger shall not give rise to payment
under this chapter.

(2) A salvor may be deprived of the whole or
part of the payment due under this chapter to the
extent that salvage operations have become necessary
or more difficult because of fault or neglect on the
salvor's part or if the salvor has been guilty of
fraud or other dishonest conduct."

1 Section 198. Title 19 of the Code of the Federated
2 States of Micronesia is hereby enacted by adding a new section
3 924 to chapter 9 to read as follows:

4 "Section 924. Security for claims.

5 (1) Upon the request of the salvor, a person
6 who is liable for payment due under this chapter
7 shall provide satisfactory security for the claim,
8 including interest and costs of the salvor.

9 (2) Without prejudice to subsection (1), the
10 owner of the salvaged vessel shall use his or her
11 best efforts to ensure that the owners of the cargo
12 provide satisfactory security for the claims against
13 them including interest and costs before the cargo
14 is released.

15 (3) The salvaged vessel and other property
16 shall not, without the consent of the salvor, be
17 removed from the port or place at which they are
18 first delivered after the completion of the salvage
19 operations until satisfactory security has been put
20 up for the salvor's claim against the relevant
21 vessel or property."

22 Section 199. Title 19 of the Code of the Federated
23 States of Micronesia is hereby enacted by adding a new section
24 925 to chapter 9 to read as follows:

25 "Section 925. Enforcement of salvage payment.

Notwithstanding the provisions of section 924, the Receiver shall detain any vessel, cargo, property or wreck until the payment for reward has been made or disposition ordered by the Supreme Court, and shall notify any known owner as soon as the property comes into possession or control of the Receiver."

Section 200. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 926 to chapter 9 to read as follows:

"Section 926. Sale by Receiver of detained property.

(1) The Receiver may sell property detained for payment of salvage if:

(a) the amount of salvage due is not disputed; and

(b) the amount due is not paid within 20 days of the date agreed upon for payment.

(2) Proceeds of the sale made under subsection (1) shall first be used to pay the fees and expenses of the Receiver for custody and safe-keeping of the property salvaged. Any remaining proceeds shall be paid to the person legally entitled to them, or, if in dispute, to the Trial Division of the Supreme Court."

Section 201. Title 19 of the Code of the Federated

1 States of Micronesia is hereby enacted by adding a new section
2 927 to chapter 9 to read as follows:

3 "Section 927. Government-owned cargoes and
4 humanitarian cargoes.

5 (1) Unless a nation recognized by the
6 Federated States of Micronesia owns a vessel and the
7 government of that nation consents, nothing in this
8 chapter shall be construed to provide for the
9 seizure, arrest or detention by any legal process
10 of, nor any proceeding in rem against, non-
11 commercial cargoes owned by a government and
12 entitled, at the time of the salvage operations, to
13 sovereign immunity under generally accepted and
14 recognized principles of international law.

15 (2) Nothing in this chapter shall be construed
16 to provide for the seizure, arrest or detention of
17 humanitarian cargoes donated by a government, if
18 such government has agreed to pay for salvage
19 services rendered in respect of such humanitarian
20 cargoes."

21 Section 202. Title 19 of the Code of the Federated
22 States of Micronesia is hereby enacted by adding a new section
23 928 to chapter 9 to read as follows:

24 "Section 928. Limitation of actions.

25 (1) Any action brought under this chapter

shall be time-barred if judicial proceedings have
not been instituted within a period of two years.
The limitation period commences on the day on which
the salvage operations are terminated or the vessel
and any part of the cargo delivered to a safe port.

(2) The person against whom a claim is made
may at any time during the running of the limitation
period apply to the Supreme Court for an order to
extend that period. This period may upon
application to the Court be further extended if the
Court so orders.

(3) An action of indemnity by a person liable
may be instituted even after the expiration of the
limitation period provided for in the preceding
subsections, if brought within the time allowed by
chapter 13 of this title."

Section 203. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new chapter
10 entitled "Carriage of Goods by Sea".

Section 204. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
1001 to chapter 10 to read as follows:

"Section 1001. Application. This chapter applies
to all goods carried by sea:

(1) between ports in the Federated States of

Micronesia; or

(2) to the Federated States of Micronesia
under a bill of lading:

(a) issued in a country which is a party
to the Hague-Visby Rules;

(b) issued at a port in a country which
is a party to the Hague-Visby Rules;

(3) from the Federated States of Micronesia to
a port in a country which is a party to the Hague-
Visby Rules; or

(4) under a contract which states that the
provisions of the Hague-Visby Rules are to govern
the contract."

Section 205. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
1002 to chapter 10 to read as follows:

"Section 1002. Regulations for the carriage of
goods by sea. The Secretary may promulgate
regulations relating to the carriage of goods by
sea, taking into account the provisions of the
Hague-Visby Rules."

Section 206. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
1003 to chapter 10 to read as follows:

"Section 1003. Bills of lading. Every bill of

lading to which section 1001 applies shall contain
an express statement that it is issued subject to
the Hague-Visby Rules."

Section 207. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
1004 to chapter 10 to read as follows:

"Section 1004. Jurisdiction of Supreme Court over
carriage of goods within the Federated States of
Micronesia.

(1) All bills of lading or other contracts for
the carriage of goods from any place within the
Federated States of Micronesia to another place
within the Federated States of Micronesia shall be
interpreted and enforced according to the laws of
the Federated States of Micronesia.

(2) The Supreme Court shall have exclusive
original jurisdiction over all bills of lading and
other contracts for the carriage of goods by sea to
which section 1001(1) applies.

(3) The Supreme Court shall have jurisdiction
over all bills of lading and other contracts for the
carriage of goods by sea to which section 1001,
subsections (2) and (3) apply, and any action
brought in the Supreme Court shall be interpreted
and enforced in accordance with the laws of the

Federated States of Micronesia.

(4) Any bill of lading or other contract to which section 1001 applies, which is inconsistent with this section, is null and void."

Section 208. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new chapter 11 entitled "Limitation of Liability".

Section 209. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 1101 to chapter 11 to read as follows:

"Section 1101. Regulations for the limitation of liability for maritime claims. The Secretary may promulgate regulations to implement this chapter, taking into account the provisions of the Limitation of Liability Convention and the Tonnage Convention."

Section 210. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 1102 to chapter 11 to read as follows:

"Section 1102. Liability and division of loss.

(1) Where two or more vessels cause property damage or loss, liability shall be proportional to the degree of fault, PROVIDED that, if it is not possible to establish degrees of fault, liability shall be apportioned equally.

(2) Where two or more vessels cause loss of

life or personal injury to any person, liability
shall be joint and several.

(3) Nothing in this section shall affect the
right of any person to limit his or her liability in
a manner provided by law."

Section 211. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
1103 to chapter 11 to read as follows:

"Section 1103. No presumption of fault. In case of
collision, a vessel shall not be deemed at fault
solely because the master or person in charge has
infringed any provision of the Collisions
Convention."

Section 212. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
1104 to chapter 11 to read as follows:

"Section 1104. Maritime claims subject to
limitation of liability.

(1) Subject to sections 1105, 1106, 1107 and
1108 of this chapter, the following claims, whatever
the basis of liability may be, shall be subject to
limitation of liability:

(a) claims for loss of life or personal
injury or loss of or damage to property (including
damage to harborworks, basins and waterways and

marine aids to navigation), occurring on board or in
direct connection with the operation of the vessel
or with salvage operations, and consequential loss
resulting therefrom;

(b) claims for loss resulting from delay
in the carriage by sea of cargo, passengers or their
luggage;

(c) claims for loss resulting from
infringement of rights other than contractual
rights, occurring in direct connection with the
operation of the vessel or salvage operations;

(d) claims of a person other than the
person liable in respect of measures taken in order
to avert or minimize loss for which the person
liable may limit his or her liability in accordance
with the Limitation of Liability Convention, and
further loss caused by such measures.

(2) Maritime claims set forth in subsection
(1) shall be subject to limitation of liability even
if brought by way of recourse or for indemnity under
a contract or otherwise; PROVIDED, however, that
claims set forth under subsection (1)(d) shall not
be subject to limitation of liability to the extent
that they relate to remuneration under a contract
with the person liable."

1 Section 213. Title 19 of the Code of the Federated
2 States of Micronesia is hereby enacted by adding a new section
3 1105 to chapter 11 to read as follows:

4 "Section 1105. Maritime claims exempted from
5 limitation of liability. This chapter shall not
6 apply to:

7 (1) claims for salvage or contribution to
8 general average;

9 (2) claims for oil pollution damage within the
10 meaning of the International Convention on Civil
11 Liability for Oil Pollution Damage, dated November
12 29, 1969, or of any amendment or protocol thereto
13 which is in force;

14 (3) claims subject to any international
15 convention or national legislation governing or
16 prohibiting limitation of liability for nuclear
17 damage;

18 (4) claims against the owner of a nuclear
19 vessel for nuclear damage;

20 (5) claims by officers, employees, and agents
21 of the owner or salvor whose duties are directly
22 connected with the operation of the vessel or the
23 salvage operations;

24 (6) claims in respect of the raising, removal,
25 destruction or the rendering harmless of a vessel

which is sunk, wrecked, stranded or abandoned,
including anything that is or has been on board such
vessel; and

(7) claims in respect of the removal,
destruction or the rendering harmless of the cargo
of the vessel."

Section 214. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
1106 to chapter 11 to read as follows:

"Section 1106. Conduct barring limitation of
liability for maritime claims. A person liable for
a maritime claim shall not be entitled to limitation
of liability under this chapter if it is proved that
the loss resulted from the person's personal act or
omission, committed with the intent to cause such
loss, or recklessly and with knowledge that such
loss would probably result."

Section 215. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
1107 to chapter 11 to read as follows:

"Section 1107. The right of limitation of
liability.

(1) A person may procure the release of a
vessel or other property or may limit his or her
liability for certain maritime claims as set forth

1 in this chapter, provided that the person:

2 (a) makes timely application to the
3 Supreme Court to establish the limit of liability,
4 under the procedures set forth in regulations
5 promulgated by the Secretary; and

6 (b) constitutes a Limitation of Liability
7 Fund.

8 (2) The act of invoking limitation of
9 liability under this chapter shall not constitute an
10 admission of liability.

11 (3) An insurer of liability for claims subject
12 to limitation under this chapter shall be entitled
13 to the benefits of this chapter with respect to
14 limitation of liability to the same extent as the
15 assured.

16 (4) Liability of a person shall include
17 liability in an action brought against the vessel."

18 Section 216. Title 19 of the Code of the Federated
19 States of Micronesia is hereby enacted by adding a new section
20 1108 to chapter 11 to read as follows:

21 "Section 1108. Constitution of the Limitation of
22 Liability Fund.

23 (1) Any person alleged to be liable for a
24 maritime claim who seeks to limit liability for
25 maritime claims may constitute a Limitation of

Liability Fund with the Trial Division of the
Supreme Court.

(2) The fund shall be constituted in the sum
of such amounts set out in regulations as are
applicable to claims for which that person may be
liable, together with interest thereon from the date
of the occurrence giving rise to the liability until
the date of the constitution of the fund.

(3) Any fund constituted under this chapter
shall be available only for the payment of claims in
respect of which limitation of liability can be
invoked.

(4) A fund may be constituted either by
depositing the sum with the Supreme Court, or by
lodging with the court an irrevocable letter of
credit or other form of security acceptable to the
Court.

(5) The Court shall have the power to order
the creation, administration and distribution of a
Limitation of Liability Fund.

(6) If the Court is satisfied that the fund is
properly constituted, freely transferable, and in
the sum set out in regulations, it may release the
vessel from arrest.

(7) If the Court is satisfied that the fund

has been properly constituted, is freely
transferable and in the sum set out in regulations,
any person having made a claim against the fund
shall be barred from exercising any right against
any other assets of the person constituting the
fund."

Section 217. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new chapter 12 entitled "Safety of Navigation".

Section 218. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 1201 to chapter 12 to read as follows:

"Section 1201. Regulations for the safety of
navigation. The Secretary may promulgate
regulations to implement this chapter, taking into
account the provisions of the Convention for the
Suppression of Unlawful Acts Against the Safety of
Maritime Navigation, Rome 1988."

Section 219. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 1202 to chapter 12 to read as follows:

"Section 1202. Application.

(1) This chapter shall apply to:

(a) all vessels navigating or scheduled
to navigate into, through or from waters beyond the

outer limits of the waters of the Federated States
of Micronesia or the lateral limits thereof with
adjacent countries;

(b) any person found in the waters of the
Federated States of Micronesia to have committed or
alleged to have committed any of the offenses set
forth in section 1203.

(2) This chapter shall also apply when any of
the offenses set forth in section 1203 is committed:

(a) against or on board a Registered
Vessel; or

(b) within the Federated States of
Micronesia, including the waters of the Federated
States of Micronesia; or

(c) by a citizen or national of the
Federated States of Micronesia.

(3) This chapter shall further apply when:

(a) any of the offenses set forth in
section 1203 has been committed by a stateless
person whose habitual residence is within the
Federated States of Micronesia; or

(b) during the commission of any of the
offenses set forth in section 1203 a citizen or
national of the Federated States of Micronesia is
seized, threatened, injured or killed; or

(c) any of the offenses set forth in section 1203 is committed in an attempt to compel the Government to do or abstain from doing any act.

(4) This chapter does not apply to:

(a) a vessel belonging to the defense forces of any nation;

(b) a vessel owned or operated as a naval auxiliary or for customs or police purposes; or

(c) a vessel which has been withdrawn from navigation or laid up.

(5) Nothing in this chapter shall affect the immunities of warships and other government vessels operated for non-commercial purposes."

Section 220. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 1203 to chapter 12 to read as follows:

"Section 1203. Offenses against safety of navigation.

(1) A person commits a national offense if that person unlawfully and intentionally:

(a) seizes or exercises control over a vessel by force or threat thereof or any other form of intimidation; or

(b) performs an act of violence against a person on board a vessel if that act is likely to

endanger the safe navigation of that vessel; or

(c) destroys a vessel or causes damage to a vessel or to its cargo which is likely to endanger the safe navigation of that vessel; or

(d) places or causes to be placed on a vessel, by any means whatsoever, a device or substance which is likely to destroy that vessel, or causes damage to that vessel or its cargo which endangers or is likely to endanger the safe navigation of that vessel; or

(e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a vessel; or

(f) communicates information which that person knows to be false, thereby endangering the safe navigation of a vessel; or

(g) injures or kills any persons in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (a) through (f).

(2) A person shall also commit a national offense if that person:

(a) attempts to commit any of the

1 or any regulations promulgated hereunder, any
2 authorized officer may:

3 (a) upon the issuance of a warrant, enter
4 any vessel or small craft; or

5 (b) stop, board and search any vessel or
6 small craft within the waters of the Federated
7 States of Micronesia.

8 (2) Where an authorized officer has reasonable
9 cause to believe that an offense against the
10 provisions of this title or any regulations made
11 under this title has been committed, the authorized
12 officer may, with or without a warrant or other
13 process:

14 (a) following hot pursuit in accordance
15 with international law and commenced within the
16 waters of the Federated States of Micronesia, stop,
17 board, and search inside or outside the waters of
18 the Federated States of Micronesia, any vessel or
19 small craft which he believes has been used in the
20 commission of that offense and bring such vessel or
21 small craft and all persons and things on board
22 within the waters of the Federated States of
23 Micronesia;

24 (b) within the waters of the Federated
25 States of Micronesia:

(i) arrest any person if he has reasonable cause to believe that such person has committed an offense prohibited by this title; and

(ii) seize any vessel or small craft used or employed in, or when it reasonably appears to have been used or employed in, the violation of any provision of this title or any regulations issued under this title.

(3) Any authorized officer may execute any warrant or other process issued by any court of competent jurisdiction.

(4) Any authorized officer may exercise any other lawful authority for the enforcement of this title and any regulations issued under this title."

Section 222. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 1205 to chapter 12 to read as follows:

"Section 1205. Jurisdiction of the Supreme Court.

The Supreme Court shall have jurisdiction over and prosecute any offenses which:

(1) are committed against or on board a vessel flying the flag of the Federated States of Micronesia when the offense is committed;

(2) are committed in the waters of the

Federated States of Micronesia;

(3) are committed by a citizen or national of
the Federated States of Micronesia;

(4) are committed by a stateless person whose
habitual residence is in the Federated States of
Micronesia;

(5) involve the seizure, threat to, injury or
death of a national or citizen of the Federated
States of Micronesia;

(6) are committed in an attempt to compel the
Federated States of Micronesia to do or abstain from
doing any act."

Section 223. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new chapter
13 entitled "Administrative and Legal Procedures".

Section 224. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
1301 to chapter 13 to read as follows:

"Section 1301. Administrative disposition.

(1) Notwithstanding the provisions of sections
1303 and 1304, where the Secretary believes there
has been a violation of any provision of this title
which is not punishable by imprisonment, the
Secretary may:

(a) order the accused to take mitigating

1 or remedial actions; and

2 (b) sanction the accused, including
3 levying fines.

4 (2) The order or the sanction shall constitute
5 notice to the accused of the offense for purposes of
6 administrative disposition under this section.

7 (3) Compliance with the order and payment of
8 the fine shall constitute complete satisfaction of
9 the charges. Payment of fines must be made within 7
10 days of the notice.

11 (4) Where those affected by the actions of the
12 Secretary under subsection (1) wish to contest those
13 actions, they may:

14 (a) seek a hearing in accordance with the
15 procedures of title 17 of the Code of the Federated
16 States of Micronesia; or

17 (b) seek a judicial hearing in the
18 appropriate court without having to exhaust
19 administrative remedies.

20 (5) All fines collected shall be deposited
21 into the General Fund of the Federated States of
22 Micronesia."

23 Section 225. Title 19 of the Code of the Federated
24 States of Micronesia is hereby enacted by adding a new section
25 1302 to chapter 13 to read as follows:

1 "Section 1302. Mediation and arbitration.

2 (1) Where two or more parties seek resolution
3 of a dispute arising under the provisions of this
4 title, they may agree to mediation or arbitration
5 conducted by the Secretary, or a mediator or
6 arbitrator appointed by the Secretary.

7 (2) Any decision made in arbitration shall be
8 binding upon the parties and final."

9 Section 226. Title 19 of the Code of the Federated
10 States of Micronesia is hereby enacted by adding a new section
11 1303 to chapter 13 to read as follows:

12 "Section 1303. Jurisdiction of Supreme Court in
13 rem. The Supreme Court shall have jurisdiction in
14 rem over all vessels irrespective of their flag and
15 all maritime claims wherever arising with respect
16 to:

17 (1) disputes relating to the ownership of,
18 possession of or title to a vessel or a share in a
19 vessel;

20 (2) mortgages, including foreign mortgages and
21 other charges in the nature of a mortgage;

22 (3) claims for towage;

23 (4) claims relating to salvage;

24 (5) claims for pilotage;

25 (6) claims for general average;

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-
- 1 (7) claims for wages of masters and crew;
- 2 (8) claims for disbursements made by masters,
- 3 shippers, charterers or agents on behalf of a
- 4 vessel;
- 5 (9) claims for damage done by a vessel;
- 6 (10) personal injury claims arising from the
- 7 operation of a vessel for which the vessel's owner,
- 8 operator or charterer is liable;
- 9 (11) claims for loss of or damage to goods
- 10 carried by a vessel;
- 11 (12) claims arising from contracts for the
- 12 carriage of goods by a vessel;
- 13 (13) claims arising from agreements for the
- 14 use or hire of a vessel;
- 15 (14) claims for the construction, repair,
- 16 alteration or equipping of a vessel;
- 17 (15) claims for goods, materials or services
- 18 supplied to a vessel;
- 19 (16) claims for unpaid insurance premiums or
- 20 calls from protection and indemnity associations;
- 21 (17) port, harbor, navigational aids dues and
- 22 similar charges;
- 23 (18) claims for marine pollution damage;
- 24 (19) claims for damages arising from the
- 25 operation of a vessel for which the owner, operator

or charterer is liable;

(20) claims for the enforcement of arbitral
awards in respect of maritime claims; and

(21) claims for the enforcement of local and
foreign admiralty judgments in rem."

Section 227. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
1304 to chapter 13 to read as follows:

"Section 1304. Jurisdiction of Supreme Court in
personam. The Supreme Court shall have jurisdiction
in personam with respect to:

(1) claims for damage done to a vessel;

(2) claims to limit liability under any
international maritime convention to which the
Federated States of Micronesia is a party allowing
for limitation of liability in relation to vessels;

(3) ancillary matters of admiralty and
maritime jurisdiction associated with matters in
respect of which the Court's jurisdiction is
invoked."

Section 228. Title 19 of the Code of the Federated
States of Micronesia is hereby enacted by adding a new section
1305 to chapter 13 to read as follows:

"Section 1305. Nautical assessors.

(1) The Court may appoint nautical assessors

1 to advise it on all maritime matters.

2 (2) Nautical assessors shall be appointed on
3 the basis of their expert knowledge and experience
4 and may be engaged prior to or during trial for as
5 long as their expertise is required.

6 (3) Nautical assessors shall not be called by
7 the parties to give evidence, shall not be sworn and
8 shall not be cross-examined.

9 (4) Nautical assessors may be paid
10 compensation for their services.

11 (5) The advice of nautical assessors shall be
12 treated as highly persuasive, but it is for the
13 Court to assess its worth and decide on all matters
14 of fact and law."

15 Section 229. Title 19 of the Code of the Federated
16 States of Micronesia is hereby enacted by adding a new section
17 1306 to chapter 13 to read as follows:

18 "Section 1306. Investigation of violations.

19 (1) Upon receipt of evidence that a violation
20 has occurred, the Secretary shall cause an
21 investigation to be conducted.

22 (2) The Secretary may issue subpoenas
23 requiring the attendance of witnesses and the
24 production of documents.

25 (3) The Secretary may inspect any vessel in

1 any port under the jurisdiction of the Federated
2 States of Micronesia.

3 (4) If a foreign vessel is involved, the
4 Secretary shall, through diplomatic channels, notify
5 the maritime authority of the vessel's flag state.

6 (5) Upon completion of the investigation, the
7 Secretary shall take appropriate action."

8 Section 230. Title 19 of the Code of the Federated
9 States of Micronesia is hereby enacted by adding a new section
10 1307 to chapter 13 to read as follows:

11 "Section 1307. Procedure for prosecution of
12 national offenses.

13 (1) (a) All proceedings brought against a
14 person for an offense under this title shall be
15 commenced by filing an information, in writing, in
16 the name of the Secretary with the Supreme Court.

17 (2) (a) Subject to subsection (b) every
18 information in respect of an offense shall be filed
19 within 12 months from the date on which the offense
20 is alleged to have been committed or when the
21 alleged offense may reasonably have been discovered.

22 (b) Where any vessel or any person has
23 committed an offense under this title and departed
24 from the jurisdiction before an information could be
25 filed, the time period referred to in subsection (a)

1 shall commence running on the date on which the
2 vessel or person returns to the jurisdiction.

3 (3) Every information shall contain such
4 particulars as will fairly inform the defendant of
5 the substance of the offense with which he is
6 charged.

7 (4) As soon as practicable after an
8 information is sworn, it shall be filed with the
9 Court.

10 (5) Where an information has been filed, the
11 Clerk of the Court may issue a summons to the
12 defendant.

13 (6) (a) Every summons to a defendant and any
14 other document which is required to be served on a
15 defendant shall be served on him by being delivered
16 to him or her personally or by being brought to his
17 notice if he or she refuses to accept it.

18 (b) Where a summons is to be served on
19 the master of a vessel it may be served on the
20 officer apparently in charge if the
21 master is not on board the vessel.

22 (c) Where the summons is to be served on
23 the owner of a vessel it may be served on the
24 vessel's agent.

25 (d) Service on the persons referred to in

subsections (b) or (c) shall be deemed to be service
on the defendant master and owner of the vessel.

(7) Every summons to a defendant and every
other document which is required to be served on a
defendant may be served by an authorized officer or
by the Principal Officer who shall be the Principal
Surveyor, Principal Shipping Officer, or any other
person so designated by the Secretary.

(8) (a) The service of any document may be
proved by affidavit made by the person who served
the document showing the fact, as well as the time,
place and mode of service.

(b) The affidavit of service made by the
person who served the document shall be deemed to be
correct unless or until the contrary is proved.

(9) When an information has been filed and a
summons has been issued and served, a Principal
Officer who has reasonable grounds to believe that
the defendant will not appear before the Court on
the date set out in the summons, may apply to the
Court for a warrant to arrest the defendant if:

(a) a warrant is necessary to compel the
attendance of the defendant; or

(b) a warrant is desirable because of the
gravity of the

offenses in subsection (1); or

(b) abets the commission of any of the offenses set forth in subsection (1) perpetrated by any person or is otherwise an accomplice of a person who commits such an offense; or

(c) threatens to compel a physical or juridical person to do or refrain from doing any act, to commit any of the offenses set forth in subsection (1), paragraphs (b), (c) and (e), if that threat is likely to endanger the safe navigation of the vessel in question.

(3) Anyone who commits an offense under this section commits a national offense and shall be punished:

(a) with imprisonment for not less than twenty (20) years; or

(b) if the death of another person results from the commission or attempted commission of the offense, with imprisonment for life."

Section 221. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 1204 to chapter 12 to read as follows:

"Section 1204. Enforcement authority.

(1) For the purpose of ascertaining whether there is or has been any contravention of this title

alleged offense and the circumstances of the case.

(10) A Principal Officer or his delegate for
the purposes of enforcing this title may, without
warrant:

(a) stop, board and search any vessel, or
the owner, master or any crew member of any vessel
that he or she reasonably suspects to have committed
any offense under this title;

(b) require the master or any crew member
to inform him or her about any incident occurring
aboard or involving the vessel;

(c) make any inspection or examination of
anything aboard the vessel;

(d) require to be produced, any
certificate, document, logbook or other record
required to be kept by this title or regulations, or
that concern the operation of the vessel or
employment of the crew and examine and take copies
thereof;

(e) seize any logbooks, charts,
documents, equipment, material, and take or require
to be taken any samples which he or she has
reasonable grounds to believe show or tend to show,
with or without other evidence, the commission of an
offense against this title;

1 (f) seize anything which he or she has
2 reasonable grounds to believe might be used as
3 evidence in any proceedings under this title;

4 (g) arrest any person whom he or she has
5 reasonable grounds to believe has committed an
6 offense against this title.

7 (11) (a) Pending the date of the hearing set
8 forth in the summons, upon application, the Court
9 may by order detain the vessel until the final
10 adjudication of the matter contained in the
11 information.

12 (b) Notwithstanding subsection (a), the
13 Court may by order release the vessel from such
14 detention upon the posting of a bond with the Court
15 in an amount not exceeding the value of the vessel
16 or the maximum fine prescribed in relation to the
17 offense or the total of all the offenses if more
18 than one are contained in the information.

19 (12) (a) Where the defendant does not speak
20 or understand the English language, a crew member or
21 other qualified person may be used as an
22 interpreter.

23 (b) Where an interpreter was used when
24 the information was filed and the summons served,
25 and the evidence collected from the vessel or

1 persons on board the vessel, that same interpreter
2 may be summoned to appear in Court at the trial of
3 the named defendant.

4 (c) Where certificates required to be
5 carried on board the vessel are not in the English
6 language, the defendant shall obtain English
7 translations of those certificates from the
8 authority or organization which issued them.

9 (13) (a) Any number of informations for any
10 offenses against a defendant may be tried together.

11 (b) If the Court believes that it is
12 desirable or expedient in the interest of justice to
13 do so, it may order that the defendant be tried on
14 one or more of such informations separately.

15 (c) The informations which are not then
16 tried shall be proceeded upon in all respect as if
17 they had been presented separately.

18 (14) Any number of defendants may be tried
19 together, provided that the Court may, at any time,
20 order separate trials if satisfied that the
21 interests of justice so require."

22 Section 231. Title 19 of the Code of the Federated
23 States of Micronesia is hereby enacted by adding a new section
24 1308 to chapter 13 to read as follows:

25 "Section 1308. Detention of a vessel.

(1) Where the Secretary finds that reasonable grounds exist under this title for the detention of a vessel, the Secretary shall issue a detention order and may detain the vessel without warrant, PROVIDED HOWEVER:

(a) written notice shall be served to the person on board in charge of the vessel, together with a copy of the detention order; and

(b) such written notice shall state with particularity the grounds for detention and the provision of the law under which the detention order has been issued, and that the vessel owner or master has the right to a prompt hearing before the Secretary regarding probable cause for the detention.

(2) An owner or master whose vessel has been detained may petition the Secretary under title 17 of the Code of the Federated States of Micronesia for a hearing to review the detention order.

(3) Where a foreign vessel is detained, the Secretary, through diplomatic channels, shall notify the maritime authority of the vessel's flag state, including the reason for detention."

Section 232. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section

1 1309 to chapter 13 to read as follows:

2 "Section 1309. Forfeiture of a vessel.

3 (1) Where a vessel is subject to forfeiture
4 under this title, upon the issuance of a warrant by
5 the Supreme Court, an authorized officer may seize
6 and detain the vessel.

7 (2) Upon seizure or detention under this
8 section, civil proceedings for forfeiture shall be
9 initiated forthwith by the Office of the Attorney
10 General, and written notice shall be served on the
11 owner or master, PROVIDED HOWEVER, in the case of a
12 foreign vessel or foreign small craft, notice of the
13 forfeiture proceedings and the grounds therefor
14 shall be given to the maritime authority of the flag
15 state through diplomatic channels.

16 (3) After trial, if the Supreme Court finds by
17 a preponderance of the evidence that proof has been
18 made of a violation of this title for which
19 forfeiture of a vessel or small craft is allowed,
20 the Court may issue an order that the owner has
21 forfeited all rights of ownership of the vessel or
22 small craft, and all property rights in the vessel
23 or small craft have vested in the
24 Government together with all equipment, cargo and
25 stores.

1 States of Micronesia is hereby enacted by adding a new section
2 1311 to chapter 13 to read as follows:

3 "Section 1311. Obstruction of persons. Every
4 person who, without lawful excuse (proof of which is
5 on him or her), hinders or obstructs a person in the
6 performance, execution or carrying out of any duty
7 conferred or imposed on that person by this title
8 commits a national offense, and where no other
9 penalty is provided for in this title, shall be
10 punishable by a fine not exceeding \$200,000 or by
11 imprisonment not exceeding 2 years, or both;
12 PROVIDED that if in the commission of any such
13 offense the person uses a dangerous weapon, engages
14 in conduct that causes bodily injury to any officer
15 authorized to enforce the provisions of this title,
16 or threatens any such officer with bodily injury,
17 the offense is punishable by a fine of not less than
18 \$500,000 or imprisonment for not more than ten
19 years, or both."

20 Section 235. Title 19 of the Code of the Federated
21 States of Micronesia is hereby enacted by adding a new section
22 1312 to chapter 13 to read as follows:

23 "Section 1312. Civil offenses.

24 (1) Every person who does any act, or makes
25 any omission, in contravention of any provision of

1 this title or regulations hereunder commits a civil
2 offense.

3 (2) When any provision of this title is
4 contravened and no specific violation is prescribed
5 and no pecuniary penalty provided for, any person
6 contravening any provision commits a civil offense
7 and shall be liable to a fine not exceeding \$1,000."

8 Section 236. Title 19 of the Code of the Federated
9 States of Micronesia is hereby enacted by adding a new section
10 1313 to chapter 13 to read as follows:

11 "Section 1313. Recovery of fines.

12 (1) If an owner or master of a vessel has been
13 convicted of any offense under this title and where
14 the Court orders payment of a fine or if a vessel
15 has been found liable in proceedings in rem, the
16 vessel may be detained until the fine has been paid.

17 (2) If a fine is not paid within the period of
18 time stipulated by the Court, the Court may order
19 that the vessel be sold and the proceeds of the sale
20 be used to pay the fine."

21 Section 237. Title 19 of the Code of the Federated
22 States of Micronesia is hereby enacted by adding a new section
23 1314 to chapter 13 to read as follows:

24 "Section 1314. Time limits on commencement of
25 proceedings.

1 (1) An action must be commenced within the
2 time period specified or the right to bring such
3 action is extinguished.

4 (2) An action is commenced by the filing of a
5 complaint or information with the Supreme Court.

6 (3) The time limit within which claims shall
7 be brought shall commence from the time when the
8 right of action accrues or when it reasonably may
9 have been discovered.

10 (4) The time limits set forth in this section
11 shall not run during any time when:

12 (a) the seaman is incapacitated, or is
13 involuntarily outside the jurisdiction of the
14 Federated States of Micronesia;

15 (b) the defendant vessel or vessel owner
16 is outside the jurisdiction of the Federated States
17 of Micronesia;

18 (5) Claims arising out of the Shipping
19 Articles must be commenced within 12 months from the
20 date of the termination of the Shipping Articles or
21 the date on which the seaman is discharged,
22 whichever is earlier.

23 (6) (a) Claims arising out of the death or
24 permanent disability of a seaman caused by wrongful
25 act, neglect, or default on the high seas must be

commenced within two years from the date the vessel returns to the seaman's proper return port or to the vessel's port of registry, whichever is later.

(b) Claims of owners against the master for acts committed during the performance of the master's duties must be commenced within 2 years from the date on which the last act giving rise to the claim occurred.

(c) Claims for the recovery of damages as a result of a collision between two or more vessels must be commenced within 2 years from the date of the collision.

(d) All other tort claims must be commenced within 2 years of the date on which the act giving rise to the claim occurred.

(7) All other claims must be commenced within 3 years of the date on which the incident giving rise to the claim occurred."

Section 238. Title 19 of the Code of the Federated States of Micronesia is hereby enacted by adding a new section 1315 to chapter 13 to read as follows:

"Section 1315. Access to and inspection of adopted regulations.

(1) Where a convention or rule or regulation, or a provision thereof, has been adopted and

incorporated by reference in regulations made under
this title, the adopted convention, rule or
regulation, or provision thereof, as the case may
be, shall be available for inspection and copying at
the Office of the Attorney General by any person
likely to be affected by it.

(2) Subject to subsection (1), no person shall
be prosecuted or convicted for contravening an
adopted regulation if that regulation is not
available for inspection or copying as required by
subsection (1), and it is a defense to such a
prosecution to show that the contravened regulation
was not so available as required.

(3) The defense available under subsection (2)
is not available to a person who has sufficient
knowledge of the requirements of the contravened
provision for which he or she is being prosecuted,
or who possessed or who had reasonable access in any
event, to the requirements of the contravened
provision independently of the procedure required
under subsection (1).

(4) When a person requests copies of an
adopted regulation under subsection (1) the Attorney
General may charge a reasonable fee for any copying
services provided, commensurate to that charged

1 generally in the public service.

2 (5) For the purposes of this section, and for
3 greater certainty, "adopted regulation" means any
4 code, treaty, convention, statute, rule, by-law,
5 resolution, form, ordinance, order or regulation
6 adopted and incorporated by reference under this
7 title."

8 Section 239. Title 19 of the Code of the Federated
9 States of Micronesia is hereby enacted by adding a new section
10 1316 to chapter 13 to read as follows:

11 "Section 1316. Continuity of documents.

12 (1) The regulations promulgated under the
13 National Maritime Act of 1993 shall continue in
14 force as if made under this title until repealed by
15 the Secretary.

16 (2) Any certificate, license, instrument or
17 document which was valid and current immediately
18 prior to the effective date of the National Maritime
19 Act, 1996, shall remain in force for a period of 12
20 months or until it expires, whichever is earlier."

21 Section 240. This act shall be effective on the first
22 day of the first month which begins no less than ninety (90)
23 days after this act becomes law.


1 Section 241. This act shall become law upon approval by
2 the President of the Federated States of Micronesia or upon its
3 becoming law without such approval.

4

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6 Date: 7/31/97

Introduced by:


Peter M. Christian

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