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AN ACT

To further amend title 24 of the Code of the Federated States of Micronesia, as amended, by repealing chapters 1 through 5 in their entirety; by renumbering chapters 6 and 7 as chapters 10 and 11 respectively; and by enacting new chapters 1 through 9 of subtitle I; to establish the Marine Resources Act of 2002; and for other purposes.

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

1 Section 1. Chapters 1 through 5 of title 24 of the Code of the
2 Federated States of Micronesia, as amended by Public Laws Nos. 10-75,
3 11-24, 11-26, 11-57 and 12-14, are hereby repealed in their entirety.

4 Section 2. Title 24 of the Code of the Federated States of
5 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
6 11-57 and 12-14, is hereby further amended by enacting a new
7 chapter 1 entitled "General Provisions" of new subtitle I entitled
8 "Marine Resources Act of 2002".

9 Section 3. Title 24 of the Code of the Federated States of
10 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
11 11-57 and 12-14, is hereby further amended by enacting a new
12 section 101 of chapter 1 to read as follows:

13 "Section 101. Purpose of this subtitle.

14 (1) The purpose of this subtitle is to ensure the
15 sustainable development, conservation and use of the
16 marine resources in the exclusive economic zone by
17 promoting development of, and investment in, fishing and
18 related activities in the context of effective

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1 stewardship.

2 (2) This act may be referred to as the 'Marine
3 Resources Act of 2002'."

4 Section 4. Title 24 of the Code of the Federated States of
5 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
6 11-57 and 12-14, is hereby further amended by enacting a new
7 section 102 of chapter 1 to read as follows:

8 "Section 102. Definitions. In this subtitle, except
9 where otherwise specified, the following terms shall
10 have the meanings stated below:

11 (1) 'Access agreement' means a treaty, agreement or
12 arrangement entered into by the Authority pursuant to
13 this act in relation to access to the exclusive economic
14 zone for fishing by foreign fishing vessels, and
15 includes bilateral and multilateral instruments
16 applicable at the national, subregional, regional or
17 international level.

18 (2) 'Administrator' means the director of a regional
19 fisheries agency or any other organization or person
20 authorized, pursuant to section 106 of chapter 1 of this
21 subtitle, to administer a fisheries access agreement or
22 fisheries management agreement to which the Federated
23 States of Micronesia is party.

24 (3) 'Agent' includes a person appointed or designated

1 by a foreign fishing company to act as the legal
2 representative of that company within the Federated
3 States of Micronesia, including acceptance of and
4 response to legal process, pursuant to section 404(4)(a)
5 of chapter 4 of this subtitle.

6 (4) 'Aircraft' means any craft capable of self-
7 sustained movement through the atmosphere and includes
8 helicopters.

9 (5) 'Atoll' means a naturally formed coral reef system
10 which has one or more islands situated on the reef
11 system, including, but not limited to, Ngulu, Ulithi,
12 Sorol, Eauripi, Woleai, Faraulep, Ifalik, Olaimarao,
13 Elato, Lamotrek, West Fayu, Puluwat, Pulap, Pulusuk,
14 Namonuito, Kuop, Nomowin, Murilo, Losap, Namoluk,
15 Satawan, Etal, Lukunor, Minto Reef, Oroluk, Nukuoro,
16 Kapingamarangi, Pakin, Ant, Sapwuahfik, Mwoakilloa and
17 Pingelap.

18 (6) 'Authority' means the National Oceanic Resource
19 Management Authority established by section 201 of
20 chapter 2 of this subtitle.

21 (7) 'Authorized observer' means any person authorized
22 in writing by the Authority to act as an observer on
23 fishing vessels for the purposes of this subtitle,
24 including any observer authorized pursuant to the

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1 provisions of an access agreement or a fisheries
2 management agreement.

3 (8) 'Authorized officer' means any person or category
4 of persons designated pursuant to section 602 of chapter
5 6 of this subtitle as an authorized officer.

6 (9) 'Automatic location communicator' or 'transponder'
7 means a device placed on a fishing vessel that
8 transmits, either in conjunction with another device or
9 devices or independently, information concerning the
10 position, fishing and other activities of the vessel.

11 (10) 'Based in the Federated States of Micronesia'
12 means using land-based facilities in the Federated
13 States of Micronesia to support fishing, including
14 location of the home port of a vessel in the Federated
15 States of Micronesia, landing or transshipping all fish
16 harvested within the exclusive economic zone and/or
17 operating under a joint venture arrangement in the
18 Federated States of Micronesia, or under arrangements
19 where the operator of a vessel is participating in
20 shore-based developments or is otherwise making a
21 substantial contribution to the development of the
22 domestic tuna industry.

23 (11) 'Buy' includes:

24 (a) barter or attempt to barter;

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1 (b) purchase or attempt to purchase;

2 (c) receive on account or consignment;

3 (d) purchase or barter for future goods or for
4 any consideration of value; and

5 (e) purchase or barter as an agent for another
6 person, and 'buyer' shall have a corresponding meaning.

7 (12) 'Citizen' means a person who is a citizen of the
8 Federated States of Micronesia.

9 (13) 'Closed area' means an area in which fishing is
10 prohibited.

11 (14) 'Closed season' means a period of time during
12 which fishing is prohibited.

13 (15) 'Commercial fishing' means any fishing resulting
14 or intending or appearing to result in the sale or trade
15 of any fish which may be taken during the fishing
16 operation, and does not include subsistence fishing.
17 For the purposes of this act, the following shall be
18 presumed to be commercial fishing:

19 (a) use of a vessel for fishing which measures
20 twenty-seven (27) feet or more in overall length;

21 (b) use of more than one vessel for fishing which
22 is owned by a single person for the primary purpose of
23 selling or trading any fish.

24 (16) 'Commercial pilot fishing' means any fishing for

1 the purpose of testing the commercial viability of:

2 (a) new fishing methods;

3 (b) developing new stocks of fish; or

4 (c) fishing in previously unexploited areas.

5 (17) 'Court' means the Supreme Court of the Federated
6 States of Micronesia.

7 (18) 'Domestic fishing' means any fishing by a local
8 fishing vessel longer than twenty-seven (27) feet in
9 overall length, but not including commercial pilot
10 fishing.

11 (19) (Reserved)

12 (20) (Reserved)

13 (21) 'Drift net' means a gillnet or other net or
14 arrangement of nets which is more than 2.5 kilometers
15 (1.56 miles) in length, the purpose of which is to
16 enmesh, entrap or entangle fish.

17 (22) 'Drift net fishing activities' includes fishing
18 with the use of a drift net and any related activities
19 including transporting, transshipping and processing any
20 drift net catch, and provisioning of food, fuel and
21 other supplies for vessels used or outfitted for drift
22 net fishing.

23 (23) 'Exclusive economic zone' means the exclusive
24 economic zone as defined in title 18 of the Code of the

1 Federated States of Micronesia.

2 (24) 'Executive Director' means the individual
3 appointed by the Authority to be in charge of the
4 daily activities and operation of the authority and to
5 perform such other functions as required by this
6 subtitle.

7 (25) 'Export' means to:

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

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

10 (c) receive on account or consignment for
11 purposes of paragraph (a) or (b) above;

12 (d) act as an agent for another person for
13 purposes of (a) through (c) above; and

14 (e) carry or transport anything for purposes of
15 paragraphs (a) through (d) of this subsection, and
16 'exporter' shall have a corresponding meaning.

17 (26) 'Fish' means any living marine resource.

18 (27) 'Fish aggregating device' means any man-made or
19 partly man-made floating or semi-submerged device,
20 whether anchored or not, intended for the purpose of
21 aggregating fish, and includes any natural floating
22 object on which a device has been placed to facilitate
23 its location.

24 (28) 'Fish processing' means the producing of any

1 substance or article from fish by any method and
2 includes the cutting up, dismembering, cleaning,
3 sorting, loining, freezing, canning, salting, preserving
4 and reduction of fish.

5 (29) 'Fisheries management agreement' means any
6 agreement, arrangement or treaty in force to which the
7 Federated States of Micronesia is a party, not including
8 any access agreement, which has as its primary purpose
9 cooperation in or coordination of fisheries management
10 measures in all or part of the region, or implementation
11 of a multilateral access agreement, including, but not
12 limited to, fisheries monitoring, control and
13 surveillance and establishing criteria or requirements
14 for fishing and fisheries access.

15 (30) 'Fishery' or 'Fisheries' means one or more stock
16 of fish or any fishing operation based on such stocks
17 which can be treated as a unit for purposes of
18 conservation and management, taking into account
19 geographical, scientific, technical, recreational,
20 economic and other relevant characteristics.

21 (31) 'Fishery waters' means the exclusive economic
22 zone, the territorial sea and internal waters as
23 described in title 18 of the Code of the Federated
24 States of Micronesia, and any other waters over which

1 the Federated States of Micronesia claims sovereignty or
2 sovereign Rights.

3 (32) 'Fishing' means:

4 (a) the actual or attempted searching for,
5 catching, taking or harvesting of fish;

6 (b) any activity which can reasonably be expected
7 to result in the locating, catching, taking or
8 harvesting of fish;

9 (c) the placing, searching for or recovering of
10 any fish aggregating device or associated electronic
11 equipment such as radio beacons;

12 (d) any operation at sea directly in support of
13 or in preparation for any activity described in this
14 subsection except for operations defined as related
15 activities in subsection (51) of this section; and

16 (e) the use of an aircraft in relation to any
17 activity described in this subsection except for flights
18 in emergencies involving the health or safety of crew
19 members or the safety of a vessel.

20 (33) 'Fishing gear' means any equipment, implement, or
21 other thing that can be used in the act of fishing,
22 including any fishing net, rope, line, float, trap,
23 hook, winch, boat, beacon or locating device, aircraft
24 or helicopter.

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1 (34) 'Fishing vessel' means any vessel, boat, ship or
2 other craft which is used for, equipped to be used for
3 or of a type that is normally used for fishing as the
4 term fishing is defined in subsection (32) of this
5 section.

6 (35) 'Flag fishing vessel' means any foreign fishing
7 vessel that is registered in the Federated States of
8 Micronesia pursuant to title 18 of the Code of the FSM
9 and any domestic fishing vessel.

10 (36) 'Foreign fishing' means any fishing not defined as
11 domestic fishing, and not including commercial pilot
12 fishing or fishing from a local fishing vessel less than
13 or equal to twenty-seven (27) feet in overall length.

14 (37) 'Foreign fishing vessel' means any fishing vessel
15 other than a local fishing vessel.

16 (38) 'Foreign party' means a noncitizen party to an
17 access agreement or a party to an access agreement that
18 is at least twenty percent foreign-owned.

19 (39) 'Foreign recreational fishing' means fishing using
20 a foreign fishing vessel for recreational or sport
21 purposes.

22 (40) 'High seas' means all parts of the sea that are
23 not included in the exclusive economic zone, in the
24 territorial sea, or in the internal water of any nation,

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1 or in the archipelagic waters of an archipelagic nation.

2 (41) 'Internal waters' means waters on the landward
3 side of the baseline of the territorial sea of any
4 island within the Federated States of Micronesia.

5 (42) 'Island' means a naturally formed area of land
6 surrounded by water, which is above water at high tide.

7 (43) 'Local fishing vessel' means any fishing vessel
8 wholly owned and controlled by:

9 (a) the Government of the Federated States of
10 Micronesia, any State government or any subdivision
11 thereof;

12 (b) one or more natural persons who are citizens
13 of the Federated States of Micronesia;

14 (c) any corporation, company, society, or other
15 association of persons incorporated or established under
16 the laws of the Federated States of Micronesia or of any
17 State and which is wholly owned and controlled by one or
18 more of the entities or persons described in paragraphs
19 (a) or (b) of this subsection; and

20 (d) any combination of persons or entities
21 described in paragraphs (a) through (c) of this
22 subsection.

23 (44) 'Master' in relation to any fishing vessel means
24 the person in charge or apparently in charge of that

1 vessel.

2 (45) 'Multilateral access agreement' means an access
3 agreement between a foreign party and one or more
4 regional parties, to which the Federated States of
5 Micronesia is a party.

6 (46) 'Officer' means any authorized officer or national
7 police officer, and includes any officer of a vessel or
8 aircraft used for the enforcement of this act, whether
9 or not such officers are officials of the Government of
10 the Federated States of Micronesia or of one of the four
11 State governments.

12 (47) 'Operator' means any person who is in charge of or
13 directs or controls a fishing vessel, or for whose
14 direct economic or financial benefit a vessel is being
15 used, including the master, owner, and charterer.

16 (48) 'Owner' in relation to a fishing vessel means any
17 person exercising or discharging or claiming the right
18 or accepting the obligation to exercise or discharge any
19 of the powers or duties of an owner, whether on his own
20 behalf or on behalf of another, and includes a person
21 who owns the vessel jointly with any other person or
22 persons and any manager, director or secretary of any
23 corporate body or company that holds an ownership
24 interest in the vessel.

1 (49) 'Permit' means any permit issued under this
2 subtitle or under an access agreement entered into
3 pursuant to this subtitle.

4 (50) 'Person' means any natural person or business
5 enterprise and includes, but is not limited to, a
6 corporation, partnership, cooperative, association, the
7 government of any of the four States, or any political
8 subdivision thereof, and any foreign government,
9 subdivision of such government or other entity.

10 (51) 'Port sampler' means a category of authorized
11 observer who performs duties at a point of transshipment
12 or port located either inside or outside the Federated
13 States of Micronesia.

14 (52) 'Recreational fishing' means fishing for sport or
15 leisure.

16 (53) 'Region' means that area of land and ocean which
17 falls within the sovereignty and sovereign rights of the
18 member countries of the South Pacific Forum Fisheries
19 Agency, whose headquarters are located in Honiara,
20 Solomon Islands, and includes high seas within such
21 area, and for the purposes of data collection, includes
22 that area of the Western and Central Pacific Ocean which
23 falls within the jurisdiction and sovereign rights of
24 the member countries of the Secretariat of the Pacific

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1 Community located in Noumea, New Caledonia, and
2 'regional' shall have a corresponding meaning.

3 (54) 'Regional access license' means a regional access
4 license issued to any fishing vessel of a party to a
5 multilateral access agreement or fisheries management
6 agreement, in accordance with such agreement.

7 (55) 'Regulation' or 'Regulations' means any regulation
8 which may be promulgated by the Authority pursuant to
9 this act.

10 (56) 'Related activities' in relation to fishing means:

11 (a) transshipment;

12 (b) refueling or supplying fishing vessels,
13 selling or supplying fishing equipment, or performing
14 either activity in support of fishing; and

15 (c) on-shore storing, buying or processing fish
16 or fish products from the time they are first landed.

17 (57) 'Secretary' means the Secretary of the Department
18 of Justice.

19 (58) 'Sell' includes the exchange of any fish or fish
20 product or other thing for cash or for anything which
21 has value or which can be exchanged for cash, and
22 includes any exchange by barter.

23 (59) 'Stock of fish' means a species, subspecies or
24 other category of fish identified on the basis of

1 geographical, scientific, technical, recreational and
2 economic characteristics which can be treated as a unit
3 for purposes of conservation and management.

4 (60) 'Subsistence fishing' means fishing by a citizen
5 or a resident substantially for personal consumption,
6 and does not include any fishing resulting or intending
7 or appearing to result, directly or indirectly, in the
8 sale or trading of any fish which may be taken during
9 the fishing operations.

10 (61) 'Transponder' or 'automatic location communicator'
11 means a device placed on a fishing vessel that
12 transmits, either in conjunction with another device or
13 devices or independently, information concerning the
14 position, fishing and other activities of the vessel.

15 (62) 'Transshipment' means the transfer of any or all
16 fish or fish products to or from any vessel or aircraft
17 for the purposes of transporting such fish or fish
18 products elsewhere.

19 (63) 'United Nations Agreement' means the agreement for
20 the implementation of the provisions of the United
21 Nations Convention on the Law of the Sea of 10 December
22 1992 relating to the conservation and management of
23 straddling fish stocks and highly migratory fish stocks.

24 (64) 'United Nations Convention' means the United

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1 Nations Convention on the Law of the Sea, 1982.

2 (65) 'Vehicle' means any car, truck, van, bus, trailer
3 or other powered land conveyance.

4 (66) 'Vessel' means any boat, ship, canoe or other
5 water-going craft."

6 Section 5. Title 24 of the Code of the Federated States of
7 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
8 11-57 and 12-14, is hereby further amended by enacting a new
9 section 103 of chapter 1 to read as follows:

10 "Section 103. Fishing permits required - commercial.

11 No domestic fishing, commercial pilot fishing, foreign
12 fishing or such other fishing or related activity as may
13 be prescribed shall be allowed in the exclusive economic
14 zone unless it is in accordance with:

15 (1) a valid and applicable permit issued under
16 authority conferred by this subtitle; or

17 (2) a valid and applicable license issued by an
18 administrator pursuant to a multilateral access
19 agreement entered into pursuant to section 106 of
20 chapter 1 of this_subtitle."

21 Section 6. Title 24 of the Code of the Federated States of
22 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
23 11-57 and 12-14, is hereby further amended by enacting a new
24 section 104 of chapter 1 to read as follows:

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1 "Section 104. Fishing permits required - non-
2 commercial. No marine scientific research, training or
3 foreign recreational fishing shall be allowed in the
4 exclusive economic zone unless it is in accordance with
5 a valid and applicable permit issued by the Authority on
6 such terms and conditions as it shall require."

7 Section 7. Title 24 of the Code of the Federated States of
8 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
9 11-57 and 12-14, is hereby further amended by enacting a new
10 section 105 of chapter 1 to read as follows:

11 "Section 105. Access agreements required.

12 (1) No foreign fishing vessel shall be issued a permit
13 to fish in the exclusive economic zone unless an
14 applicable access agreement is in force.

15 (2) The Authority is authorized to negotiate and enter
16 into access agreements on behalf of the Government of
17 the Federated States of Micronesia pursuant to chapter 2
18 and in accordance with chapter 4 of this subtitle."

19 Section 8. Title 24 of the Code of the Federated States of
20 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
21 11-57 and 12-14, is hereby further amended by enacting a new
22 section 106 of chapter 1 to read as follows:

23 "Section 106. Fisheries management agreements;
24 multilateral access agreements.

1 (1) Notwithstanding any other provision of this
2 subtitle, the Authority is authorized to enter into
3 fisheries management agreements for cooperation in or
4 coordination of fisheries management measures in all or
5 part of the region or for the implementation of a
6 multilateral access agreement. Such agreements may,
7 among other things, at the Authority's discretion,
8 include provisions for the following:

9 (a) authorization of a person, body or
10 organization to perform functions required by a
11 multilateral access agreement, including, but not
12 limited to, the allocation, issuance and denial of
13 fishing licenses valid in the region or part thereof,
14 including the exclusive economic zone;

15 (b) an observer program;

16 (c) a port sampling program;

17 (d) fisheries monitoring and control; and

18 (e) any other matter relating to fisheries
19 management.

20 (2) For the purpose of giving effect to a multilateral
21 access agreement or fisheries management agreement, the
22 Authority may, in writing:

23 (a) exempt any foreign fishing vessel, holding a
24 valid fishing license issued pursuant to a multilateral

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1 access agreement, from any requirement of this subtitle
2 which is inconsistent with the terms of such agreement;

3 (b) implement the establishment of closed areas,
4 closed seasons and such other management measures as may
5 be agreed upon pursuant to a fisheries management
6 agreement;

7 (c) authorize observers designated under an
8 observer program entered into pursuant to subsection
9 (1)(b) of this section to perform such duties and
10 responsibilities as may be required by such agreement;

11 (d) prescribe or otherwise require the conditions
12 to be observed by operators of foreign fishing vessels
13 exempted under paragraph (a) of this subsection;

14 (e) prescribe or otherwise require the conditions
15 to be observed by flag vessels and citizens for fishing
16 outside the exclusive economic zone, in accordance with
17 any access agreement or fisheries management agreement
18 to which the Federated States of Micronesia may be
19 party."

20 Section 9. Title 24 of the Code of the Federated States of
21 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
22 11-57 and 12-14, is hereby further amended by enacting a new
23 section 107 of chapter 1 to read as follows:

24 "Section 107. Application for permit - contents.

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1 (1) Each person entitled to apply for a permit under
2 this subtitle shall make application on such forms as
3 may be required by the Authority specifying, at a
4 minimum:

5 (a) the name, call sign, country of registration,
6 country of registration number, regional register
7 number, name and address of the operator, name of the
8 vessel master and bank reference number;

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

13 (c) if applicable, the access agreement under
14 which such permit is sought.

15 (2) The Authority may require such additional
16 information for permit applications as may be necessary
17 to implement and enforce the provisions of this
18 subtitle."

19 Section 10. Title 24 of the Code of the Federated States of
20 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
21 11-57 and 12-14, is hereby further amended by enacting a new
22 section 108 of chapter 1 to read as follows:

23 "Section 108. Application for permit - review. The
24 Executive Director, or his designee, shall review each

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1 application submitted pursuant to section 107 of this
2 subtitle, and may, at his discretion, solicit views from
3 appropriate persons in the States and hold public
4 hearings when and where necessary."

5 Section 11. Title 24 of the Code of the Federated States of
6 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
7 11-57 and 12-14, is hereby further amended by enacting a new
8 section 109 of chapter 1 to read as follows:

9 "Section 109. Application for permit - issuance and
10 denial.

11 (1) The Executive Director shall notify the applicant
12 of the decision to issue or deny a permit, or of the
13 need for more information, within a reasonable time of
14 the date of receipt of the completed application.

15 (2) The Executive Director may approve the application
16 on such terms and conditions and with such restrictions
17 as he deems appropriate.

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

19 (a) the application is not in accordance with the
20 requirements of this subtitle;

21 (b) the Executive Director is satisfied that
22 information required to be given or reported under this
23 subtitle is false, incomplete or misleading;

24 (c) the owner or charterer is the subject of

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1 proceedings under the bankruptcy laws of any
2 jurisdiction or on reasonable grounds appears unable to
3 meet any financial obligations which could arise from
4 fishing_activities and reasonable financial assurances
5 sought by the Authority have not been provided;

6 (d) the fishing vessel does not meet required
7 safety standards;

8 (e) the fishing vessel does not bear the required
9 markings;

10 (f) an operator of the vessel has contravened or
11 has committed an offense against the laws of the
12 Federated States of Micronesia, or the vessel has been
13 used for contravention of an access agreement; or

14 (g) the Executive Director determines that the
15 issuance of a permit would not be in the best interests
16 of the Federated States of Micronesia.

17 (4) A permit shall be denied where:

18 (a) the application is made in respect of a
19 foreign fishing vessel that does not have good standing
20 on the Regional Register of Foreign Fishing Vessels
21 maintained by the South Pacific Forum Fisheries Agency;

22 (b) the operator of the vessel with respect to
23 which application for a permit has been made has failed
24 to satisfy a judgment or other final determination or

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1 breach of this subtitle or an access agreement or
2 fisheries management agreement entered into pursuant to
3 this subtitle, until such time as the judgment or other
4 determination is satisfied; provided that a subsequent
5 change in ownership of a vessel shall not affect the
6 application of this provision;

7 (c) the Executive Director determines it would be
8 inconsistent with management measures implemented in
9 accordance with this subtitle;

10 (d) the required fees, royalties or other forms
11 of compensation have not been paid in accordance with
12 this subtitle and an applicable access agreement; or

13 (e) the Executive Director determines that
14 insurance requirements of this subtitle and the
15 applicable access agreement are not fulfilled.

16 (5) If the Executive Director denies an application
17 submitted by an applicant, the Authority shall notify
18 such applicant of the denial and the reasons therefor.
19 The applicant may then submit a revised application
20 taking into consideration the reasons for disapproval.
21 The decision of the Executive Director to deny a revised
22 permit application is appealable only to the members of
23 the Authority acting as a whole, whose decision shall be
24 final and binding."

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1 Section 12. Title 24 of the Code of the Federated States of
2 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
3 11-57 and 12-14, is hereby further amended by enacting a new
4 section 110 of chapter 1 to read as follows:

5 "Section 110. Permits - scope.

6 (1) A permit issued or renewed under this subtitle
7 shall only be valid for the species of fish, the type of
8 fishing gear or method of fishing, or such other
9 activity in accordance with this subtitle, as may be
10 specified in the permit.

11 (2) No permit shall authorize:

12 (a) fishing by foreign fishing vessels on, over
13 or within one nautical mile of the edge of a coral reef
14 that is wholly submerged at mean high tide within the
15 exclusive economic zone;

16 (b) fishing by foreign fishing vessels within a
17 two nautical mile radius of any fish aggregating device
18 of the Government, a citizen or any other body
19 established under the laws of the Federated States of
20 Micronesia;

21 (c) fishing using a drift net or other
22 substantially similar method of catching fish;

23 (d) drift net fishing activities, including the
24 transporting, transshipping and processing of any

1 driftnet catch, and the provisioning of food, fuel and
2 other supplies for vessels used or outfitted for drift
3 net fishing.

4 (3) A permit issued to a vessel may authorize fishing
5 on, over or within one nautical mile of the edge of a
6 coral reef that is wholly submerged at mean high tide
7 within the exclusive economic zone, only if:

8 (a) the applicant's permit application provides
9 adequate support for marine scientific research or
10 commercial pilot fishing in such area; and

11 (i) with respect to commercial pilot
12 fishing, the Authority has determined that commercial
13 pilot fishing at the levels proposed in the permit
14 application will not damage the sustainability of the
15 fishery resources; or

16 (ii) with respect to marine scientific
17 research, the Authority has determined that the research
18 methodology proposed in the permit application will not
19 damage the sustainability of the fishery resources; or

20 (b) the Authority has determined that such
21 fishing is commercially viable and sustainable; and

22 (c) the Executive Director has submitted a copy
23 of the application to the Governor of the FSM State
24 whose customary inhabitants have been traditionally

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1 ascribed the authority to control the fishing over such
2 reef; and

3 (d) within seventy-five (75) days of the Governor
4 of the concerned FSM State having received such
5 submission, the Governor of the concerned FSM State, on
6 behalf of either the State government or the State's
7 customary or traditional leadership, has communicated in
8 writing to the Executive Director its consent to the
9 issuance of the permit with respect to the reef or reefs
10 traditionally ascribed to its customary inhabitants."

11 Section 13. Title 24 of the Code of the Federated States of
12 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
13 11-57 and 12-14, is hereby further amended by enacting a new
14 section 111 of chapter 1 to read as follows:

15 "Section 111. Permits - suspension, revocation or
16 imposition of conditions or restrictions. If any
17 fishing vessel for which a permit has been issued
18 pursuant to section 109 of this subtitle has been used
19 in the commission of any act prohibited by this
20 subtitle, other applicable law, an applicable access
21 agreement, or any permit issued in accordance with this
22 subtitle, or if any fee or civil penalty, criminal fine
23 or other determination imposed under this subtitle has
24 not been paid within thirty (30) days of the due date,

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1 the Executive Director shall:

2 (1) revoke such permit with or without prejudice to
3 the right of any party involved to be issued a permit
4 for such vessel in any subsequent licensing period;

5 (2) suspend such permit for a period of time he may
6 deem appropriate; or

7 (3) impose additional conditions or restrictions on
8 any such permit."

9 Section 14. Title 24 of the Code of the Federated States of
10 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
11 11-57 and 12-14, is hereby further amended by enacting a new
12 section 112 of chapter 1 to read as follows:

13 "Section 112. Permits - period of validity.

14 (1) Subject to subsection (2) of this section, every
15 permit issued or renewed under this subtitle shall,
16 unless earlier canceled or suspended in accordance with
17 this subtitle, be valid for a period of one year, or
18 such lesser period as may be specified, and shall not
19 extend beyond the period of validity of an applicable
20 charter agreement or access agreement.

21 (2) Where a fishing vessel which is issued a permit as
22 a local fishing vessel subsequently becomes a foreign
23 fishing vessel, the permit issued to that vessel as a
24 local fishing vessel shall automatically terminate."

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1 Section 15. Title 24 of the Code of the Federated States of
2 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
3 11-57 and 12-14, is hereby further amended by enacting a new
4 section 113 of chapter 1 to read as follows:

5 "Section 113. Permits - fees and charges.

6 (1) No permit shall be issued without payment of a
7 fee, royalty or other form of compensation.

8 (2) The Authority shall determine the fees, royalties
9 or other forms of compensation for permits, and other
10 charges it may require in relation to fishing or related
11 activities, including fees and charges related to
12 authorized observers and authorized observer placements.

13 (3) In determining the fees for marine scientific
14 research, the Authority shall take into account a
15 research plan submitted by the applicant, and the long
16 term value of such research to the management and
17 development of any fishery in the exclusive economic
18 zone.

19 (4) No permit shall be issued pursuant to this
20 subtitle until the requisite fees, royalties, charges
21 and other forms of compensation have been paid in
22 accordance with this subtitle and in accordance with the
23 terms of any applicable access agreement."

24 Section 16. Title 24 of the Code of the Federated States of

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1 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
2 11-57 and 12-14, is hereby further amended by enacting a new
3 section 114 of chapter 1 to read as follows:

4 "Section 114. Division of fees received as goods and
5 services. If the Authority determines that fees may be
6 payable through the provision to the FSM of goods and
7 services, the Authority shall submit a proposed division
8 of such goods and services to the Congress of the
9 Federated States of Micronesia for its approval by
10 resolution while in session, and by the Committee on
11 Ways and Means of the Congress of the Federated States
12 of Micronesia between sessions. If the Congress does
13 not act on a division of such goods and services within
14 sixty (60) days of the submission of a proposed division
15 of such fees by the Authority, the proposed division
16 shall be deemed approved."

17 Section 17. Title 24 of the Code of the Federated States of
18 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
19 11-57 and 12-14, is hereby further amended by enacting a new
20 section 115 of chapter 1 to read as follows:

21 "Section 115. Vessel record keeping and reporting
22 requirements.

23 (1) The operator of each domestic and foreign fishing
24 vessel issued a permit or which is permitted to fish

1 pursuant to an access agreement referred to in section
2 105 and chapter 4 of this subtitle shall:

3 (a) at all times while the vessel is in the
4 exclusive economic zone, cause to be maintained in the
5 English language, in ink, a fishing log in a form
6 supplied or approved by the Authority, and shall enter
7 the following information relating to the activities of
8 the vessel on a daily basis:

9 (i) the gear type used;

10 (ii) the noon position of the vessel and,
11 where applicable, the set position and time or the
12 number of hooks and sea surface temperature;

13 (iii) the species of fish taken and the size
14 and quantity of each species by weight or number as may
15 be specified in the form;

16 (iv) the species of fish returned from the
17 vessel to the sea, the reason for discard, the quantity
18 of each species by weight or number as may be specified
19 in the form; and

20 (v) such other information as the Authority
21 may require or prescribe by regulation, or as may be
22 required by an applicable access agreement or fisheries
23 management agreement;

24 (b) report information relating to the position

1 of, and catch on board, the vessel at the following
2 times, in a format approved or supplied by the
3 Authority, by telex, facsimile or by other such means as
4 may be approved by the Authority by regulation:

5 (i) at least twenty-four (24) hours prior to
6 the estimated time of entry into and departure from the
7 exclusive economic zone;

8 (ii) each Wednesday while in the exclusive
9 economic zone;

10 (iii) at least twenty-four (24) hours prior to
11 the estimated time of entry into or departure from port;
12 and

13 (iv) upon entry and departure from a closed
14 area;

15 (c) provide such daily information relating to
16 high seas fishing during the course of a fishing trip
17 involving fishing in the exclusive economic zone as, and
18 in the form, the Authority may require pursuant to any
19 fisheries management agreement and to give effect to the
20 duty in international law to cooperate in the
21 conservation and management of highly migratory fish
22 stocks; and

23 (d) certify that information provided pursuant to
24 paragraphs (a) through (c) of subsection (1) of this

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1 section is true, complete and accurate.

2 (2)The operator referred to in subsection (1) of this
3 section shall provide reports required under paragraphs
4 (a) and (c) of subsection (1) of this section and post
5 the requisite forms to the Authority by registered
6 airmail within fourteen (14) days following the date of
7 completion of the off-loading operation, or within seven
8 (7) days of the end of each calendar month's activities,
9 and within seven (7) days of entry of the vessel into
10 port at the completion of a trip lasting longer than
11 fourteen (14) days.

12 (3)The Authority may require, by written notice or
13 regulation, such other reports as may be necessary for
14 the conservation and management of marine resources,
15 including for related activities, and to implement or
16 enforce the provisions of this subtitle and any access
17 agreement or fisheries management agreement."

18 Section 18. Title 24 of the Code of the Federated States of
19 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
20 11-57 and 12-14, is hereby further amended by enacting a new
21 section 116 of chapter 1 to read as follows:

22 "Section 116. Information and documentation to be true,
23 complete and accurate.

24 (1) Every person shall promptly give any information

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1 required under this subtitle, including records of any
2 kind and information requested by an authorized officer
3 or other officer or official carrying out duties under
4 this subtitle.

5 (2) Any information required under this subtitle shall
6 be true, complete and accurate, and the Executive
7 Director shall be notified immediately of any change in
8 circumstances which has the effect of rendering any such
9 information or documentation false, incomplete or
10 misleading.

11 (3) Any permit, registration or other document
12 required to be obtained under this subtitle shall be
13 obtained and held in its original, complete and accurate
14 form as required under this subtitle, and no such
15 document shall be altered after its issuance or used by
16 any person other than its legal holder.

17 (4) Any person who commits an act, or omits to act, in
18 violation of this section shall be liable for a civil
19 penalty of not less than \$15,000 and not more than
20 \$50,000."

21 Section 19. Title 24 of the Code of the Federated States of
22 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
23 11-57 and 12-14, is hereby further amended by enacting a new
24 section 117 of chapter 1 to read as follows:

1 "Section 117. Permits - related activities.

2 (1) The Authority may, by regulation, require permits
3 for, or otherwise regulate, related activities which
4 take place in the exclusive economic zone and, with
5 respect to related activities by foreign fishing vessels
6 which occur in the territorial sea or internal waters,
7 these may be authorized in writing, by an FSM State(s)
8 by issuance of the relevant permits or other applicable
9 authorizations.

10 (2) For purposes of this subtitle, 'related
11 activities' shall have the meaning set forth in section
12 102 of chapter 1 of this subtitle.

13 (3) No related activities are permitted in the
14 exclusive economic zone unless any such activity is in
15 accordance with this subtitle, and such conditions as
16 may be required in writing by the Authority or
17 prescribed by regulation."

18 Section 20. Title 24 of the Code of the Federated States of
19 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
20 11-57 and 12-14, is hereby further amended by enacting a new
21 section 118 of chapter 1 to read as follows:

22 "Section 118. Authority may issue State permits. Upon
23 delegation by an FSM State of its authority to issue any
24 permit or permits for fishing in the territorial sea or

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1 internal waters, the Authority may issue such permit or
2 permits and collect fees for fishing in such waters, and
3 shall transfer any such fees collected to that State."

4 Section 21. Title 24 of the Code of the Federated States of
5 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
6 11-57 and 12-14, is hereby further amended by enacting a new
7 section 119 of chapter 1 to read as follows:

8 "Section 119. Application of other laws. No permit
9 issued under this subtitle shall relieve any fishing
10 vessel or its operator or crew of any obligation or
11 requirement imposed by other laws, including those
12 concerning navigation, customs, immigration or health,
13 unless so indicated in those laws."

14 Section 22. Title 24 of the Code of the Federated States of
15 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
16 11-57 and 12-14, is hereby further amended by enacting a new
17 section 120 of chapter 1 to read as follows:

18 "Section 120. Application of laws of foreign states.

19 (1) It shall be unlawful for any person to import,
20 export, transport, sell, receive, acquire or purchase
21 any fish or fish product taken, possessed, transported
22 or sold in violation of any law or regulation of a
23 foreign state upon implementation, on a reciprocal
24 basis, of a fisheries_management agreement between the

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1 Government of the Federated States of Micronesia and
2 such other foreign state or states, in which such
3 activities are agreed to be unlawful.

4 (2) The Authority shall implement fisheries management
5 agreements described in subsection (1) of this section
6 by regulation, and may require, among other things,
7 record keeping and reporting for each day of fishing
8 activity, whether or not fishing takes place in the
9 fishery waters."

10 Section 23. Title 24 of the Code of the Federated States of
11 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
12 11-57 and 12-14, is hereby further amended by enacting a new
13 section 121 of chapter 1 to read as follows:

14 "Section 121. Severability. If any provision of this
15 subtitle or amendments or additions thereto, or the
16 application thereof to any person, thing or circumstance
17 is held invalid, the invalidity does not affect the
18 provisions, application, amendments or additions that
19 can be given effect without the invalid provisions or
20 application, and to this end the provisions of this
21 subtitle and the amendments or additions thereto are
22 severable."

23 Section 24. Title 24 of the Code of the Federated States of
24 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,

1 11-57 and 12-14, is hereby further amended by enacting a new
2 section 122 of chapter 1 to read as follows:

3 "Section 122. Gender references. Whenever any
4 provision of this subtitle refers to the masculine
5 gender, using the pronoun 'he' or the possessive term
6 'his', such references shall include the feminine
7 pronoun and possessive terms 'she' and 'her'."

8 Section 25. Title 24 of the Code of the Federated States of
9 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
10 11-57 and 12-14, is hereby further amended by enacting a new
11 chapter 2 entitled "Management Authority" of new subtitle I
12 entitled "Marine Resources Act of 2002".

13 Section 26. Title 24 of the Code of the Federated States of
14 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
15 11-57 and 12-14, is hereby further amended by enacting a new
16 section 201 of chapter 2 to read as follows:

17 "Section 201. National Oceanic Resource Management
18 Authority - established.

19 (1) There is hereby established a National Oceanic
20 Resource Management Authority ('Authority') composed of
21 five members, each discharging a national duty and
22 charged with responsibility for overseeing the FSM
23 exclusive economic zone, and appointed as follows:

24 (a) one member from each FSM State appointed by

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1 the President of the Federated States of Micronesia, in
2 consultation with the Governor and with the advice and
3 consent of the Congress; and

4 (b) one at-large member appointed by the
5 President of the Federated States of Micronesia with the
6 advice and consent of the Congress.

7 (2) No member shall also serve as a member of the
8 Board of Directors of the National Fisheries Corporation
9 of the Federated States of Micronesia or any subsidiary
10 or affiliate thereof or serve as executive director or a
11 member of any board or authority of any entity operating
12 in the states dealing with fishing in the Federated
13 States of Micronesia under an agreement or permit issued
14 pursuant to this subtitle during the term of his
15 membership on the Authority.

16 (3) The Authority shall choose a chairman by a
17 majority vote of the members of the Authority.

18 (4) The Authority shall meet at such time and place as
19 may be designated by the Chairman or by vote of the
20 members pursuant to any method set out in the Authority
21 bylaws.

22 (5) The Authority shall adopt its own bylaws governing
23 the conduct of its business and performance of the
24 powers and duties granted to or imposed upon it by law.

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1 (6) A quorum of the Authority shall consist of a
2 majority of all voting members. All official business
3 of the Authority shall be conducted by a majority of
4 those members present and voting at a meeting of the
5 Authority for which a quorum exists, unless otherwise
6 provided by law or the bylaws of the Authority."

7 Section 27. Title 24 of the Code of the Federated States of
8 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
9 11-57 and 12-14, is hereby further amended by enacting a new
10 section 202 of chapter 2 to read as follows:

11 "Section 202. Authority - term of office of members;
12 vacancies.

13 (1) All appointments of Authority members shall be for
14 a term of two years. The term of office of each member
15 shall commence either upon the granting of advice and
16 consent to a member's appointment by the Congress of the
17 FSM under this act's predecessor legislation, or, for
18 any vacancies existing upon the effective date of this
19 act or thereafter, upon the granting of advice and
20 consent of the Congress to the appointment of a member
21 to fill a vacancy. The rights and powers of a member,
22 other than a member whose appointment is terminated or
23 vacated pursuant to subsection (3) below, shall remain
24 in effect until the date of the first meeting of the

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1 Authority following the effective date of the term of
2 office of that member's successor.

3 (2) The Executive Director shall notify the President
4 of the Federated States of Micronesia in writing of an
5 impending vacancy on the Authority not less than ninety
6 (90) days prior to the expiration of the term of a
7 member and immediately upon receipt of a member's notice
8 of intent to resign or resignation.

9 (3) Notwithstanding any other provision of this
10 subtitle, an appointment to the Authority shall be
11 declared vacant or terminated by the President of the
12 Federated States of Micronesia in the event of any of
13 the following:

14 (a) submission of a written resignation, signed
15 by the member and delivered to the President of the
16 Federated States of Micronesia;

17 (b) the death or other incapacity of a member;

18 (c) absence of a member, except with the written
19 consent of the President of the Federated States of
20 Micronesia or of the chairman, from three consecutive
21 meetings of the members;

22 (d) failure of a member to comply with the
23 provisions in sections 208 or 209 of this subtitle;

24 (e) bankruptcy of a member, application by a

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1 member to take advantage of benefits available by law to
2 bankrupt or insolvent debtors, assignment by a member of
3 his remuneration for the benefit of his creditors, or a
4 member's entry into an agreement with creditors not to
5 take legal action against him; or

6 (f) conviction of a member of an offense under
7 this subtitle or of an offense under any other law
8 punishable by a term of imprisonment for one year or
9 longer.

10 (4) Vacancies occurring pursuant to subsection (3)
11 above, or for any other reason prior to the expiration
12 of a member's term, shall be filled in the same manner
13 as vacancies arising from the expiration of a member's
14 term, provided that such appointments shall only be
15 effective for the remainder of the unexpired term of the
16 departing member."

17 Section 28. Title 24 of the Code of the Federated States of
18 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
19 11-57 and 12-14, is hereby further amended by enacting a new
20 section 203 of chapter 2 to read as follows:

21 "Section 203. Compensation of members.

22 (1) Members of the Authority who are not employees or
23 officials of the Government of the Federated States of
24 Micronesia or of any FSM State government shall be

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1 compensated at such rate as may be set in the rules of
2 the Authority when in fact performing the official
3 business of the Authority.

4 (2) All members of the Authority, including members
5 who are employees or officials of the Government of the
6 Federated States of Micronesia or of any FSM State
7 government, shall receive per diem and travel expenses
8 at established Federated States of Micronesia rates
9 while on the business of the Authority."

10 Section 29. Title 24 of the Code of the Federated States of
11 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
12 11-57 and 12-14, is hereby further amended by enacting a new
13 section 204 of chapter 2 to read as follows:

14 "Section 204. Authority - adoption of regulations.

15 (1) The Authority shall have the authority to:

16 (a) adopt regulations for the management,
17 development and sustainable use of fisheries resources
18 in the exclusive economic zone;

19 (b) adopt regulations applicable to related
20 activities as defined in section 102 of this subtitle;

21 (c) adopt regulations in relation to fisheries
22 monitoring and control;

23 (d) adopt regulations to implement access
24 agreements and fisheries management agreements;

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1 (e) adopt regulations relating to the
2 confidentiality of information consistent with section
3 208 of this subtitle;

4 (f) adopt regulations for the issuance of
5 citations and assessment of administrative penalties
6 consistent with chapter 7 of this subtitle;

7 (g) adopt regulations relating to compliance by
8 citizens and fishing vessels of the Federated States of
9 Micronesia which engage in fishing outside the internal
10 waters, the territorial sea or exclusive economic zone
11 of the Federated States of Micronesia with applicable
12 laws of foreign states and with applicable access
13 agreements or fisheries management agreements;

14 (h) adopt regulations relating to marine
15 scientific research and training;

16 (i) adopt regulations relating to observer
17 programs and port sampling programs; and

18 (j) adopt any other regulations deemed necessary
19 for the implementation of this subtitle.

20 (2) Regulations adopted by the Authority shall have
21 the full force and effect of law, and shall be
22 considered an integral part of this subtitle."

23 Section 30. Title 24 of the Code of the Federated States of
24 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,

1 11-57 and 12-14, is hereby further amended by enacting a new
2 section 205 of chapter 2 to read as follows:

3 "Section 205. Authority - duties and functions. In
4 addition to the regulatory authority granted in the
5 preceding section, the Authority shall have the
6 following duties and functions:

7 (1) to provide technical assistance in the
8 delimitation of the exclusive economic zone in
9 accordance with section 107 of title 18 of the Code of
10 the Federated States of Micronesia;

11 (2) to negotiate, conclude and implement access
12 agreements and fisheries management agreements in
13 accordance with sections 105 and 106 of chapter 1 of
14 this subtitle and chapters 4 and 5 of this subtitle;

15 (3) to issue fishing permits in accordance with this
16 subtitle;

17 (4) to issue permits for fishing in the territorial
18 sea or internal waters of an FSM State as authorized
19 pursuant to section 118 of chapter 1 of this subtitle;

20 (5) to regulate related activities in accordance with
21 this subtitle;

22 (6) to coordinate and implement fisheries monitoring
23 and control as required under this subtitle and under
24 international treaties to which the Federated States of

1 Micronesia is a party;

2 (7) to cooperate as appropriate with other nations or
3 territories in the region and with foreign states
4 fishing in the region and adjacent high seas area for
5 the conservation and management of highly migratory fish
6 stocks;

7 (8) to cooperate in and coordinate as appropriate with
8 each FSM State on fisheries management measures in the
9 exclusive economic zone and territorial sea;

10 (9) to convene and chair a Fisheries Management and
11 Surveillance Working Group as set forth in section 207
12 of this chapter;

13 (10) to employ a full-time Executive Director and such
14 other staff as it may deem necessary;

15 (11) to submit the Authority's budget and report
16 regarding the expenditure of its funds to the Congress
17 each regular session for review;

18 (12) to contribute to the planning of programs relating
19 to fisheries, or fishing in the exclusive economic zone,
20 in which an FSM State government or the Government of
21 the Federated States of Micronesia, or any agency or
22 subdivision thereof, has a proprietary interest, direct
23 or indirect, by way of stock ownership, partnership,
24 joint venture or otherwise; and

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1 (13) to perform such other duties and functions as may
2 be necessary to carry out the purpose of this subtitle."

3 Section 31. Title 24 of the Code of the Federated States of
4 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
5 11-57 and 12-14, is hereby further amended by enacting a new
6 section 206 of chapter 2 to read as follows:

7 "Section 206. Executive Director. The Authority shall
8 employ a full-time Executive Director possessing such
9 qualifications as may be established by the Authority.
10 The Executive Director shall receive a remuneration for
11 his services, the amount of which shall be fixed by the
12 Authority in accordance with the pertinent provisions of
13 the current annual budget of the Government of the
14 Federated States of Micronesia. The Executive Director
15 shall serve at the pleasure of the Authority and shall
16 be exempt from the provisions of the National Public
17 Service System Act, section 111 et seq. of title 52 of
18 the Code of the Federated States of Micronesia."

19 Section 32. Title 24 of the Code of the Federated States of
20 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
21 11-57 and 12-14, is hereby further amended by enacting a new
22 section 207 of chapter 2 to read as follows:

23 "Section 207. Fisheries Management and Surveillance
24 Working Group. The Authority shall establish a

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1 Fisheries Management and Surveillance Working Group to
2 formulate and implement a national fisheries management
3 and surveillance strategy. The working group shall
4 consist of appropriate representatives of the Authority
5 and the Department of Justice. In addition,
6 representatives from other divisions and departments of
7 the National and State governments engaged in activities
8 related to surveillance may be invited to participate.
9 The recommendations of the working group regarding
10 surveillance planning and strategy shall be consistent
11 with the objectives and general principles of
12 conservation, management, and sustainable use of fishery
13 resources set forth in section 502 of this subtitle, and
14 with the provisions of any national tuna management plan
15 adopted pursuant to this subtitle."

16 Section 33. Title 24 of the Code of the Federated States of
17 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
18 11-57 and 12-14, is hereby further amended by enacting a new
19 section 208 of chapter 2 to read as follows:

20 "Section 208. Duty of confidentiality.

21 (1) Any person carrying out duties or responsibilities
22 of or on behalf of the Authority under this subtitle,
23 including any member, shall not, unless authorized in
24 accordance with this subtitle, reveal information or

1 other data of a confidential nature acquired by virtue
2 of his authority, duties or responsibilities to any
3 person not having such authority or carrying out such
4 duties and responsibilities.

5 (2) The Executive Director may designate any
6 information as confidential, and in doing so may also
7 exempt general summaries of aggregated information from
8 confidentiality requirements.

9 (3) The Executive Director may authorize in writing
10 any person to:

11 (a) receive access to confidential information;
12 or

13 (b) grant access or restrict access to premises
14 holding confidential information as he may designate.

15 (4) Notwithstanding subsection (2) above, the
16 following information shall be confidential:

17 (a) any information or data of a commercial
18 nature provided in records, returns, or other documents
19 required under this subtitle; or

20 (b) any information or other data supplied by a
21 vessel monitoring system in accordance with this
22 subtitle.

23 (5) Subject to the provisions of subsection (4) above,
24 information may be disclosed to the extent:

1 (a) that disclosure is authorized or required
2 under this subtitle or any other law;

3 (b) that the person providing the information
4 authorized its disclosure;

5 (c) necessary to enable the Executive Director to
6 publish statistical information relating to the
7 fisheries sector; or

8 (d) necessary to enable advice to be given to the
9 President of the Federated States of Micronesia.

10 (6) The Executive Director may authorize the release
11 of any information:

12 (a) supplied by a vessel monitoring system
13 relating to the position of any vessel, upon request, to
14 the responsible authority for purposes including
15 surveillance, search and rescue and other emergency;

16 (b) designated as confidential for purposes he
17 deems, after consultation with the Department of Justice,
18 would be supportive of the objectives and enforcement of
19 this subtitle by the government in any legal or
20 administrative proceeding;

21 (c) for such purposes as may be prescribed by law
22 or regulation.

23 (7) Any information designated as confidential shall
24 maintain such classification for a period of three years

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1 from the time of such designation, and at the expiration
 2 of three years, the Executive Director may extend such
 3 classification for a further period of up to three years
 4 as he may deem necessary for purposes relating to the
 5 objectives and enforcement of this subtitle.

6 (8) Any person who violates the requirements of this
 7 section may have his appointment, employment or other
 8 authority under this subtitle reviewed and terminated by
 9 the appropriate authority."

10 Section 34. Title 24 of the Code of the Federated States of
 11 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
 12 11-57 and 12-14, is hereby further amended by enacting a new
 13 section 209 of chapter 2 to read as follows:

14 "Section 209. Conflict of interest.

15 (1) Neither the Executive Director, nor any member or
 16 employee of the Authority shall, in his capacity as
 17 such, willingly participate in any matter in which he
 18 knows or reasonably should know he has a conflict of
 19 interest.

20 (2) A conflict of interest exists if the Executive
 21 Director, member or employee could benefit directly or
 22 indirectly from a decision on a matter over which he has
 23 influence or control, or if a matter over which he has
 24 influence or control relates in any way to:

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1 (a) a business or property he directly or
2 indirectly owns or controls; or

3 (b) a business or property owned or controlled,
4 directly or indirectly, by a family member of his; or

5 (c) a business or property in which he has a
6 beneficial interest of any kind, whether through a trust
7 or otherwise.

8 (3) In this section, the following terms shall have
9 the meanings stated below:

10 (a) 'Benefit' shall mean gain or advantage of any
11 kind, and shall include financial gain, property,
12 service, or improvement of condition.

13 (b) 'Business' shall mean businesses of any kind
14 whether situated in the Federated States of Micronesia
15 or elsewhere and whether incorporated or not.

16 (c) 'Family member' shall mean a parent, brother,
17 sister, spouse, nephew, niece or child, including a
18 person who is adopted legally or in accordance with
19 custom, or for whom care was given such that there
20 exists a relationship in the nature of parent and child.
21 The term shall also include a spouse of any person
22 referred to in this definition and their children.

23 (d) 'Interest' shall mean either direct ownership
24 of, indirect ownership of, shares in, financial benefit

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1 from, or complete or partial control of, such property
2 or business.

3 (e) 'Property' shall mean real or personal
4 property of every description whether situated in the
5 Federated States of Micronesia or elsewhere.

6 (4) A person who violates the provisions of this
7 section commits an offense and upon conviction shall be
8 imprisoned for not more than five years, fined not more
9 than \$10,000, or both."

10 Section 35. Title 24 of the Code of the Federated States of
11 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
12 11-57 and 12-14, is hereby further amended by enacting a new
13 section 210 of chapter 2 to read as follows:

14 "Section 210. Disclosure requirements.

15 (1) Before assuming a position as a member of the
16 Authority, Executive Director of the Authority, or
17 employee of the Authority, an individual shall make a
18 written disclosure to the Authority of:

19 (a) any financial interest he currently has or
20 intends to acquire in any organization, business or
21 governmental body engaged in any harvesting, processing,
22 marketing or regulatory activity related to fish that is
23 being, or will be undertaken within the Federated States
24 of Micronesia or its fishery waters; and

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1 (b) any organization, business or governmental
2 body in which he serves as an officer, director,
3 partner, trustee or employee engaged in any harvesting,
4 processing, marketing or regulatory activity related to
5 fish that is being, or will be undertaken, within the
6 Federated States of Micronesia or its fishery waters.

7 (2) All disclosures required by this section shall be
8 updated whenever an event occurs that makes the current
9 disclosure incorrect.

10 (3) Current members of the Authority, officers and
11 employees shall make the disclosures required by this
12 section within sixty (60) days of the effective date of
13 this subtitle."

14 Section 36. Title 24 of the Code of the Federated States of
15 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
16 11-57 and 12-14, is hereby further amended by enacting a new
17 section 211 of chapter 2 to read as follows:

18 "Section 211. Annual report. The Chairman of the
19 Authority shall present a written report annually on its
20 activities to the President of the Federated States of
21 Micronesia, the Speaker of the Congress of the Federated
22 States of Micronesia, and each FSM State Governor by
23 December 1st of each year, which report shall contain a
24 detailed accounting of the expenditure of funds of the

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1 Authority, the number of permits and licenses issued,
2 the fees, forfeitures and fines collected, estimates of
3 the effect of the current level of fishing on the stock
4 of fish in the exclusive economic zone, and such other
5 information regarding the implementation of this
6 subtitle in the preceding fiscal year as the Authority
7 may determine. All departments and offices of the FSM
8 National Government shall be provided copies of the
9 Authority's annual report."

10 Section 37. Title 24 of the Code of the Federated States of
11 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
12 11-57 and 12-14, is hereby further amended by enacting a new
13 chapter 3 entitled "Permits for Fishing on the High Seas or in an
14 Area Designated by a Fisheries Management Agreement by Flag
15 Vessels" of new subtitle I entitled "Marine Resources Act of
16 2002".

17 Section 38. Title 24 of the Code of the Federated States of
18 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
19 11-57 and 12-14, is hereby further amended by enacting a new
20 section 301 of chapter 3 to read as follows:

21 "Section 301. Permits for flag fishing vessels. The
22 Authority may require each flag fishing vessel to hold a
23 valid and applicable permit for the following
24 activities, under such terms and conditions as may be

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1 prescribed by regulation or otherwise required by the
2 Authority:

3 (1) fishing on the high seas or in an area designated
4 by a fisheries management agreement;

5 (2) fishing within areas over which foreign nations
6 claim sovereignty or sovereign rights."

7 Section 39. Title 24 of the Code of the Federated States of
8 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
9 11-57 and 12-14, is hereby further amended by enacting a new
10 section 302 of chapter 3 to read as follows:

11 "Section 302. Registration fee for flag fishing
12 vessels.__The Executive Director may issue a permit to
13 each flag fishing vessel in accordance with this
14 section, after:

15 (1) an application has been made in such form as may
16 be required by the Authority; and

17 (2) such registration fee as the Authority shall
18 require is paid."

19 Section 40. Title 24 of the Code of the Federated States of
20 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
21 11-57 and 12-14, is hereby further amended by enacting a new
22 section 303 of chapter 3 to read as follows:

23 "Section 303. Fishing by flag fishing vessels on the
24 high seas or in an area designated by a fisheries

1 management agreement - compliance.

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

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

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

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

24 (3) Flag fishing vessels and citizens are not

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1 permitted to engage in drift net fishing activities.

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

5 Section 41. Title 24 of the Code of the Federated States of
6 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
7 11-57 and 12-14, is hereby further amended by enacting a new
8 chapter 4 entitled "Access Agreements for Foreign Fishing and
9 Related Activities" of new subtitle I entitled "Marine Resources
10 Act of 2002".

11 Section 42. Title 24 of the Code of the Federated States of
12 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
13 11-57 and 12-14, is hereby further amended by enacting a new
14 section 401 of chapter 4 to read as follows:

15 "Section 401. (Reserved)"

16 Section 43. Title 24 of the Code of the Federated States of
17 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
18 11-57 and 12-14, is hereby further amended by enacting a new
19 section 402 of chapter 4 to read as follows:

20 "Section 402. Negotiation of access agreements.

21 The Authority shall negotiate and enter into access
22 agreements on behalf of the Government of the Federated
23 States of Micronesia in accordance with this subtitle.

24 Such agreements may, at the Authority's discretion:

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1 (1) establish fees to be collected for permits issued
2 under the access agreement;

3 (2) establish a minimum or maximum number of vessels
4 to be granted access under the agreement; and

5 (3) permit the rebate of access fees in accordance
6 with section 403(2) of this subtitle, as the Authority
7 deems appropriate at the end of the licensing period if
8 the operator of any applicable vessel participated
9 substantially in shore-based developments or otherwise
10 made a substantial contribution to the development of
11 the fishing industry of the Federated States of
12 Micronesia."

13 Section 44. Title 24 of the Code of the Federated States of
14 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
15 11-57 and 12-14, is hereby further amended by enacting a new
16 section 403 of chapter 4 to read as follows:

17 "Section 403. Fees for permits for foreign fishing
18 vessels.

19 (1) Fees and other forms of compensation for the right
20 to engage in fishing within the exclusive economic zone
21 by foreign fishing vessels shall be established in
22 access agreements entered into pursuant to this chapter.

23 (2) The Authority may accept all or a portion of the
24 fee paid under an access agreement pending rebate under

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1 such conditions as the Authority may prescribe in
2 writing or by regulation, and when the Executive
3 Director is satisfied that all conditions have been met.
4 That portion of a fee that is subject to rebate shall be
5 held in a separate trust account maintained by the
6 Secretary of the Department of Finance and
7 Administration until rebated to the foreign fishing
8 vessel or paid into the General Fund of the Federated
9 States of Micronesia, or its successor, pursuant to the
10 terms of the agreement."

11 Section 45. Title 24 of the Code of the Federated States of
12 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
13 11-57 and 12-14, is hereby further amended by enacting a new
14 section 404 of chapter 4 to read as follows:

15 "Section 404. Access agreements - minimum terms. All
16 access agreements shall include the following minimum
17 terms:

18 (1) the foreign party recognizes the sovereign rights
19 and exclusive fishery management authority of the
20 Federated States of Micronesia within the exclusive
21 economic zone;

22 (2) the operator and each member of the crew shall
23 comply with the applicable access agreement, applicable
24 permit conditions, this subtitle, all regulations issued

1 pursuant to this subtitle and all other applicable laws
2 and regulations;

3 (3) the operator shall:

4 (a) accept the Authority's authorized observers;

5 (b) provide any authorized observer, while on
6 board the vessel, at no expense, with officer level
7 accommodations, food and medical facilities;

8 (c) meet the following costs of the authorized
9 observer:

10 (i) full travel costs to and from the
11 vessel;

12 (ii) salary; and

13 (iii) full insurance coverage;

14 (d) display any permit or permit number issued
15 for any such vessel, pursuant to this subtitle, or any
16 other documentation as required by the Authority to be
17 displayed, under any access agreement, in the wheelhouse
18 of such vessel;

19 (e) ensure that appropriate position-fixing and
20 identification equipment is installed and maintained in
21 working order on each vessel;

22 (f) ensure that the vessel is marked and
23 identified in accordance with the Food and Agricultural
24 Organization (FAO) approved Standard Specifications for

1 the Marking and Identification of Fishing Vessels;

2 (g) ensure the continuous monitoring of the
3 international distress and call frequency 2182 kHz (HF)
4 or the international safety and call frequency 156.8 MHz
5 (channel 16, VHF-FM) to facilitate communication with
6 the fisheries management, surveillance and enforcement
7 authorities;

8 (h) ensure that a recent and up-to-date copy of
9 the International Code of Signals (INTERCO) is on board
10 and accessible at all times;

11 (i) ensure that the vessel is seaworthy and
12 contains adequate life safety equipment and survival
13 gear_for each passenger and member of the crew;

14 (j) ensure that, promptly upon direction by the
15 Authority, each vessel will have installed, maintained
16 and fully operational at all times on board a
17 transponder, in accordance with section 611 of chapter 6
18 of this subtitle, and shall be responsible for all
19 operational and maintenance costs of the transponder and
20 cooperate fully with the Authority in their utilization.

21 (4) the party to the access agreement shall, for the
22 duration of the access agreement:

23 (a) appoint and maintain a resident agent in the
24 Federated States of Micronesia that is approved by the

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1 Authority, or establish and maintain a company registered
2 in accordance with the laws of the Federated States of
3 Micronesia, authorized to receive and respond to any
4 legal process issued in the Federated States of
5 Micronesia with_respect to the owner or operator of the
6 vessel, and shall notify the Federated States of
7 Micronesia of the name and address of such agent or
8 company, and any communication, information, document,
9 direction, request or response to, or from that agent or
10 company, shall be deemed to have been sent to, or
11 received from such owner or operator;

12 (b) not exceed any allocation which may be
13 established in any given licensing period in accordance
14 with this subtitle;

15 (c) ensure compliance by each fishing vessel, its
16 operator and crew members, with the access agreement,
17 all laws of the Federated States of Micronesia and the
18 terms of the permit; and

19 (d) ensure compliance by each fishing vessel, its
20 operator and crew members, with subregional and regional
21 conservation and management measures for highly
22 migratory fish stocks."

23 Section 46. Title 24 of the Code of the Federated States of
24 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,

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1 11-57 and 12-14, is hereby further amended by enacting a new
2 section 405 of chapter 4 to read as follows:

3 "Section 405. Access agreements - effective date.

4 To take effect within the exclusive economic zone, an
5 access agreement involving ten or more vessels shall be
6 submitted to the Congress of the Federated States of
7 Micronesia for approval by resolution while in session,
8 and to the Committee on Resources and Development for
9 approval between sessions. If the Congress or the
10 Committee on Resources and Development does not approve
11 or reject an access agreement within sixty (60) days of
12 its submission by the Authority, the access agreement
13 shall be deemed approved."

14 Section 47. Title 24 of the Code of the Federated States of
15 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
16 11-57 and 12-14, is hereby further amended by enacting a new
17 section 406 of chapter 4 to read as follows:

18 "Section 406. Access agreements - term of validity;
19 termination; suspension.

20 (1) The term of validity of an access agreement shall
21 not exceed ten (10) years, and may be renewable with the
22 approval of the Authority according to the following
23 criteria, taking into account performance of the other
24 party during the previous term:

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1 (a) likely compliance with the access agreement
2 and this subtitle; and

3 (b) potential economic benefits for the Federated
4 States of Micronesia.

5 (2) Any access agreement whose validity exceeds one
6 year shall include a provision for annual review by the
7 Authority.

8 (3) Any access agreement may be terminated by the
9 Authority, according to its terms or upon substantial
10 non-compliance by the other party with any requirement
11 of the access agreement or this subtitle.

12 (4) Fishing under any access agreement may be
13 suspended by the Authority upon a determination by the
14 Authority, based on the best scientific information in
15 the region, that continued fishing at current levels
16 would seriously threaten the fish stocks.

17 (5) If fishing is suspended pursuant to subsection (4)
18 of this section, the Authority shall make every effort
19 to accommodate the long-term interests of the party to
20 the access agreement and shall rebate proportionately
21 any fees paid for fishing during such suspension."

22 Section 48. Title 24 of the Code of the Federated States of
23 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
24 11-57 and 12-14, is hereby further amended by enacting a new

1 section 407 of chapter 4 to read as follows:

2 "Section 407. Related activities - transshipment.

3 (1) The operator of a foreign fishing vessel shall:

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

5 (b) provide seventy-two (72) hours notice to the
6 Authority of a request to transship any or all of the
7 fish on board and shall provide the name of the vessel,
8 its international radio call sign, its position, the
9 catch on board by species, the time and port where such
10 transshipment is requested to occur and an undertaking
11 to pay all fees required under the laws of the Federated
12 States of Micronesia;

13 (c) only transship at the time and port
14 authorized for transshipment; and

15 (d) submit full reports on transshipping on such
16 forms as may be required by the Authority or prescribed
17 by regulation.

18 (2) During transshipment in the Federated States of
19 Micronesia the foreign party and operator of each vessel
20 shall comply with all applicable National and State laws
21 and regulations in the Federated States of Micronesia
22 relating to protection of the environment, including
23 without limitation, sewage holding tank requirements.

24 (3) Any person who violates subsection (1)(a), (1)(c),

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1 (1) (d) or (2) of this section shall be subject to a
2 civil penalty of not less than \$75,000 and not more than
3 \$275,000."

4 Section 49. Title 24 of the Code of the Federated States of
5 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
6 11-57 and 12-14, is hereby further amended by enacting a new
7 chapter 5 entitled "Conservation, Management and Sustainable Use
8 of Fishery Resources" of new subtitle I entitled "Marine Resources
9 Act of 2002".

10 Section 50. Title 24 of the Code of the Federated States of
11 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
12 11-57 and 12-14, is hereby further amended by enacting a new
13 section 501 of chapter 5 to read as follows:

14 "Section 501. Definitions. In this chapter, the terms
15 'foreign party', 'United Nations Agreement' and 'United
16 Nations Convention' shall have the meanings set forth in
17 section 102 of chapter 1."

18 Section 51. Title 24 of the Code of the Federated States of
19 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
20 11-57 and 12-14, is hereby further amended by enacting a new
21 section 502 of chapter 5 to read as follows:

22 "Section 502. Conservation, management and sustainable
23 use of the fishery resources.

24 (1) The Authority shall adopt management measures

1 which promote the objectives of:

2 (a) utilizing the fishery resources of the
3 Federated States of Micronesia in a sustainable way;

4 (b) obtaining maximum, sustainable economic
5 benefits from these resources; and

6 (c) promoting national economic security through
7 optimum utilization of resources.

8 (2) The Authority shall ensure that such management
9 measures are based on the best scientific evidence
10 available and designed to maintain or restore stocks at
11 levels capable of producing maximum sustainable yield,
12 as qualified by relevant environmental and economic
13 factors, and taking into account fishing patterns, the
14 interdependence of stocks and generally recommended
15 international minimum standards.

16 (3) The Authority shall apply a precautionary approach
17 in the adoption of such management measures that is
18 consistent with and no less stringent than the criteria
19 set forth in the United Nations Agreement or any other
20 relevant access agreement or fisheries management
21 agreement to which the Federated States of Micronesia is
22 a party.

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

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

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

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

17 (d) protect biodiversity in the marine
18 environment;

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

24 (f) take into account the interests of artisanal

1 and subsistence fishermen;

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

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

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

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

23 (6) The Authority may determine participatory rights
24 in the fishery, such as allocations of allowable catch

1 or levels of fishing effort. Allocations of such
2 participatory rights:

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

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

11 (7) The Authority shall, in respect of highly
12 migratory fish stocks which occur both in the exclusive
13 economic zone and in the high seas, and without
14 prejudice to the sovereign rights of the Federated
15 States of Micronesia within its exclusive economic zone,
16 have authority to cooperate with foreign states fishing
17 on the high seas in respect of such stocks for the
18 purpose of achieving compatible conservation and
19 management measures in accordance with the United
20 Nations Agreement, any access agreement or fisheries
21 management agreement, and in so doing shall take into
22 account:

23 (a) the conservation and management measures
24 adopted and applied in the exclusive economic zone, and

1 ensure that measures established in respect of such
2 stocks for the high seas do not undermine the
3 effectiveness of such measures;

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

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

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

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

24 (f) that such measures do not result in harmful

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1 impact on the living marine resources as a whole."

2 Section 52. Title 24 of the Code of the Federated States of
3 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
4 11-57 and 12-14, is hereby further amended by enacting a new
5 section 503 of chapter 5 to read as follows:

6 "Section 503. Allocation of allowable fishing between
7 domestic fishing vessels. The Authority shall allocate
8 that portion of the total allowable catch allocated to
9 domestic fishing vessels among domestic fishing vessels,
10 if it determines that unrestricted fishing by domestic
11 fishing vessels would otherwise result in a catch level
12 exceeding the optimum sustainable yield. In determining
13 the allocation, the Authority shall take into
14 consideration the extent to which each vessel or
15 operator of such vessel:

16 (1) has historically fished in a particular area;

17 (2) is advancing the development of a fishing industry
18 in the Federated States of Micronesia;

19 (3) has historically fished for a particular regulated
20 species;

21 (4) submits information for the conservation,
22 management and development of stocks of fish;

23 (5) has traditional rights to fishing in an area; and

24 (6) such other factors as the Authority deems

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1 appropriate."

2 Section 53. Title 24 of the Code of the Federated States of
3 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
4 11-57 and 12-14, is hereby further amended by enacting a new
5 section 504 of chapter 5 to read as follows:

6 "Section 504. Allocation of allowable fishing among
7 foreign fishing vessels.

8 (1) The Authority may determine the allocation among
9 foreign parties of the total allowable level of foreign
10 fishing which is permitted with respect to any stock of
11 fish subject to the provisions of this subtitle.

12 (2) In determining the allocation among parties, the
13 Authority shall take into consideration:

14 (a) the extent to which vessels of such parties
15 have complied with the laws of the Federated States of
16 Micronesia and any relevant access agreements;

17 (b) whether such parties or their national
18 governments have cooperated with the Federated States of
19 Micronesia in, and made substantial contributions to,
20 the conservation, management and development of
21 fisheries, fishery research and the identification of
22 marine resources;

23 (c) whether such parties or their national
24 governments undertake to invest in the fisheries sector

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1 in such a manner as to bring significant benefit to the
2 Federated States of Micronesia;

3 (d) whether such parties or their national
4 governments have cooperated with the Federated States of
5 Micronesia in the enforcement of the provisions of this
6 subtitle and the regulations issued under its authority,
7 including flag State enforcement and the provision of
8 information required for the conservation and management
9 of fish;

10 (e) whether such parties or their national
11 governments, while in the waters under national
12 jurisdiction of any foreign state in the region, have
13 complied with the terms of any fisheries management
14 agreement to which the Federated States of Micronesia is
15 a party and which is implemented in such other foreign
16 state; and

17 (f) such other matters as it may deem
18 appropriate."

19 Section 54. Title 24 of the Code of the Federated States of
20 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
21 11-57 and 12-14, is hereby further amended by enacting a new
22 chapter 6 entitled "Enforcement" of new subtitle I entitled
23 "Marine Resources Act of 2002".

24 Section 55. Title 24 of the Code of the Federated States of

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1 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
2 11-57 and 12-14, is hereby further amended by enacting a new
3 section 601 of chapter 6 to read as follows:

4 "Section 601. Enforcement responsibility. The
5 Department of Justice shall have primary responsibility
6 for fisheries enforcement, including:

7 (1) collaboration with the Authority in the monitoring
8 and control of all fishing operations within the fishery
9 waters; and

10 (2) the enforcement of this subtitle."

11 Section 56. Title 24 of the Code of the Federated States of
12 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
13 11-57 and 12-14, is hereby further amended by enacting a new
14 section 602 of chapter 6 to read as follows:

15 "Section 602. Appointment of authorized officers.

16 (1) The Secretary of the Department of Justice may, in
17 writing, appoint any person as an authorized officer or
18 class of persons as authorized officers for the purposes
19 of this subtitle and such person or persons shall
20 exercise all powers and privileges accorded to
21 authorized officers by this subtitle.

22 (2) In addition, any person or class of persons may be
23 appointed by the Secretary as an authorized officer, in
24 accordance with subsection (1) of this section, pursuant

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1 to a fisheries management agreement or similar
2 cooperative arrangement for purposes which include:

3 (a) for an authorized officer of the Federated
4 States of Micronesia, the performance of fisheries
5 monitoring, control and surveillance functions on behalf
6 of the Federated States of Micronesia while on board a
7 vessel or aircraft of another party; and

8 (b) for an authorized officer of another party to
9 such agreement, the performance of fisheries monitoring,
10 control and surveillance functions on behalf of the
11 Federated States of Micronesia while on board the vessel
12 or aircraft of that other party.

13 (3) Any officer of the Maritime Surveillance Wing of
14 the National Police of the Government of the Federated
15 States of Micronesia shall be deemed to be an authorized
16 officer for the purposes of this subtitle.

17 (4) Any authorized officer is deemed to be an
18 authorized inspector for purposes of the United Nations
19 Agreement or any other access agreement which also has
20 authority over high seas fishing."

21 Section 57. Title 24 of the Code of the Federated States of
22 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
23 11-57 and 12-14, is hereby further amended by enacting a new
24 section 603 of chapter 6 to read as follows:

1 "Section 603. Powers of authorized officers.

2 (1) For the purposes of enforcing this subtitle, any
3 authorized officer may:

4 (a) stop, board, remain on board and search any
5 vessel in the fishery waters that he reasonably believes
6 is a fishing vessel;

7 (b) stop, board, remain on board and search any
8 flag fishing vessel outside the fishery waters;

9 (c) stop and search any vessel, vehicle or
10 aircraft that he reasonably believes may be transporting
11 fish or engaging in other activities relating to
12 fishing;

13 (d) require the master or any crew member or
14 other person aboard to inform him of the name, call sign
15 and country of registration of the vessel and the name
16 of the master, owner, charterer and crew members;

17 (e) examine the master or any crew member or
18 other person aboard about the cargo, contents of holds
19 and storage spaces, voyage and activities of the vessel;

20 (f) make such examination and inquiry as may
21 appear necessary concerning any vessel, vehicle or
22 aircraft in relation to which any of the powers
23 conferred by this subsection have been or may be
24 exercised and take samples of any fish or fish product

1 found therein;

2 (g) require to be produced, examine and take
3 copies of any permit, logbook, record or other documents
4 required under this subtitle or concerning the operation
5 of any vessel or aircraft;

6 (h) make an entry dated and signed by him in the
7 logbook of such vessel or aircraft;

8 (i) require to be produced and examine any fish,
9 fishing gear or appliance, explosive, poison or other
10 noxious substance;

11 (j) give directions to the master and any crew
12 member of any vessel, vehicle or aircraft stopped,
13 boarded or searched as may be necessary or reasonably
14 expedient for any purpose specified in this subtitle or
15 to provide for the compliance of the vessel, vehicle or
16 aircraft, or master or any crew member with the
17 conditions of any permit;

18 (k) endorse any permit; and

19 (l) arrest any person who assaults him or any
20 other authorized officer in the exercise of his duties
21 under this subtitle.

22 (2) Where an authorized officer has reasonable grounds
23 to believe an offense against this subtitle is being or
24 has been committed, he may without a warrant:

1 (a) enter, inspect and search any premises, other
2 than premises used exclusively as a dwelling house, in
3 which he has reasonable grounds to believe an offense
4 has been or is being committed or fish have been taken
5 illegally and are being stored;

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

9 (c) take samples of any fish found in any vessel
10 or vehicle inspected or within any premises searched
11 under this subtitle;

12 (d) after hot pursuit of a foreign fishing vessel
13 undertaken in accordance with international law and
14 commenced within the fishery waters, stop, board and
15 search outside the fishery waters any fishing vessel
16 that he has reasonable grounds to believe has been used
17 in the commission of an offense, exercise any powers
18 conferred by this subtitle in accordance with
19 international law, and bring such vessel and all persons
20 and things on board within the fishery waters;

21 (e) seize:

22 (i) any vessel (including its fishing gear,
23 equipment, stores and cargo), vehicle, fishing gear,
24 nets or other fishing appliances or aircraft that he has

1 reasonable grounds to believe has been or is being used
2 in the commission of an offense or in respect of which
3 the offense has been committed;

4 (ii) any fish or fish products that he has
5 reasonable grounds to believe have been caught in the
6 commission of an offense or are possessed in
7 contravention of this subtitle;

8 (iii) any logs, charts or other documents
9 required to be maintained by this subtitle or under the
10 terms of any license or other authorization or which he
11 has reasonable grounds to believe show or tend to show,
12 with or without other evidence, the commission of an
13 offense against this subtitle; and

14 (iv) any thing which he has reasonable
15 grounds to believe might be used as evidence in any
16 proceeding under this subtitle;

17 (f) arrest any person who he has reasonable
18 grounds to believe has committed an offense against this
19 subtitle; and

20 (g) issue citations as authorized by regulations
21 promulgated under section 703 of chapter 7 of this
22 subtitle.

23 (3) An authorized officer may, while arresting any
24 person or fishing vessel that he has reasonable grounds

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1 to believe has done any act in contravention of this
2 subtitle, use such force as is reasonably necessary in
3 the circumstances to effect the arrest.

4 (4) Any person arrested without a warrant under this
5 section shall be detained and dealt with in accordance
6 with law.

7 (5) An authorized officer may:

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

10 (b) exercise any other lawful authority.

11 (6) A written receipt shall be given for any article
12 or thing seized under this section and the grounds for
13 such seizure shall be stated in such receipt."

14 Section 58. Title 24 of the Code of the Federated States of
15 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
16 11-57 and 12-14, is hereby further amended by enacting a new
17 section 604 of chapter 6 to read as follows:

18 "Section 604. Requirements for seized vessels.

19 (1) Where any vessel is seized under this subtitle:

20 (a) the master and crew shall take the vessel to
21 such port as the authorized officer shall designate as
22 being the nearest or most convenient port;

23 (b) the master shall be responsible for the
24 safety of the vessel and each person on board the

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1 vessel, including the crew, himself and any authorized
2 officer until the vessel arrives at the designated port.

3 (2) If the master fails or refuses to take the seized
4 vessel to the designated port, then an authorized
5 officer or person called upon to assist him may do so.

6 (3) If a vessel is taken to port in the circumstances
7 described in subsection (2) of this section, no claim
8 whatever may be made against any authorized officer or
9 the Government of the Federated States of Micronesia in
10 respect of any damage, injury, loss or death occurring
11 while the vessel is being so taken, subject to the
12 provisions of this subtitle.

13 (4) The provisions relating to vessels and masters
14 described in subsections (1) to (3) of this section
15 apply equally to vehicles and aircraft seized in
16 accordance with this subtitle, and their drivers and
17 pilots respectively.

18 (5) Any person who commits an act, or omits to act, in
19 violation of this section shall be subject to a civil
20 penalty of not less than \$40,000 and not more than
21 100,000."

22 Section 59. Title 24 of the Code of the Federated States of
23 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
24 11-57 and 12-14, is hereby further amended by enacting a new

1 section 605 of chapter 6 to read as follows:

2 "Section 605. Removal of parts from seized vessels by
3 authorized officers.

4 (1) An authorized officer may remove any part or parts
5 from any seized vessel, vehicle or aircraft held in the
6 custody of the Government of the Federated States of
7 Micronesia for the purpose of immobilizing that vessel,
8 vehicle or aircraft.

9 (2) Any part or parts removed under subsection (1) of
10 this section shall be kept safely and returned to the
11 vessel, vehicle or aircraft upon its lawful release from
12 custody.

13 (3) No person other than an authorized officer shall
14 knowingly possess, or arrange to obtain, any part or
15 parts removed under section 605(1) of this subtitle or
16 knowingly possess, or arrange to obtain, or make any
17 replacement or substitute part or parts for those
18 removed under section 605(1) of this subtitle or fit or
19 attempt to fit any part or parts or any replacement or
20 substitute part or parts to a vessel, vehicle or
21 aircraft held in the custody of the Government of the
22 Federated States of Micronesia.

23 (4) Any person who commits an act in violation of this
24 section shall be subject to a civil penalty of not less

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1 than \$15,000 and not more than \$50,000."

2 Section 60. Title 24 of the Code of the Federated States of
3 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
4 11-57 and 12-14, is hereby further amended by enacting a new
5 section 606 of chapter 6 to read as follows:

6 "Section 606. Appointment of authorized observers; port
7 samplers.

8 (1) The Executive Director may appoint, in writing,
9 any person to be an authorized observer or class of
10 persons to be authorized observers for the purposes of
11 this subtitle, any access agreement or any fisheries
12 management agreement.

13 (2) The Executive Director may appoint, in writing,
14 any authorized observer to serve as a port sampler.
15 Port samplers shall perform the duties of authorized
16 observers at a point of transshipment or port located
17 either inside or outside the Federated States of
18 Micronesia.

19 (3) Authorized observers and port samplers shall not
20 be appointed as authorized officers and shall not be
21 authorized to take enforcement action under this
22 subtitle.

23 (4) The requirements of sections 607(1), 607(2),
24 607(6), 607(7), 608, 609 and 610 shall apply equally to

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1 authorized observers and port samplers."

2 Section 61. Title 24 of the Code of the Federated States of
3 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
4 11-57 and 12-14, is hereby further amended by enacting a new
5 section 607 of chapter 6 to read as follows:

6 "Section 607. Access granted to authorized observers;
7 conditions; expenses.

8 (1) Any person on board any vessel with a valid and
9 applicable permit shall allow any authorized observer to
10 board and remain on such vessel for the purposes of
11 carrying out his duties and functions.

12 (2) The operator and each member of the crew of such
13 vessel shall allow and assist any authorized observer
14 to:

15 (a) board such vessel for scientific, compliance
16 monitoring and other functions, at such time and place
17 as the Executive Director may require;

18 (b) have full access to and the use of facilities
19 and equipment on board the vessel which the authorized
20 observer may determine is necessary to carry out his
21 duties, including:

22 (i) full access to the bridge, navigation
23 charts, fish on board and areas which may be used to
24 hold, process, weigh and store fish;

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1 (ii) full access to the vessel's records,
2 including its logbooks and documentation for the
3 purposes of records inspection and copying;

4 (iii) full access to fishing gear on board;
5 and

6 (iv) reasonable access to navigation
7 equipment and radios;

8 (c) take and remove from the vessel reasonable
9 samples for the purposes of scientific investigation,
10 and other relevant information;

11 (d) take photographs of the fishing operations,
12 including fish, fishing gear, equipment, charts and
13 records, and remove from the vessel such photographs or
14 film as he or she may have taken or used on board the
15 vessel;

16 (e) send or receive messages by means of the
17 vessel's communications equipment;

18 (f) carry out all duties safely; and

19 (g) disembark at such time and place as the
20 Executive Director may reasonably request or as required
21 in accordance with an applicable access arrangement.

22 (3) The operator shall provide the authorized
23 observer, and any authorized officer forced by
24 circumstances to stay on board the vessel for a

1 prolonged period of time, while on board the vessel with
2 food, accommodation and medical facilities at no
3 expense, equivalent to that accorded to officers.

4 (4) In addition to the requirements of subsection (3)
5 of this section, the Authority shall, either by
6 regulation or agreement, require the operator to pay in
7 full the following costs of authorized observers, other
8 than port samplers:

9 (a) travel costs to and from the vessel;

10 (b) such salary as may be notified by the
11 Executive Director; and

12 (c) full insurance coverage.

13 (5) The Authority may, by regulation or agreement,
14 require the operator to pay a portion of the costs of
15 maintaining a port sampling program.

16 (6) Any operator of any vessel with a valid permit
17 issued under this subtitle, shall allow and assist any
18 authorized observer to have full access to any place
19 where fish taken in the fishery waters is unloaded or
20 transshipped; to remove reasonable samples for
21 scientific purposes and to gather any information
22 relating to fisheries in the fishery waters.

23 (7) Any person who commits an act, or omits to act, in
24 violation of this section shall be subject to a civil

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1 penalty of not less than \$40,000 and not more than
2 \$100,000."

3 Section 62. Title 24 of the Code of the Federated States of
4 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
5 11-57 and 12-14, is hereby further amended by enacting a new
6 section 608 of chapter 6 to read as follows:

7 "Section 608. Duties owed to authorized officers and
8 authorized observers.

9 (1) The master and each crew member of any fishing
10 vessel, the driver of any vehicle and the pilot and crew
11 of any aircraft shall immediately comply with every
12 instruction or direction given by an authorized officer
13 or authorized observer as appropriate and facilitate
14 safe boarding, entry and inspection of the vessel,
15 vehicle or aircraft and any fishing gear, equipment,
16 records, fish and fish products.

17 (2) The master and each crew member of a vessel,
18 driver of a vehicle and pilot and crew of an aircraft
19 shall take all reasonable measures to ensure the safety
20 of an authorized officer or authorized observer as
21 appropriate in the performance of his duties.

22 (3) No person shall:

23 (a) assault, obstruct, resist, delay, refuse
24 boarding to, intimidate or fail to take all reasonable

1 measures to ensure the safety of, or otherwise interfere
2 with an authorized officer or authorized observer in the
3 performance of his duties;

4 (b) incite or encourage any other person to
5 assault, resist or obstruct any authorized officer or
6 authorized observer who is carrying out his powers or
7 duties, or any person lawfully acting under the
8 authorized officer's orders or in his aid;

9 (c) use threatening language or behave in a
10 threatening or insulting manner or use abusive language
11 or insulting gestures towards any authorized officer or
12 authorized observer while in the execution of his powers
13 or duties, or any person lawfully acting under an
14 authorized officer's orders or in his aid;

15 (d) fail to comply with the lawful requirements
16 of any authorized officer or authorized observer;

17 (e) furnish to any authorized officer or
18 authorized observer any particulars which, to his
19 knowledge, are false or misleading in any respect;

20 (f) impersonate or falsely represent himself to
21 be an authorized officer or authorized observer or
22 falsely represent himself or herself to be a person
23 lawfully acting under an authorized officer's orders or
24 in his aid;

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1 (g) resist lawful arrest for any act prohibited
2 by this subtitle; or

3 (h) breach of any other duty to an authorized
4 officer or authorized observer required under this
5 subtitle.

6 (4) For the purposes of subsection (3) of this
7 section, any person who does not allow any authorized
8 officer or an authorized observer, or any person acting
9 under his orders or in his aid, to exercise any of the
10 powers conferred on such person by this subtitle shall
11 be deemed to be obstructing that officer, person or
12 observer.

13 (5) Every person who is a master, owner, charterer,
14 agent or company established under the laws of the
15 Federated States of Micronesia of a fishing vessel that
16 transports an authorized officer, inspector or observer
17 outside the fishery waters and, without having obtained
18 prior consent from the Authority, causes him to
19 disembark outside the territory or jurisdiction of the
20 Federated States of Micronesia, shall be jointly and
21 severally liable for a fine plus all costs of
22 repatriation including board and lodging while out of
23 the Federated States of Micronesia and direct
24 transportation to the Federated States of Micronesia.

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1 It is unlawful for any fishing vessel to cause an
2 authorized officer, inspector or observer to disembark
3 outside the territory or jurisdiction of the FSM without
4 having obtained prior consent from the Authority.

5 (6) Any person who violates subsection (3)(a) or
6 (3)(b) of this section shall be subject to a civil
7 penalty of not less than \$100,000 and not more than
8 \$1,000,000."

9 Section 63. Title 24 of the Code of the Federated States of
10 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
11 11-57 and 12-14, is hereby further amended by enacting a new
12 section 609 of chapter 6 to read as follows:

13 "Section 609. Identification of authorized officers and
14 authorized observers. An authorized officer or
15 authorized observer, when exercising any of the powers
16 conferred by this subtitle, shall on request, produce
17 identification to show that he is an authorized officer
18 or authorized observer under this subtitle."

19 Section 64. Title 24 of the Code of the Federated States of
20 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
21 11-57 and 12-14, is hereby further amended by enacting a new
22 section 610 of chapter 6 to read as follows:

23 "Section 610. Protection against liability. The
24 Authority or any person who does, partly does, or omits

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1 to do any act in pursuance or intended pursuance of any
2 functions, powers or duties conferred by or under this
3 subtitle shall not be subject to any legal action, or
4 civil or criminal liability with respect to such act,
5 whether on the grounds of want of jurisdiction, mistake
6 of law or fact, or on any other grounds, unless the act,
7 or omission to act, was done in bad faith without
8 reasonable cause."

9 Section 65. Title 24 of the Code of the Federated States of
10 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
11 11-57 and 12-14, is hereby further amended by enacting a new
12 section 611 of chapter 6 to read as follows:

13 "Section 611. Transponders required.

14 (1) The Authority may require, as a condition of
15 fishing in the exclusive economic zone, that the
16 operator of any vessel:

17 (a) install on such vessel, at its own expense, a
18 transponder approved by the Authority;

19 (b) maintain such transponder in good working
20 order at all times while in the fishery waters or such
21 other area as may be agreed or designated; and

22 (c) ensure that any information or data required
23 by the Authority to be transmitted by the transponder is
24 transmitted continuously, accurately and effectively to

1 the designated receiver.

2 (2) For the purposes of this subtitle, a transponder,
3 which may also be referred to as an automatic location
4 communicator or ALC, means any device or machine placed
5 on a fishing vessel as a condition of its permit or
6 access agreement, which transmits, whether in
7 conjunction with another machine or other machines,
8 elsewhere or not, information or data concerning the
9 position, fishing and such other activities of the
10 vessel as may be required.

11 (3) The Authority may establish by regulation a list
12 of approved transponders. An approved transponder shall
13 be presumed to be accurate; a transponder that is not
14 approved shall not be presumed to be accurate. All
15 information or data obtained or ascertained by the use
16 of a transponder, shall be presumed to:

17 (a) come from the vessel so identified; and

18 (b) be given by the master, owner and charterer
19 of the fishing vessel. This presumption shall apply
20 whether or not the information was stored before or
21 after any transmission or transfer.

22 (4) No person shall intentionally, recklessly or
23 unintentionally destroy, damage, render inoperative or
24 otherwise interfere with a machine aboard a vessel which

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1 automatically feeds or inputs information or data into a
2 transponder, or intentionally feed or input information
3 or data into a transponder which is not officially
4 required or is meaningless.

5 (5) Any person who violates subsection (1) or
6 subsection (4) of this section, by failing to install,
7 maintain, or ensure the transmission of information from
8 a transponder as required, is subject to a civil penalty
9 of not less than \$100,000 and not more than \$500,000."

10 Section 66. Title 24 of the Code of the Federated States of
11 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
12 11-57 and 12-14, is hereby further amended by enacting a new
13 chapter 7 entitled "Jurisdiction and Evidence; Administrative
14 Proceedings" of new subtitle I entitled "Marine Resources Act of
15 2002".

16 Section 67. Title 24 of the Code of the Federated States of
17 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
18 11-57 and 12-14, is hereby further amended by enacting a new
19 section 701 of chapter 7 to read as follows:

20 "Section 701. Jurisdiction of the court.

21 (1) Any case or controversy arising under this
22 subtitle or out of any act or omission committed in
23 contravention of any provision of this subtitle by any
24 person:

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1 (a) within the fishery waters; or
2 (b) outside the fishery waters by any flag
3 vessel, citizen or person ordinarily resident in the
4 Federated States of Micronesia; or
5 (c) by any person on board any fishing vessel
6 registered in the Federated States of Micronesia shall
7 be subject to the jurisdiction of the Supreme Court of
8 the Federated States of Micronesia and judicial
9 proceedings shall be taken as if such act or omission
10 had taken place in the Federated States of Micronesia
11 within the jurisdiction of the Supreme Court of the
12 Federated States of Micronesia.

13 (2) Where an authorized officer is exercising any
14 powers conferred on him outside the fishery waters in
15 accordance with this subtitle, any act or omission of
16 any person in contravention of any of the provisions of
17 this subtitle shall be deemed to have been committed
18 within the fishery waters.

19 (3) Notwithstanding any provision of any other law of
20 the Federated States of Micronesia, any information or
21 complaint with respect to any violation of this subtitle
22 must be filed within two years of the discovery of the
23 violation.

24 (4) The Court may at any time enter restraining orders

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1 or prohibitions, issue warrants, issue process in rem or
2 other processes, prescribe and accept satisfactory bonds
3 or other security, and take such other actions as are in
4 the interests of justice."

5 Section 68. Title 24 of the Code of the Federated States of
6 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
7 11-57 and 12-14, is hereby further amended by enacting a new
8 section 702 of chapter 7 to read as follows:

9 "Section 702. Standing of authorized officers or
10 observers. Standing in the Supreme Court of the
11 Federated States of Micronesia shall be afforded to any
12 authorized officer or authorized observer designated
13 under a fisheries management agreement entered into
14 pursuant to subsection (1)(b) or (1)(c) of section 106
15 of chapter 1 of this subtitle to bring action against
16 any person or fishing vessel for any act or offense that
17 is actionable under the laws of the Federated States of
18 Micronesia or is a violation of an access agreement or
19 fisheries management agreement pursuant to which the
20 observer was authorized which has occurred in the
21 exclusive economic zone or the high seas,
22 notwithstanding the nationality of the observer."

23 Section 69. Title 24 of the Code of the Federated States of
24 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,

1 11-57 and 12-14, is hereby further amended by enacting a new
2 section 703 of chapter 7 to read as follows:

3 "Section 703. Citations and administrative penalties.

4 (1) For any violation of this subtitle or its
5 regulations which would fall within the penalty
6 provisions of section 920 of this subtitle, the
7 Authority may, by regulation promulgated in consultation
8 with the Secretary, provide for an administrative
9 penalty.

10 (2) Citations for violations shall be issued by the
11 Executive Director or his designee or by an authorized
12 officer to the person or persons found to have committed
13 a violation, in such manner as shall be prescribed by
14 regulation. Each citation shall plainly set forth the
15 act or acts constituting the violation, the provisions
16 of the law and/or regulations violated and the
17 administrative penalty assessed for such violation.

18 (3) Administrative penalties shall be satisfied upon
19 the payment of the penalty assessed to the Authority and
20 notification made in writing, under the signature of all
21 parties, to the Secretary.

22 (4) Any person issued a citation may contest that
23 citation within ten (10) days of receipt. All citation
24 challenges shall be in writing, shall be filed with the

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1 Executive Director or his designee, and shall provide
2 facts and arguments supporting the party's contention
3 that the citation was wrongly issued. The Executive
4 Director shall issue a final decision on behalf of the
5 Authority in writing within fifteen (15) days of receipt
6 of a citation challenge. Any citation that is not
7 challenged within ten (10) days after issuance shall
8 be deemed final.

9 (5) If any citation remains unpaid thirty (30) days
10 after it becomes final, the Executive Director shall
11 refer the violation to the Secretary for further action.
12 Such action may, at the Secretary's discretion, include
13 either enforcement of the original citation as issued or
14 the initiation of legal proceedings for the recovery of
15 penalties under section 920 of this subtitle, which may
16 exceed those assessed by citation."

17 Section 70. Title 24 of the Code of the Federated States of
18 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
19 11-57 and 12-14, is hereby further amended by enacting a new
20 section 704 of chapter 7 to read as follows:

21 "Section 704. Prohibitions pending payment of
22 administrative penalties.

23 (1) No person shall engage in fishing or any related
24 or other activity in the fishery waters until:

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1 (a) the full amount of any final administrative
2 penalty assessed has been paid; or

3 (b) a bond for the full amount of the
4 administrative penalty assessed has been deposited with
5 the Executive Director, pending the conclusion of legal
6 proceedings under section 703(4) of this subtitle.

7 (2) Any bond posted pursuant to subsection (1)(b)
8 above shall be returned only upon:

9 (a) a successful citation penalty challenge under
10 section 703(4) of this subtitle; or

11 (b) a finding of no violation by the FSM Supreme
12 Court, pursuant to a proceeding instituted under section
13 703(5) of this subtitle.

14 (3) Any person who violates subsection (1) of this
15 section shall be subject to the penalties set forth in
16 section 907 of this subtitle for fishing without a valid
17 permit."

18 Section 71. Title 24 of the Code of the Federated States of
19 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
20 11-57 and 12-14, is hereby further amended by enacting a new
21 section 705 of chapter 7 to read as follows:

22 "Section 705. Liability for non-payment of penalties.
23 The Secretary shall have the authority to enforce and
24 recover all financial penalties and all forfeitures,

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1 damages, expenses and other liabilities incurred or
2 imposed pursuant to this subtitle, and to enforce the
3 liability to forfeiture of any article seized under the
4 authority thereof, and all rents, charges, expenses and
5 duties and all other sums of money payable under this
6 subtitle may be sued for, determined, enforced and
7 recovered in the name of the Executive Director as
8 plaintiff, and all such proceedings shall be deemed to
9 be civil proceedings. The fact that a bond or other
10 security has been paid shall not be pleaded or made use
11 of in answer to or in stay of any such proceedings."

12 Section 72. Title 24 of the Code of the Federated States of
13 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
14 11-57 and 12-14, is hereby further amended by enacting a new
15 section 706 of chapter 7 to read as follows:

16 "Section 706. Presumptions.

17 (1) Where, in any legal proceedings under this
18 subtitle, the place in which an event is alleged to have
19 taken place is in issue:

20 (a) there shall be a refutable presumption that
21 the place stated in the relevant entry in the logbook or
22 other official record of any enforcement vessel or
23 aircraft as being the place in which the event took
24 place was the place in which the event took place; and

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1 (b) prima facie evidence of an entry in a logbook
2 or other official record of an enforcement vessel or
3 aircraft may be given by the production of a written
4 copy or extract of the entry certified by an authorized
5 officer as a true copy or accurate extract.

6 (2) There shall be a refutable presumption that all
7 fish found on board any fishing vessel which has been
8 used in the commission of any violation of this subtitle
9 have been caught during the commission of that
10 violation.

11 (3) Where, in any legal proceedings relating to a
12 violation of this subtitle, an authorized officer gives
13 evidence of reasonable grounds to believe any fish to
14 which the charge relates were taken in a specified area
15 of the fishery waters, there shall be a refutable
16 presumption that all the fish shall be presumed to have
17 been so taken.

18 (4) Where, in any legal proceedings for a violation of
19 this subtitle, an authorized officer gives evidence of
20 reasonable grounds to believe that any fish to which the
21 charge relates were taken by the use of drift nets,
22 there shall be a refutable presumption that all the fish
23 have been so taken.

24 (5) Where any information is given regarding a fishing

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1 vessel pursuant to this subtitle or an access agreement
2 in relation to any fishing activity of a foreign fishing
3 vessel, including any entry in writing or other mark in
4 or on any log, chart or other document required to be
5 maintained under this subtitle or used to record the
6 activities of a foreign fishing vessel it shall be
7 presumed to have been given by the master, owner and
8 charterer of the vessel concerned, unless it is proved
9 it was not given or authorized to be given by any of
10 them.

11 (6) Any position fixing instrument on board a vessel
12 or aircraft used for the enforcement of this subtitle
13 shall be presumed to be accurate. For the purposes of
14 this section, a position fixing instrument shall mean
15 any device which indicates the location of a vessel,
16 including, but not limited to, any satellite navigation
17 system or global positioning system.

18 (7) Where a photograph taken by an authorized officer
19 or authorized observer, is taken of any fishing or
20 related activity and simultaneously the date, time or
21 position from which the photograph is taken are
22 superimposed upon the photograph then it shall be
23 presumed that the photograph was taken on the date, at
24 the time or in the position so appearing, if:

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1 (a) the camera taking the photograph is connected
2 directly to the instruments which provide the date, time
3 and position concerned; and

4 (b) the photograph was taken by an authorized
5 officer or an authorized observer."

6 Section 73. Title 24 of the Code of the Federated States of
7 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
8 11-57 and 12-14, is hereby further amended by enacting a new
9 section 707 of chapter 7 to read as follows:

10 "Section 707. Burden of proof.

11 (1) Where, in any proceedings under this subtitle, a
12 person is alleged to have committed an act for which a
13 permit or other permission is required, the burden shall
14 be on the person charged to prove that at the relevant
15 time the requisite permit or permission was held.

16 (2) Where a person is alleged to have violated marine
17 space, in contravention of section 911 of this subtitle,
18 the burden shall be on that person to prove that the
19 information given was true, complete and correct."

20 Section 74. Title 24 of the Code of the Federated States of
21 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
22 11-57 and 12-14, is hereby further amended by enacting a new
23 chapter 8 entitled "Forfeiture and Disposition of Seized or
24 Confiscated Property" of new subtitle I entitled "Marine Resources

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1 Act of 2002".

2 Section 75. Title 24 of the Code of the Federated States of
3 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
4 11-57 and 12-14, is hereby further amended by enacting a new
5 section 801 of chapter 8 to read as follows:

6 "Section 801. Forfeiture of property.

7 (1) Any fishing vessel, including its fishing gear,
8 furniture, appurtenances, stores and cargo used in or
9 connected with the commission of any act prohibited by
10 this subtitle, within the territorial sea or internal
11 waters of the Federated States of Micronesia, shall be
12 subject to forfeiture to the Government of the Federated
13 States of Micronesia pursuant to a civil proceeding
14 under this section.

15 (2) Any fishing vessel, including its fishing gear,
16 furniture, appurtenances or stores used in or connected
17 with the commission of any act prohibited by this
18 subtitle, within the exclusive economic zone outside the
19 territorial seas of the Federated States of Micronesia,
20 shall be released upon the posting of a bond or other
21 surety.

22 (3) Any vehicle or aircraft, all or any part of any
23 fish or fish product and the proceeds of the sale of any
24 fish seized in connection with a violation of this

1 subtitle, shall be subject to forfeiture to the
2 Government of the Federated States of Micronesia
3 pursuant to a civil proceeding under this section.

4 (4) The Supreme Court of the Federated States of
5 Micronesia shall have jurisdiction, upon application by
6 the Secretary of the Department of Justice on behalf of
7 the Federated States of Micronesia, to order any
8 forfeiture authorized under subsection (1) of this
9 section.

10 (5) If a judgment is entered for the Government of the
11 Federated States of Micronesia in a civil forfeiture
12 proceeding under this section, the Secretary of the
13 Department of Justice shall seize any property or other
14 interest declared forfeited to the Government of the
15 Federated States of Micronesia, which has not previously
16 been seized pursuant to this subtitle.

17 (6) The forfeited item or items shall be sold and the
18 proceeds deposited into the General Fund of the
19 Federated States of Micronesia and distributed in
20 accordance with subsection (6) of this section.

21 (7) Fifty percent of the revenues from fines and
22 forfeitures shall be distributed to an FSM State(s)
23 which may be affected by the situation which has given
24 rise to the fine and/or forfeiture.

1 (8) Pending completion of the civil forfeiture
2 proceeding, the item or items subject to forfeiture, or
3 any part thereof, may be released at the discretion of
4 the Court upon deposit with the Court of a satisfactory
5 bond, surety or other security at least equal to the
6 fair market value of the seized property. Exoneration
7 of such bond, surety or other security shall be
8 conditional upon return of the released property to the
9 appropriate court upon order, without any impairment of
10 its value, or by paying the monetary value of the
11 released property to the General Fund of the Federated
12 States of Micronesia upon order of the Court. Such
13 bond, surety or other security shall be forfeited in the
14 event that any condition is breached as shall be
15 determined by the Court, and judgment shall be
16 recoverable by the Court against the principal of any
17 surety for any such breach.

18 (9) In the event there is an appeal from an order for
19 forfeiture, the Court may continue any such bond, surety
20 or other security deposited in accordance with
21 subsection (6) of this section during the pendency of
22 the appeal and any retrial or rehearing on remand or may
23 require additional security to be deposited with the
24 Court."

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1 Section 76. Title 24 of the Code of the Federated States of
2 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
3 11-57 and 12-14, is hereby further amended by enacting a new
4 section 802 of chapter 8 to read as follows:

5 "Section 802. Disposition of seized or confiscated fish
6 or fish products.

7 (1) The Executive Director or his designee may sell
8 any perishable fish or fish products which have been
9 seized or confiscated pursuant to this subtitle. If he
10 made reasonable efforts to sell them but was unable to
11 do so, or where they are unfit to be sold, he may
12 dispose of them as he may deem fit. The proceeds of any
13 sale shall be deposited in trust with the Court pending
14 the final disposition of any civil forfeiture
15 proceeding.

16 (2) The Executive Director shall notify the owner or
17 apparent owner of the perishable goods seized of the
18 sale, and such owner or his nominee may be present at
19 the sale."

20 Section 77. Title 24 of the Code of the Federated States of
21 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
22 11-57 and 12-14, is hereby further amended by enacting a new
23 section 803 of chapter 8 to read as follows:

24 "Section 803. Disposition of forfeited or seized goods.

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1 (1) Notwithstanding any other provision of this
2 subtitle, any vessel, vehicle, aircraft or other item
3 ordered to be forfeited pursuant to this subtitle may be
4 disposed of in such manner as prescribed by law after
5 the expiration of the time provided for the filing of a
6 notice of appeal.

7 (2) Any vessel, vehicle, aircraft or other item seized
8 under this subtitle, but not forfeited in any legal
9 proceedings, may be held by the Government of the
10 Federated States of Micronesia until all fines, orders
11 for costs and penalties imposed under this subtitle have
12 been paid and, failing payment within the time allowed,
13 be sold and the balance of the proceeds returned to the
14 owner or apparent owner in accordance with this subtitle
15 after deduction of all fines, orders for costs,
16 penalties imposed under this subtitle and costs of sale.

17 (3) The proceeds of sale of all forfeited items shall
18 be deposited into the General Fund of the Federated
19 States of Micronesia."

20 Section 78. Title 24 of the Code of the Federated States of
21 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
22 11-57 and 12-14, is hereby further amended by enacting a new
23 section 804 of chapter 8 to read as follows:

24 "Section 804. Unlawful removal of item in custody.

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1 (1) When any vessel, vehicle, aircraft or other item
2 held or forfeited under this subtitle has been
3 unlawfully removed from the custody of the Federated
4 States of Micronesia, it shall be liable to seizure at
5 any time within the jurisdiction of the Federated States
6 of Micronesia.

7 (2) No person shall remove any vessel, vehicle,
8 aircraft or other item held in custody under this
9 subtitle whether or not he knew that the vessel,
10 vehicle, aircraft or other item was held in custody.

11 (3) Any person who violates subsection (2) of this
12 section shall be subject to a civil penalty of not less
13 than \$75,000 and not more than \$250,000."

14 Section 79. Title 24 of the Code of the Federated States of
15 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
16 11-57 and 12-14, is hereby further amended by enacting a new
17 section 805 of chapter 8 to read as follows:

18 "Section 805. Liability of the Government for property
19 in custody. The Government of the Federated States of
20 Micronesia shall not be liable to any person for any
21 loss, damage or deterioration in the condition of any
22 vessel, vehicle, aircraft, fishing gear or other
23 property which is in its custody pursuant to this
24 subtitle, and all costs of maintaining such property

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1 while in custody shall, unless otherwise provided, be
2 borne by the operator upon a finding by the FSM Supreme
3 Court that such property was used in or connected with a
4 violation of this subtitle."

5 Section 80. Title 24 of the Code of the Federated States of
6 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
7 11-57 and 12-14, is hereby further amended by enacting a new
8 section 806 of chapter 8 to read as follows:

9 "Section 806. Release of seized goods.

10 (1) The Court may, on application, order the release
11 of any fishing vessel, vehicle, aircraft or other items
12 seized pursuant to this subtitle on receipt of such bond
13 or other form of security as it may determine.

14 (2) In determining the value of the bond or other form
15 of security, the Court shall have regard to the
16 aggregate amount of the value of the property to be
17 released, an estimated total fine or other penalty
18 provided for the offenses charged or likely to be
19 charged and the costs the prosecution would be likely to
20 recover if a conviction were entered, and may set the
21 value at such aggregate amount. In no case should the
22 bond exceed the value of the property to be released.

23 (3) Notwithstanding the provisions of subsection (2)
24 of this section, the amount determined by the Court

1 under this section shall not be less than the fair
2 market value of the property to be released or the
3 aggregate minimum fine or penalty for each offense
4 charged, whichever is greater.

5 (4) Where any vessel, vehicle, aircraft or other item
6 seized is released upon the lodging of a bond or other
7 form of security under subsection (1) of this section,
8 the court shall in the order state separately the sums
9 which are attributable to the property to be released,
10 the total fine or fines and the likely costs.

11 (5) The release of any bond or other form of security
12 under this section shall be conditional upon:

13 (a) a finding by the Court that the vessel,
14 vehicle, aircraft or other item has not been used in or
15 connected with the commission of an offense against this
16 subtitle; or

17 (b) where the Court finds that the vessel,
18 vehicle, aircraft or other item has been used in or
19 connected with the commission of an offense under this
20 subtitle:

21 (i) payment in full within thirty (30) days
22 of the judgment of the Court of any fine imposed by the
23 Court and any costs ordered to be paid by the Court; and

24 (ii) where the Court so orders, delivery to

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1 the Court of the vessel, including its fishing gear,
2 furniture, appurtenances, stores and cargo, and of any
3 fish ordered to be forfeited without any impairment of
4 their value, or payment of the monetary value thereof as
5 determined by the Court.

6 (6) Nothing in subsection (1) of this section shall
7 require a Court to release any vessel, vehicle, aircraft
8 or other item if it might be required as an exhibit in
9 court proceedings or is reasonably required for any
10 further investigations of offenses against this
11 subtitle."

12 Section 81. Title 24 of the Code of the Federated States of
13 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
14 11-57 and 12-14, is hereby further amended by enacting a new
15 section 807 of chapter 8 to read as follows:

16 "Section 807. Holding of seized goods.

17 (1) Any vessel, vehicle, aircraft or other item seized
18 pursuant to this subtitle or any bond or other security
19 or net proceeds of any sale in respect thereof shall be
20 held_by the Government pending the outcome of any legal
21 proceedings under this subtitle or until it is decided
22 not to file an information or a complaint, and any
23 penalties imposed under this subtitle have been fully
24 paid.

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1 (2) Where any vessel, vehicle, aircraft or other items
2 seized under this subtitle, or any bond, security or net
3 proceeds of sale in respect thereof is not forfeited or
4 applied in the discharge of any fine, order for costs or
5 penalty imposed pursuant to this subtitle, it shall be
6 made available for collection by the registered owner or
7 his nominee or, in the absence of such persons, the
8 person who appears entitled to it.

9 (3) Where any vessel, vehicle, aircraft or other item
10 has been released upon the lodging of a bond or
11 security, an order for forfeiture shall operate as an
12 order for forfeiture of the bond or security.

13 (4) Where any vessel, vehicle, aircraft or other item
14 has been released upon the lodging of a bond or
15 security, the Court may order any convicted defendant
16 and the owner of the vessel, vehicle, aircraft or other
17 item concerned, whether or not he is a defendant, to pay
18 the difference between the bond or amount lodged in
19 respect of the forfeited property and the aggregate
20 value of the forfeited property."

21 Section 82. Title 24 of the Code of the Federated States of
22 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
23 11-57 and 12-14, is hereby further amended by enacting a new
24 section 808 of chapter 8 to read as follows:

1 "Section 808. Application of bond.

2 (1) Any bond, security or net proceeds of sale held in
3 respect of any vessel, vehicle or aircraft or other item
4 shall be applied as follows and in this order:

5 (a) the discharge of any forfeiture ordered
6 pursuant to this subtitle;

7 (b) the payment of all fines or penalties for
8 offenses against this subtitle or penalties imposed
9 pursuant to this subtitle arising out of the use of or
10 in connection with the vessel, vehicle, aircraft or
11 other item;

12 (c) the full satisfaction of all costs involved
13 in maintaining and keeping secure the vessel and its
14 equipment during legal proceedings;

15 (d) the discharge of all orders for costs in
16 proceedings pursuant to this subtitle arising out of the
17 use of or in connection with the vessel, vehicle,
18 aircraft or other item; and

19 (e) return as provided in this subtitle."

20 Section 83. Title 24 of the Code of the Federated States of
21 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
22 11-57 and 12-14, is hereby further amended by enacting a new
23 chapter 9 entitled "Violations and Penalties for Prohibited Acts"
24 of new subtitle I entitled "Marine Resources Act of 2002".

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1 Section 84. Title 24 of the Code of the Federated States of
2 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
3 11-57 and 12-14, is hereby further amended by enacting a new
4 section 901 of chapter 9 to read as follows:

5 "Section 901. Civil Penalties.

6 (1) Any person who is found by the Supreme Court of
7 the Federated States of Micronesia in a civil proceeding
8 to have committed an act prohibited by this subtitle
9 shall be liable to the Federated States of Micronesia
10 for a civil penalty.

11 (2) Each day of a continuing violation shall
12 constitute a separate offense, for which a separate
13 penalty shall be assessed.

14 (3) In determining the amount of the penalty, the
15 Supreme Court of the Federated States of Micronesia
16 shall take into account the nature, circumstances,
17 extent and gravity of the prohibited acts committed and,
18 with respect to the violator, the degree of culpability,
19 any history of prior offenses, whether there are
20 multiple violations which together constitute a serious
21 disregard of conservation and management measures and
22 such other matters as justice may require.

23 (4) The Secretary is authorized to initiate all
24 proceedings under this section and to recover the amount

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1 assessed as a civil penalty.

2 (5) The proceeds of civil penalties shall be deposited
3 into the General Fund of the Federated States of
4 Micronesia. Fifty percent of the proceeds from civil
5 penalties shall then be distributed to any FSM State
6 which may be affected by the situation which has given
7 rise to this action."

8 Section 85. Title 24 of the Code of the Federated States of
9 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
10 11-57 and 12-14, is hereby further amended by enacting a new
11 section 902 of chapter 9 to read as follows:

12 "Section 902. Criminal penalties.

13 (1) Any person who commits an act prohibited by this
14 subtitle is subject to criminal prosecution.

15 (2) The Captain and any crew member of a fishing
16 vessel, who is subject to criminal charges solely for
17 violations of this subtitle occurring outside the
18 territorial waters but within the exclusive economic
19 zone of the Federated States of Micronesia shall be
20 released upon posting of reasonable bond or other
21 surety.

22 (3) Unless otherwise provided, all maximum penalties
23 described in this subtitle shall be applicable in both
24 civil and criminal proceedings in respect to the same

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1 prohibited acts. In addition to any fine, any criminal
2 violation shall also be punishable by imprisonment for
3 not more than ten (10) years, if in the commission of
4 any such offense the person:

5 (a) uses a dangerous weapon;

6 (b) engages in conduct that causes bodily injury
7 to any authorized officer or authorized observer or
8 other officer authorized to enforce the provisions of
9 this subtitle; or

10 (c) threatens any such person with bodily injury.

11 (4) Each day of a continuing violation shall be
12 considered a separate offense, for which a separate
13 penalty shall be assessed.

14 (5) Fines shall be deposited into the General Fund of
15 the Federated States of Micronesia. Fifty percent of
16 the proceeds from criminal fines shall be distributed to
17 any FSM State(s) which may be affected by the situation
18 which has given rise to the action.

19 (6) Criminal penalties shall be imposed without regard
20 to whether the person committing the prohibited act is
21 also subject to civil proceedings for the same
22 violation, and without regard to the amount of any civil
23 penalty imposed or which may be imposed in such civil
24 proceedings.

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1 (7) Nothing in this subtitle shall be interpreted to
2 allow the abatement of a criminal prosecution upon the
3 late satisfaction of a civil judgment or payment of a
4 fine or other determination pursuant to administrative
5 proceedings under this subtitle."

6 Section 86. Title 24 of the Code of the Federated States of
7 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
8 11-57 and 12-14, is hereby further amended by enacting a new
9 section 903 of chapter 9 to read as follows:

10 "Section 903. Liability for loss or damage. A person
11 found to have committed a violation of this subtitle may
12 be additionally found liable for any loss or damage
13 caused by the violation. The amount of compensation for
14 such loss or damage may be awarded by the Court as
15 restitution in addition to, and recovered in the same
16 manner as, a fine."

17 Section 87. Title 24 of the Code of the Federated States of
18 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
19 11-57 and 12-14, is hereby further amended by enacting a new
20 section 904 of chapter 9 to read as follows:

21 "Section 904. Liability of operators. In any
22 proceeding under this subtitle, the act or omission of
23 any crew member of a fishing vessel or in association
24 with a fishing vessel, shall be deemed to be that of the

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1 operator of that fishing vessel."

2 Section 88. Title 24 of the Code of the Federated States of
3 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
4 11-57 and 12-14, is hereby further amended by enacting a new
5 section 905 of chapter 9 to read as follows:

6 "Section 905. Civil liability of officers of companies.

7 (1) Except as further provided in this section, each
8 member of a partnership, officer of a corporation, firm,
9 company or any other business enterprise engaged in
10 activities governed by this subtitle shall be personally
11 liable for any violation of, or offense committed under
12 this subtitle, by any member or employee.

13 (2) It shall be an affirmative defense to liability
14 under this section for the officer to prove by a
15 preponderance of the evidence, that he used due
16 diligence to secure compliance with the subtitle or that
17 the violation or offense was committed without that
18 officer's knowledge, consent, collusion or
19 collaboration."

20 Section 89. Title 24 of the Code of the Federated States of
21 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
22 11-57 and 12-14, is hereby further amended by enacting a new
23 section 906 of chapter 9 to read as follows:

24 "Section 906. Prohibited acts - general.

1 (1) It is a violation of this subtitle for any person
2 to:

3 (a) violate any provision, condition or
4 requirement of a permit or license issued pursuant to
5 this subtitle;

6 (b) violate any provision of a regulation
7 promulgated pursuant to this subtitle;

8 (c) violate any provision, condition or
9 requirement of an access agreement, including the
10 minimum terms required in section 404 of chapter 4 of
11 this subtitle and any agreement or arrangement
12 implementing a multilateral access agreement; or

13 (d) pursuant to section 115 of chapter 1 and
14 section 407(1)(b) of chapter 4 of this subtitle.

15 (2) Any person who has committed an act in violation
16 of subsection (1) of this section regarding:

17 (a) serious misreporting of catch;

18 (b) fishing in a closed area;

19 (c) fishing after attaining quota;

20 (d) directed fishing for a stock for which
21 fishing is prohibited;

22 (e) using prohibited fishing gear; or

23 (f) falsifying or concealing the markings,
24 identity or registration of a fishing vessel shall be

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1 subject to a civil penalty of not less than \$100,000 and
2 not more than \$500,000."

3 Section 90. Title 24 of the Code of the Federated States of
4 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
5 11-57 and 12-14, is hereby further amended by enacting a new
6 section 907 of chapter 9 to read as follows:

7 "Section 907. Fishing without a valid permit.

8 (1) No person shall use any fishing vessel for, and
9 the crew and operator of any fishing vessel shall not
10 engage in, commercial or non-commercial fishing or
11 related activities in the exclusive economic zone
12 without a valid and applicable permit as required
13 pursuant to sections 103, 104 or 117 of chapter 1 of
14 this subtitle.

15 (2) Any person who commits an act in violation of this
16 section shall be subject to a civil penalty of not less
17 than \$100,000 and not more than \$1,000,000."

18 Section 91. Title 24 of the Code of the Federated States of
19 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
20 11-57 and 12-14, is hereby further amended by enacting a new
21 section 908 of chapter 9 to read as follows:

22 "Section 908. Engaging in drift net activities.

23 (1) No person shall engage in drift net fishing
24 activities in the fishery waters.

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1 (2) No operator of a fishing vessel entitled to fly
2 the flag of the Federated States of Micronesia shall
3 fail to require and ensure that such vessel does not
4 engage in drift net fishing activities in waters under
5 the national jurisdiction of a foreign state, in the
6 high seas, or in enclosed or semi-enclosed seas as
7 defined in the United Nations Convention.

8 (3) Any person who commits an act, or omits to act, in
9 violation of this section shall be subject to a civil
10 penalty of not less than \$100,000 and not more than
11 \$1,000,000."

12 Section 92. Title 24 of the Code of the Federated States of
13 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
14 11-57 and 12-14, is hereby further amended by enacting a new
15 section 909 of chapter 9 to read as follows:

16 "Section 909. Unauthorized fishing in waters under the
17 national jurisdiction of a foreign state.

18 (1) No operator of a fishing vessel entitled to fly
19 the flag of the Federated States of Micronesia shall
20 fail to require and ensure that such vessel does not
21 fish in waters under the national jurisdiction of a
22 foreign state unless duly authorized by the competent
23 authorities of the foreign state or states concerned.

24 (2) Any person who commits an act in violation of this

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1 section shall be subject to a civil penalty of not less
2 than \$50,000 or less than \$1,000,000."

3 Section 93. Title 24 of the Code of the Federated States of
4 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
5 11-57 and 12-14, is hereby further amended by enacting a new
6 section 910 of chapter 9 to read as follows:

7 "Section 910. Improper stowage of fishing gear.

8 (1) No operator of a fishing vessel in the exclusive
9 economic zone shall refuse or otherwise fail to stow all
10 fishing gear in such a manner that it is not readily
11 available for use in fishing except when such fishing
12 vessel is in an area in which it is authorized to fish
13 in accordance with this subtitle.

14 (2) Any person who commits an act in violation of this
15 section shall be subject to a civil penalty of not less
16 than \$50,000 and not more than \$500,000."

17 Section 94. Title 24 of the Code of the Federated States of
18 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
19 11-57 and 12-14, is hereby further amended by enacting a new
20 section 911 of chapter 9 to read as follows:

21 "Section 911. Violation of marine space.

22 (1) No person shall use a vessel for entering or
23 remaining within the exclusive economic zone in
24 violation of any provision of this subtitle.

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1 (2) Any person who violates this section shall be
2 subject to a civil penalty of not less than \$50,000 and
3 not more than \$500,000."

4 Section 95. Title 24 of the Code of the Federated States of
5 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
6 11-57 and 12-14, is hereby further amended by enacting a new
7 section 912 of chapter 9 to read as follows:

8 "Section 912. Fishing on or near submerged reefs or
9 fish aggregating devices.

10 (1) No person shall use any foreign fishing vessel for
11 fishing within one mile of a submerged reef within the
12 exclusive economic zone, or within a two mile radius of
13 any fish aggregating device of the Government, a citizen
14 or any other body established under the laws of the
15 Federated States of Micronesia.

16 (2) Any person who commits an act in violation of this
17 section shall be subject to a civil penalty of not less
18 than \$50,000 and not more than \$250,000."

19 Section 96. Title 24 of the Code of the Federated States of
20 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
21 11-57 and 12-14, is hereby further amended by enacting a new
22 section 913 of chapter 9 to read as follows:

23 "Section 913. Possession, handling and sale of fish
24 unlawfully taken.

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1 (1) No person shall knowingly ship, transport, offer
2 for sale, sell, purchase, import, export or have
3 custody, control or possession of any fish taken or
4 retained in contravention of this subtitle or any access
5 agreement, permit or applicable law.

6 (2) Any person who commits an act in violation of this
7 section shall be subject to a civil penalty of not less
8 than \$50,000 and not more than \$250,000."

9 Section 97. Title 24 of the Code of the Federated States of
10 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
11 11-57 and 12-14, is hereby further amended by enacting a new
12 section 914 of chapter 9 to read as follows:

13 "Section 914. Destruction of evidence.

14 (1) No person shall destroy, dispose of, conceal,
15 tamper with or abandon any fish, fish product, fishing
16 gear, net or other fish appliance, record, document,
17 electric shock device, explosive, poison or other
18 noxious substance, or any other thing with intent to
19 avoid seizure or the detection of an offense against
20 this subtitle.

21 (2) Any person who commits an act in violation of this
22 section is subject to a civil penalty of not less than
23 \$100,000 and not more than \$500,000."

24 Section 98. Title 24 of the Code of the Federated States of

PUBLIC LAW NO. 12-34

1 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
2 11-57 and 12-14, is hereby further amended by enacting a new
3 section 915 of chapter 9 to read as follows:

4 "Section 915. Refusal to give fish samples.

5 (1) No person in possession or apparent possession of
6 any fish or fish products shall, when requested by any
7 authorized officer or authorized observer to take fish
8 samples, fail or refuse to immediately give such
9 reasonable samples as may be required for the purposes
10 of this subtitle without payment of any kind for such
11 samples.

12 (2) Any person who commits an act in violation of this
13 section shall be subject to a civil penalty of not less
14 than \$15,000 and not more than \$50,000."

15 Section 99. Title 24 of the Code of the Federated States of
16 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
17 11-57 and 12-14, is hereby further amended by enacting a new
18 section 916 of chapter 9 to read as follows:

19 "Section 916. Obstruction of justice.

20 (1) No person shall interfere with, delay, or prevent,
21 by any means the apprehension or arrest of another
22 person, knowing or having probable cause to believe that
23 such person has committed any act prohibited by this
24 subtitle.

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1 (2) Any person who commits an act in violation of this
2 section shall be subject to a civil penalty of not less
3 than \$40,000 and not more than \$100,000."

4 Section 100. Title 24 of the Code of the Federated States of
5 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
6 11-57 and 12-14, is hereby further amended by enacting a new
7 section 917 of chapter 9 to read as follows:

8 "Section 917. Resisting arrest.

9 (1) No person shall resist a lawful arrest for any act
10 prohibited by this subtitle.

11 (2) Any person who commits an act in violation of this
12 section shall be subject to a civil penalty of not less
13 than \$20,000 and not more than \$50,000."

14 Section 101. Title 24 of the Code of the Federated States of
15 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
16 11-57 and 12-14, is hereby further amended by enacting a new
17 section 918 of chapter 9 to read as follows:

18 "Section 918. Contamination of the exclusive economic
19 zone.

20 (1) No person shall, directly or indirectly,
21 contaminate the exclusive economic zone in any way,
22 including by the discharge of any substance or by any
23 act or omission that is likely to cause damage to, or
24 deterioration in, the quality of the marine resources.

PUBLIC LAW NO. 12-34

1 (2) For the purposes of this section, the following is
2 presumed to be damaging:

3 (a) non-biodegradable trash or debris;

4 (b) the discharge of a poison, chemical or
5 noxious substance, including, but not limited to, oil,
6 petroleum, solvents, metals or sewage.

7 (3) Any person who violates this section shall be
8 subject to a civil penalty of not less than \$50,000 and
9 not more than \$500,000."

10 Section 102. Title 24 of the Code of the Federated States of
11 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
12 11-57 and 12-14, is hereby further amended by enacting a new
13 section 919 of chapter 9 to read as follows:

14 "Section 919. Damage to fishing vessel or gear
15 belonging to another.

16 (1) No person shall recklessly, knowingly or
17 intentionally take, damage or destroy any fish, fishing
18 vessel or fishing gear belonging to another person or
19 buoy used for scientific observation.

20 (2) Any person who commits an act in violation of this
21 section shall be subject to a civil penalty of not less
22 than \$40,000 and not more than \$100,000."

23 Section 103. Title 24 of the Code of the Federated States of
24 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,

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1 11-57 and 12-14, is hereby further amended by enacting a new
2 section 920 of chapter 9 to read as follows:

3 "Section 920. Penalties for other violations of this
4 subtitle.

5 (1) Any person who commits an act in violation of any
6 provision of this subtitle, for which no civil penalty
7 is otherwise specified in this chapter or the preceding
8 chapters, shall be subject to a civil penalty of not
9 less than \$40,000 and not more than \$100,000."

10 Section 104. Title 24 of the Code of the Federated States of
11 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26,
12 11-57 and 12-14, is hereby further amended by renumbering chapter
13 6 and chapter 7 as chapters 10 and 11 respectively.

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17 Section 105. This act shall become law upon approval by the
18 President of the Federated States of Micronesia or upon its
19 becoming law without such approval.

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Leo A. Falcam
President
Federated States of
Micronesia

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