
A BILL FOR AN ACT

To create a new subtitle II of title 24 of the Code of the Federated States of Micronesia, as amended, to establish the National Seabed Resources Authority of the Federated States of Micronesia, provide for the powers, duties, and responsibilities of the Authority, set out the standards of sustainable management of seabed resources, require the promulgation of regulation governing permits and licenses relevant to marine scientific research, prospecting, exploration and mining activities, prescribe the penalty for violation of this Act, and for other purposes.

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

2 Section 1. Title 24 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by creating a
4 new subtitle II entitled: "Seabed Resources Act of 2014".

5 Section 2. Title 24 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by creating a
7 new chapter 1 under subtitle II entitled: "General Provisions"

8 Section 3. Title 24 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by inserting a
10 new section 101 under chapter I of subtitle II, to read as follows:

11 "Section 101. Short Title. This Act may be cited as
12 the 'National Seabed Resources Act of 2014'."

13 Section 4. Title 24 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 102 under chapter 1 of subtitle II, to read as follows:

16 "Section 102. Definitions. In this subtitle,
17 except where otherwise specified, the following

1 terms shall have the meanings stated below:

2 (1) For the purpose of this subtitle the
3 following terms shall have the following meanings -
4 "Affiliate" - in relation to an Applicant or Title
5 Holder, means any person, firm, body corporate or
6 entity that controls, is controlled by, or is under
7 the common control with, the Applicant or Title
8 Holder;

9 "Ancillary Operations" - means any activity carried
10 on by or on behalf of a Title Holder under this
11 subtitle in support of Seabed Mineral Activities
12 (including travel between port and the Title Area,
13 the establishment and operation of sampling or
14 collecting systems and equipment, platforms,
15 installations, processing facilities,
16 transportation systems and other plant and
17 machinery - insofar as the foregoing occurs within
18 Federated States of Micronesia's national
19 jurisdiction);

20 "Applicant" - means a person applying to the NSRA
21 for a Prospecting Permit, License or Sponsorship
22 Certificate under this subtitle;

23 "Application" - means an application made by a
24 person to the NSRA for a Prospecting Permit,
25 License or Sponsorship Certificate under this

1 subtitle;
2 "The Area" - means the seabed and ocean floor and
3 subsoil thereof beyond the limits of national
4 jurisdiction as defined under Article 1(1) of the
5 UN Convention on the Law of the Sea;
6 "Continental Shelf" - means the seabed and subsoil
7 of the Federated States of Micronesia as defined
8 under Article 76 of the UN Convention on the Law of
9 the Sea;
10 "Contract Area" - means any part of the Area in
11 respect of which there is in force a contract
12 between NSRA or a Sponsored Party and the ISA for
13 the conduct of Seabed Mineral Activities;
14 "Department" - means the Department of Resources
15 and Development of the National Government of the
16 Federated States of Micronesia;
17 "Environment Law" - means Title 25 of the Code of
18 the Federated States of Micronesia, as amended by
19 the FSM Environmental Protection Act 2012 or any
20 Act replacing that Act, and any regulations made
21 under it;
22 "Environment" - means all natural, physical and
23 social resources and ecosystems, including land,
24 rock, seabed, soil, minerals, water, air, climate,
25 material assets, cultural heritage, landscape,

1 plants, animals, human beings, and their habitats,
2 and the interaction between any of these factors;
3 "Environmental and Social Impact Assessment" -
4 means the identification, analysis and evaluation
5 of the potential effects that a development project
6 may have on the Environment and the proposal of
7 measures to mitigate those impacts;

8 "Exclusive Economic Zone" - means the exclusive
9 economic zone of the Federated States of Micronesia
10 as defined under section 104 of Title 18 of the
11 Code of the Federated States of Micronesia;

12 "Executive Director" - means the executive director
13 of the NSRA;

14 "Exploration" - means

15 (a) the search for Seabed Mineral deposits,
16 including by drilling, with exclusive rights,

17 (b) the sampling and analysis of such deposits,

18 (c) the testing of systems and equipment, and

19 (d) the carrying out of studies, for the purpose
20 of investigating whether those minerals can be
21 commercially exploited;

22 An "Incident" occurs when

23 (i) any ship or installation while engaged in
24 Marine Scientific Research, Seabed Mineral Activities or
25 Ancillary Operations is lost, abandoned, capsized or

1 incurs significant damage;

2 (ii) loss of life or injury requiring
3 hospitalization occurs on board any ship or installation
4 while engaged in Marine Scientific Research, Seabed
5 Mineral Activities or Ancillary Operations;

6 (iii) the conduct of Marine Scientific
7 Research, Seabed Mineral Activities or Ancillary
8 Operations results in unanticipated Serious Harm to the
9 Environment;

10 (iv) the conduct of Marine Scientific
11 Research, Seabed Mineral Activities or Ancillary
12 Operations results in the pollution of the Marine
13 Environment in breach of the Federated States of
14 Micronesia's obligations under international law; or

15 (v) where Seabed Mineral Activities are
16 occurring in the Area, the ISA issues an emergency order
17 in connection with the Seabed Mineral Activities.

18 "Inspector" - means a person appointed by the NSRA as an
19 inspector in relation to Seabed Mineral Activities under
20 section 213 of this subtitle;

21 "The International Seabed Authority" or "ISA" - means
22 the International Seabed Authority established by Part
23 XI Section 4 of the UN Convention on the Law of the Sea
24 as the organization through which State Parties to the
25 UN Convention on the Law of the Sea shall organize and

1 control seabed mineral activities in the Area; "License"
2 - means a written document that is granted under chapter
3 7 of this subtitle for the purpose of conducting
4 Exploration or Mining under this subtitle;
5 "License Area" - means a part of the Federated States of
6 Micronesia's seabed in respect of which there is in
7 force an Exploration or Mining License;
8 "Licensee" - means any person to whom an Exploration or
9 Mining License is issued under chapter 6 of this
10 subtitle, that person's representatives, and any person
11 or persons to whom the Title conferred by the License
12 may lawfully have been transferred, mortgaged leased or
13 otherwise assigned;
14 "Marine Environment" - means the environment of the sea,
15 and includes the physical, chemical, geological and
16 biological and genetic components, conditions and
17 factors which interact and determine the productivity,
18 state, condition and quality of the marine ecosystem,
19 the waters of the seas and oceans and the airspace above
20 those waters, as well as the seabed and ocean floor and
21 subsoil thereof;
22 "Marine Reserve" - means any conservation area, marine
23 park or reserve, or similar protective measures for the
24 marine environment or biology declared under the laws of
25 the Federated States of Micronesia, which prohibits the

1 conduct of Seabed Mineral Activities;
2 "Marine Scientific Research" - means any study, research
3 or other related scientific activity, whether
4 fundamental or applied, intended to increase knowledge
5 about the Marine Environment for the benefit of all
6 mankind, and not undertaken directly for industrial or
7 economic purposes, that falls within the permitting
8 provisions of subtitle I;
9 "Mining" - means the recovery for commercial purposes of
10 Seabed Minerals and the extraction of minerals
11 therefrom, including the construction and operation of
12 mining, processing and transportation systems, for the
13 production and marketing of metals;
14 "NSRA" - means the National Seabed Resources Authority
15 established under section 201 of this subtitle;
16 "Person" - means any natural person or group of natural
17 persons, or legal person or business enterprise and
18 includes, but is not limited to a company, corporation,
19 partnership, cooperative, or association;
20 "The Precautionary Approach" - the precautionary
21 approach means that where there is a threat of serious
22 harm or irreversible damage to the Environment, or
23 threat to human health in the Federated States of
24 Micronesia, precautionary measures should be taken even
25 if a lack of scientific knowledge means that some cause

1 and effect relationships are not fully understood.

2 "Prescribed" - means Prescribed by Regulations

3 promulgated under this subtitle or other applicable Act;

4 "Prospecting" - means the search for Seabed Mineral

5 deposits, including estimation of the composition, size

6 and distribution of deposits and their economic values,

7 using low impact activities and without any exclusive

8 rights;

9 "Prospecting Permit" - means a written document that is

10 granted under chapter 6 of this subtitle for the purpose

11 of allowing the conduct of Prospecting within the

12 Exclusive Economic Zone of the Federated States of

13 Micronesia pursuant to this subtitle;

14 "Prospector" - means a person to whom a Prospecting

15 Permit is granted under chapter 6 of this subtitle, that

16 person's representatives, and any person or persons to

17 whom the Title conferred by the Prospecting Permit may

18 lawfully have been assigned;

19 "Protected Area" - means any area or areas within the

20 Federated States of Micronesia established as a

21 protected area within the meaning of the Convention on

22 Biological Diversity (opened for signature at the Earth

23 Summit in Rio de Janeiro on 5 June 1992, entered into

24 force on 29 December 1993, signed by the Federated

25 States of Micronesia on 12 June 1992 and ratified on 20

1 June 1994);
2 "Public Official" - means a person in the permanent or
3 temporary employment of the Government of the Federated
4 States of Micronesia whether exempted or not exempted by
5 section 117 of title 52 of the Code of the Federated
6 States of Micronesia;
7 "Qualification", "Qualification Criteria", "Qualify" and
8 "Qualified" refers to criteria that a License Applicant
9 must, in the NSRA's determination, meet under section
10 605 of this subtitle in order for that Applicant's
11 License Application to be evaluated by the NSRA;
12 "Regulations" - means all regulations promulgated under
13 this subtitle;
14 "Rules of the ISA" - means any rules, regulations, or
15 procedures adopted by the ISA pursuant to its powers
16 conferred by the UN Convention on the Law of the Sea
17 that are from time to time in force, and any contractual
18 terms contained in a contract between the ISA and a
19 Sponsored Party relating to Seabed Mineral Activities in
20 the Area;
21 "Seabed Minerals" - means the hard mineral resources
22 deposited in any part of the deep seabed, including
23 those in crust, nodule, or hydrothermal deposit form,
24 which contain (in quantities greater than trace)
25 metalliferous or non-metalliferous elements;

1 "Seabed Mineral Activities" - means

2 (a) Operations for Prospecting under Prospecting
3 Permit, Exploration under Exploration License, or Mining
4 under Mining License, of Seabed Minerals within the
5 Federated States of Micronesia's national jurisdiction,
6 or

7 (b) Exploration or Mining of Seabed Minerals in
8 the Area under the Federated States of Micronesia's
9 contract or sponsorship, under this subtitle;

10 "Secretary" - means the Secretary of the Department
11 of Resources and Development for the National
12 Government of the Federated States of Micronesia;

13 "Serious Harm" - means any significant adverse
14 change. In relation to the Marine Environment,
15 this means any effect that compromises ecosystem
16 structure or function in a manner that impairs the
17 ability of affected populations to replace
18 themselves, degrades the long-term natural
19 productivity of habitats, or causes, on more than a
20 temporary basis, significant loss of species
21 richness, habitat, or community types;

22 "Sponsored Party" - means a person who holds a
23 current Sponsorship Certificate validly issued by
24 the Federated States of Micronesia under chapter 7
25 of this subtitle, and that person's representatives

1 or officers;

2 "Sponsorship Certificate" - means a written

3 document issued to another person under Chapter 7

4 of this subtitle by the Federated States of

5 Micronesia that validates the Federated States of

6 Micronesia's sponsorship of that person pursuant to

7 this subtitle;

8 "Sponsorship Qualification Criteria" - refers to

9 criteria which a Sponsorship Certificate Applicant

10 must, in the NSRA's determination, meet under

11 section 704 of this subtitle, in order for that

12 Applicant to be considered for a Sponsorship

13 Certificate;

14 "Sponsoring State" - means a State Party to the UN

15 Convention on the Law of the Sea, sponsoring a

16 person to carry out Seabed Mineral Activities in

17 the Area in accordance with Article 153(2)(b) of

18 the UN Convention on the Law of the Sea;

19 "Territorial Sea and internal waters" - means the

20 territorial sea and internal waters of the

21 Federated States of Micronesia as described under

22 section 102 of Title 18 of the Code of the

23 Federated States of Micronesia;

24 "Title" - means the rights conferred and

25 obligations imposed by a Prospecting Permit,

1 License, or Sponsorship Certificate under this
2 subtitle;
3 "Title Area" - means the area of seabed to which a
4 Title relates;
5 "Title Holder" - means a Prospector, Licensee, or
6 Sponsored Party; and
7 "The UN Convention on the Law of the Sea" - means
8 the United Nations Convention on the Law of Sea of
9 10 December 1982 entered into force on 16 November
10 1994, and the 1994 Agreement Relating to the
11 Implementation of Part XI of the United Nations
12 Convention on the Law of the Sea of 10 December
13 1982 - to which the Federated States of Micronesia
14 is a signatory.

15 (2) This subtitle shall where possible be interpreted,
16 and all persons performing functions and duties or
17 exercising powers under it shall act, consistently with
18 the Federated States of Micronesia's international
19 obligations under the UN Convention on the Law of the
20 Sea, and other relevant international instruments, and
21 specifically the Federated States of Micronesia's duties
22 to:

23 (a) protect and preserve the Marine Environment
24 and rare or fragile ecosystems and habitats;

25 (b) prevent, reduce, and control pollution from

1 Seabed Mineral Activities, or caused by ships or by
2 dumping of waste and other matter at sea;

3 (c) prevent trans boundary harm;

4 (d) conserve biodiversity;

5 (e) apply the Precautionary Approach;

6 employ best environmental practice;

7 (f) conduct prior Environmental and Social Impact
8 Assessment of activities likely to cause Serious Harm to
9 the Environment; and

10 (g) take measures for ensuring safety at sea."

11 Section 5. Title 24 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by inserting a
13 new section 103 under chapter 1 of subtitle II, to read as
14 follows:

15 "Section 103. Purpose of this subtitle - The
16 purposes of this subtitle are -

17 (a) to establish a legal framework for the
18 efficient management and development of the Federated
19 States of Micronesia's Seabed Minerals;

20 (b) to establish a legal framework for the
21 sponsorship, and for the effective control by the
22 Federated States of Micronesia, of contractors to
23 undertake Seabed Mineral Activities in the Area;

24 (c) to provide that Seabed Mineral Activities
25 within the Federated States of Micronesia's national

1 jurisdiction, or under the Federated States of
2 Micronesia's sponsorship in the Area, must be carried
3 out in accordance with best international practice, and
4 in a manner that is consistent with internationally
5 accepted rules, standards, principles, and practices,
6 including the Federated States of Micronesia's
7 responsibilities under the UN Convention on the Law of
8 the Sea, and specifically the Federated States of
9 Micronesia's duty to protect and preserve the Marine
10 Environment;

11 (d) to promote transparency in decision-making on
12 matters concerning the management of Seabed Mineral
13 Activities;

14 (e) to provide a stable, transparent, and
15 predictable regulatory environment for investors in
16 Seabed Mineral Activities;

17 (f) to secure optimum benefits, long-term
18 economic growth and sustainable development for the
19 Federated States of Micronesia from the development of
20 its Seabed Mineral sector, and to implement measures to
21 maximize the benefits of Seabed Mineral Activities for
22 its present and future generations of citizens."

23 Section 6. Title 24 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting a
25 new section 104 under chapter 1 of subtitle II, to read as follows:

1 "Section 104. Operation of this subtitle.

2 In order to achieve the purpose stated herein, this
3 subtitle inter alia -

4 (a) creates a regulatory system and designates a
5 responsible Authority to license, monitor, and manage
6 the Federated States of Micronesia's involvement with
7 Seabed Mineral Activities;

8 (b) establishes a system granting Titles pursuant
9 to which Title Holders may engage in Seabed Mineral
10 Activities under certain conditions;

11 (c) creates a register of Titles and provides for
12 the registration of dealings and interests in Titles;

13 (d) creates offenses in respect of actions
14 carried out in breach of the provisions of this
15 subtitle;

16 (e) provides for the protection of the
17 Environment during the conduct of Seabed Mineral
18 Activities, including through the application of the
19 provisions of the Environment Law;

20 (f) provides for the payment of royalty, fees,
21 and taxes to Treasury in respect of Seabed Mineral
22 Activities in the Federated States of Micronesia;

23 (g) provides for the Federated States of
24 Micronesia to receive payments for its sponsorship of
25 Seabed Mineral Activities in the Area;

1 (h) establishes a special fund in section 904 on
2 the revenue derived from Seabed Mineral Activities to
3 the invested for the long-term benefit of the people of
4 the Federated States of Micronesia."

5 Section 7. Title 24 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by inserting a
7 new section 105 under chapter 1 of subtitle II, to read as follows:

8 "Section 105. Sovereign rights over Seabed Minerals
9 within national jurisdiction and option of the states to
10 delegate to the NSRA the regulation of state resources.

11 (1) In accordance with the provision of article 1
12 section 1 of the constitution of the Federated States of
13 Micronesia and section 105 title 18 of the Code of the
14 Federated States of Micronesia, the sovereign rights to
15 the seabed resources contained in the waters superjacent
16 to the Exclusive Economic Zone and to the Continental
17 Shelf beyond the Exclusive Economic Zone are hereby
18 vested in the national government to be managed on
19 behalf of the people of the Federated States of
20 Micronesia pursuant to this subtitle.

21 (2) Nothing in this subtitle deprives the State
22 Governments of sovereignty over the seabed resources in
23 their respective territorial and internal waters or
24 their authority to delegate to the NSRA any
25 responsibility pertaining to such State resources."

1 Section 8. Title 24 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by inserting a
3 new section 106 under chapter 1 of subtitle II, to read as follows:

4 "Section 106. Application of this subtitle.

5 This subtitle applies to -

6 (a) all individuals, whether or not citizens of
7 or resident in the Federated States of Micronesia and

8 (b) all bodies corporate, whether or not
9 incorporated or carrying on business in the Federated
10 States of Micronesia.

11 This subtitle does not apply to the exploration for or
12 recovery of petroleum."

13 Section 9. Title 24 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 107 under chapter 1 of subtitle II to read as follows:

16 "Section 107. Jurisdiction.

17 By the enactment of this subtitle the Federated States
18 of Micronesia:

19 (a) exercises sovereignty over its Territorial
20 Sea and internal waters and its exclusive sovereign
21 rights over its Exclusive Economic Zone and Continental
22 Shelf for the purpose of exploring and mining its non-
23 living natural resources;

24 (b) recognizes:

25 (i) the seabed resources of the Area to be

1 the common heritage of mankind,

2 (ii) that rights to the Area are governed by
3 the Rules of the ISA,

4 (iii) that Seabed Mineral Activities in the
5 Area shall be carried out in association with the ISA
6 only by State Parties to the UN Convention on the Law of
7 the Sea, State enterprises, or by persons sponsored by
8 Sponsoring States,

9 (iv) the ISA's responsibility under the UN
10 Convention on the Law of the Sea to organize and control
11 activities in the Area on behalf of mankind as a whole,
12 including to:

13 A. process applications for approval of plans of work
14 for exploration and mining in the Area,

15 B. monitor compliance with plans of work, approved in
16 the form of a contract, including through a staff of
17 inspectors,

18 C. adopt rules, regulations and procedures necessary for
19 the conduct of exploration and mining in the Area,
20 including for the:

21 1. protection and preservation of the natural
22 resources of the Area and the prevention of damage to
23 the flora and fauna of the Marine Environment, and

24 2. prevention, reduction and control of pollution and
25 other hazards to the Marine Environment,

1 (v) the responsibility of State Parties to
2 the UN Convention on the Law of the Sea including the
3 Federated States of Micronesia to assist the ISA in
4 exercising its duties outlined in section 1070 of this
5 subtitle, and

6 (vi) where the Federated States of Micronesia
7 is a Sponsoring State, the Federated States of
8 Micronesia's duty to effectively control any person
9 engaged in Seabed Mineral Activities in the Area under
10 its sponsorship, in order to ensure conformity of those
11 Seabed Mineral Activities with the UN Convention on the
12 Law of the Sea and the Rules of the ISA and other
13 international law obligations of the Federated States of
14 Micronesia; and

15 (c) exercises its jurisdiction over the Federated
16 States of Micronesia's citizens subjects and vessels,
17 and foreign persons and vessels otherwise subject to the
18 Federated States of Micronesia's effective control,
19 engaged in Seabed Mineral Activities, in accordance with
20 generally accepted principles of international law
21 recognized by the Federated States of Micronesia."

22 Section 10. Title 24 of the Code of the Federated
23 States of Micronesia, as amended, is hereby further amended
24 by creating a new chapter 2 under subtitle II entitled:
25 "National Seabed Resources Authority".

1 Section 11. Title 24 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by inserting a
3 new section 201 under chapter 2 of subtitle II, to read as
4 follows:

5 "Section 201. Establishment of the National Seabed
6 Resources Authority:

7 (1) There is hereby established a National Seabed
8 Resources Authority ("NSRA") Board. The NSRA Board is
9 composed of five voting members, each discharging a
10 national function and authority.

11 (2) The following are the voting members of the NSRA
12 Board appointed as follows:

13 (a) one member from each of the four States to be
14 appointed by the President on the recommendation of the
15 Governor with the advice and consent of Congress; and

16 (b) the Secretary, who shall serve as the
17 Chairperson of the NSRA Board.

18 (3) In the absence of an appointed Secretary, the
19 President may temporarily designate another person to
20 act in the Secretary's stead as member and Chairperson
21 of the NSRA Board.

22 (4) The NSRA shall meet at such time and place as may
23 be designated by the Chairperson or by vote of the
24 members pursuant to any method set out in the NSRA
25 regulation.

1 (5) The NSRA shall adopt its own regulation governing
2 the conduct of its business and performance of the
3 powers and duties granted to or imposed upon it by law.

4 (6) A quorum of the NSRA shall consist of a majority of
5 all voting members. All official business of the NSRA
6 shall be conducted by a majority of members present at a
7 meeting of the NSRA for which a quorum exists, unless
8 otherwise provided by law or the regulation of the NSRA."

9 Section 12. Title 24 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by inserting a
11 new section 202 under chapter 2 of subtitle II, to read as
12 follows:

13 "Section 202. Objectives of the NSRA.

14 The NSRA has the following objectives:

15 (a) The compliance objective: to maintain
16 effective control of Seabed Mineral Activities, by
17 securing compliance by Title Holders with their
18 obligations under this subtitle;

19 (b) The national interest objective: to maximize
20 economic and development benefits from Seabed Mineral
21 Activities to the people of the Federated States of
22 Micronesia for present and future generations;

23 (c) The environmental protection objective: to
24 seek to ensure that Seabed Mineral Activities under the
25 control or sponsorship of the Federated States of

1 Micronesia are undertaken with due regard to:

2 (i) the duty to protect and preserve the
3 Marine Environment; and

4 (ii) the need to protect the well-being of
5 individuals and communities insofar as they may be
6 impacted by or employed in Seabed Mineral Activities;

7 (d) The accountability objective: to provide a
8 stable, transparent, predictable, and accountable regime
9 within the Federated States of Micronesia for the
10 permitting, licensing and sponsorship, and regulation by
11 the Federated States of Micronesia of the Seabed Mineral
12 Activities."

13 Section 13. Title 24 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 203 under chapter 2 of subtitle II, to read as follows:

16 "Section 203. Functions of the NSRA. To ensure the
17 implementation of this subtitle, the NSRA shall perform
18 the following functions:

19 (a) develop policies, standards, and guidelines
20 for the purpose of regulating and monitoring the
21 development of the Federated States of Micronesia's
22 Seabed Minerals sector, and provide advice and guidance
23 in relation to Applications, Titles, Seabed Mineral
24 Activities and associated matters;

25 (b) maintain a cadastral survey map and registry,

1 manage the designation and allocation of Titles, and
2 maintain records of Titles granted and the blocks or
3 cells of seabed to which they relate;

4 (c) conduct due diligence enquiry into
5 Applicants, receive and evaluate Applications or request
6 for Title renewal or variation, and grant or deny Titles
7 or Title renewals or variations;

8 (d) cooperate with the Office of Environment and
9 Emergency Management in the conduct and review of
10 Environmental and Social Impact Assessments for Seabed
11 Mineral Activities required under this subtitle and any
12 other laws of the Federated States of Micronesia;

13 (e) monitor the performance and impact of Seabed
14 Mineral Activities and the compliance by Title Holders
15 with the terms of this subtitle, any Regulations, and
16 the relevant Title;

17 (f) monitor the continuing validity of the terms
18 of a Title or amend the terms of a Title whenever
19 reasonable or necessary but with prior notice to a Title
20 Holder;

21 (g) enforce compliance with this subtitle,
22 Regulations, or a Title;

23 (h) share information and hold consultation with
24 stakeholders and general public on Seabed Mineral
25 Activities as appropriate; and

1 (i) liaise with the ISA and any other relevant
2 international organization in accordance with the UN
3 Convention of the Law of the Sea to facilitate the
4 lawful conduct of Seabed Minerals Activities or the
5 protection of the Marine Environment."

6 Section 14. Title 24 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by inserting a
8 new section 204 under chapter 2 of subtitle II, to read as follows:

9 "Section 204. Duties of the NSRA. In performing its
10 functions, the NSRA shall so far as is reasonably
11 practicable act in a way which is compatible with:

12 (a) the duties contained in section 102(2) of
13 this subtitle;

14 (b) meeting its objectives contained in section
15 202 of this subtitle;

16 (c) the principles of best regulatory practice
17 (including the principles under which regulatory
18 activities should be proportionate, accountable,
19 consistent, transparent and targeted only at cases in
20 which action is needed); and

21 (d) such generally accepted principles of good
22 corporate governance as it is reasonable to regard as
23 applicable to it."

24 Section 15. Title 24 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by inserting a

1 new section 205 under chapter 2 of subtitle II, to read as follows:

2 "Section 205. Powers of the NSRA.

3 The following powers are vested in the NSRA:

4 (a) Promotion

5 1. To undertake promotion activities and programs
6 aimed at encouraging foreign investment in the areas
7 of Prospecting, Exploration, and Mining in the
8 Federated States of Micronesia, or under the
9 Federated States of Micronesia's Sponsorship in the
10 Area.

11 2. To encourage the growth of related industries or
12 sectors or which provide support to the Offshore
13 Minerals industry to the extent that such industries
14 and sectors help generate job and income
15 opportunities locally.

16 3. To promote the sustainable, scientific, and
17 environmentally sound utilization of resources under
18 this Act, applying the Precautionary Approach.

19 (b) Regulatory

20 1. To establish reasonable standards of regulation
21 governing Prospecting, Exploration, and Mining.

22 (a) The standards of regulation are those set in
23 this subtitle and such other standards as are
24 reasonably set by administrative regulation.

25 (b) The NSRA shall consult relevant stakeholders and

1 give due consideration to their views prior to the
2 effective date of any regulation.

3 2. To set applicable fees and charges through
4 regulation in order to recover the cost of
5 undertaking regulation activities.

6 (c) Monitoring and Compliance

7 1. To require and receive information relevant to
8 its regulatory function from Title Holders, and to
9 exercise powers of inspection as defined in sections
10 214.

11 2. To take steps, including administrative action in
12 accordance with section 218 of this subtitle, to
13 secure compliance by any person conducting Seabed
14 Mineral Activities with the terms of the Title and
15 the laws of Federated States of Micronesia.

16 3. To seek judicial reliefs and remedies regarding
17 suspected violation or any matter that may arise in
18 this subtitle.

19 (e) Related powers

20 1. To seek the assistance of the Department of
21 Justice and other agencies of the national
22 government for the effective exercise of any power
23 vested in the NSRA.

24 2. To seek expert advice or assistance on economic,
25 legal, scientific, and technical issues affecting or

1 relating to the management, administration, or
2 regulation of Seabed Mineral Activities.

3 3. Appoint an executive director having duties and
4 powers in section 223, support staff, and such other
5 person qualified to provide expert assistance in the
6 discharge of NSRA's duties and functions or as
7 considered appropriate from time to time."

8 Section 16. Title 24 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by inserting a
10 new section 206 under chapter 2 of subtitle II, to read as follows:

11 "Section 206. Information Gathering.

12 (1) In performing its functions, and subject to the
13 provisions of this subtitle, the NSRA may gather, retain
14 and publish or disseminate information relating to any
15 Application, Title, Seabed Mineral Activities or
16 Ancillary Operations, including:

17 (a) copies of geological, environmental,
18 geochemical and geophysical data, or other surveys,
19 reports, plans maps or documents acquired, created or
20 held by the Title Holder in the course of carrying out
21 the Seabed Mineral Activities that, in the NSRA's
22 opinion, are necessary for and relevant to the effective
23 exercise of its powers and functions;

24 (b) the estimation of the grade and quantity of
25 commercially exploitable deposits, when such deposits

1 have been identified, and the anticipated mining
2 conditions;

3 (c) a statement of how and where any Seabed
4 Mineral samples or ores are stored; and

5 (d) all books, accounts, financial records, and
6 performance data which the Title Holder is required to
7 maintain under this subtitle, or the terms of the Title;

8 (2) The NSRA may by Order require any person to
9 furnish it within a reasonable time with any information
10 of the type listed in subsection (1) that it reasonably
11 believes is in that person's possession.

12 (3) The NSRA may by Order summon a Title Holder or its
13 authorized representative, for the purposes of
14 furnishing any information of the type listed under
15 subsection (1).

16 (4) Failure to comply with an Order made under this
17 section without reasonable justification shall be an
18 offense. Objections based upon evidence that to furnish
19 the information would be a breach of intellectual
20 property or other legal duties may constitute reasonable
21 justification for the purpose of this section.

22 (5) Any person guilty of an offense under this section
23 shall be liable for a fine not exceeding fifty thousand
24 dollars (\$50,000)."

25 Section 17. Title 24 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by inserting a
2 new section 207 under chapter 2 of subtitle II, to read as follows:

3 "Section 207. Information-handling.

4 (1) The NSRA shall only use the information that it
5 receives under this subtitle as is necessary for the
6 effective exercise of its functions, and will not
7 disclose that information unless:

8 (a) the relevant Title Holder or Applicant
9 consents;

10 (b) it is generally known or publicly available
11 from other sources;

12 (c) such disclosure is necessary in connection
13 with the NSRA's administration of this subtitle,
14 including for the purpose of maintaining a public
15 register of Titles, or for consultation with the public
16 of the Federated States of Micronesia; or

17 (d) the disclosure is made for the purpose of any
18 arbitration or litigation, or is made by order of the
19 court.

20 (2) Nothing in this section shall permit disclosure
21 without prior consent by the NSRA of information that is
22 confidential under applicable law, including but not
23 limited to, personnel matters, confidential technical or
24 proprietary information and intellectual property
25 relating to the Seabed Mineral Activities, or privileged

1 legal material.

2 (3) Any employee or member of the NSRA or any other
3 Public Official who discloses information in breach of
4 this section, commits an offense, punishable upon
5 conviction to a fine not exceeding ten thousand dollars
6 (\$10,000), a term of imprisonment of not more than two
7 years, or both."

8 Section 18. Title 24 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by inserting a
10 new section 208 under chapter 2 of subtitle II, to read as follows:

11 "Section 208. Supply of false or misleading information
12 to the NSRA.

13 (1) Any person who knowingly or recklessly provides
14 the NSRA with information which is false or misleading
15 in a material particular shall be guilty of an offense
16 if the information:

17 (a) is provided in purported compliance with a
18 requirement imposed by or under this subtitle; or

19 (b) is provided otherwise than as mentioned in
20 subsection (1)(a) but in circumstances in which the
21 person providing the information intends, or could
22 reasonably be expected to know, that it would be used by
23 the NSRA for the purpose of discharging its functions
24 under this subtitle.

25 (2) Any person who willfully alters, suppresses,

1 conceals or destroys any document which he is or she is
2 liable to be required, by or under this subtitle, to
3 produce to the NSRA shall be guilty of an offense.

4 (3) Any person guilty of an offense under this section
5 shall be liable a fine not exceeding fifty thousand
6 dollars (\$50,000)."

7 Section 19. Title 24 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by inserting a
9 new section 209 under chapter 2, to read as follows:

10 "Section 209. Preparation of guidelines - The NSRA may
11 from time to time publish and disseminate procedures,
12 standards, manuals, recommended practices and guidelines
13 of a technical or administrative nature relating to
14 Seabed Mineral Activities or to assist Title Holders,
15 Government agencies, and other interested parties in the
16 implementation of this subtitle and the Regulations,
17 including by reference to any recommendations of any
18 organ of the International Seabed Authority."

19 Section 20. Title 24 of the Code of the Federated
20 States of Micronesia, as amended, is hereby further amended
21 by inserting a new section 210 under chapter 2 of subtitle
22 II, to read as follows:

23 "Section 210. Record of decisions.

24 (1) The NSRA will keep written records of decisions
25 (and the grounds for them) taken under the following

- 1 sections of this subtitle:
- 2 (a) 206(2) (Information Order);
- 3 (b) 215 (Enforcement Order);
- 4 (c) 502 (Grant of a Prospecting Permit);
- 5 (d) 505 (Denial of Prospecting Permit);
- 6 (e) 602 (Grant and Issue of License);
- 7 (f) 626 (Renewal of License);
- 8 (g) 628 (Variation, Suspension or Revocation of a
- 9 License);
- 10 (h) 702 (Entry into Sponsorship of Seabed Mineral
- 11 Activities in the Area); and
- 12 (i) 710 (Revocation of a Sponsorship
- 13 Certificate).
- 14 (2) A record kept under this section, and that is
- 15 signed by the Secretary or on behalf of the NSRA by the
- 16 Executive Director, is prima facie evidence that the
- 17 decision was duly made as recorded."

18 Section 21. Title 24 of the Code of the Federated

19 States of Micronesia, as amended, is hereby further amended

20 by inserting a new section 211 under chapter 2 of subtitle

21 II, to read as follows:

22 "Section 211. Monitoring - The NSRA will monitor and

23 verify Title Holders' performance and adherence to this

24 subtitle, Regulations, Title, and any conditions arising

25 from an Environmental and Social Impact Assessment where

1 required under this subtitle or any other laws of the
2 Federated States of Micronesia, with particular regard
3 to progress with Seabed Mineral Activities, and the
4 impacts of Seabed Mineral Activities on the
5 Environment, other sea users, bordering States, national
6 industries, or the people of the Federated States of
7 Micronesia."

8 Section 22. Title 24 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by inserting a
10 new section 212 under chapter 2 of subtitle II, to read as follows:

11 "Section 212. Incidents and Inquiries.

12 (1) A Title Holder involved in an Incident shall
13 report it to the NSRA in accordance with section 403(t)
14 of this subtitle, and shall respond efficiently and
15 responsibly to the Incident, including by seeking and
16 following the NSRA's instructions, or the ISA's
17 instructions where relevant.

18 (2) An Incident report to the NSRA for the purposes of
19 subsection (2) must contain the details of such Incident
20 including:

21 (a) the coordinates of the area affected and of
22 the area which can reasonably be anticipated to be
23 affected;

24 (b) the description of the action being taken by
25 the Title Holder to monitor, prevent, contain, minimize,

1 and rehabilitate the harm or threat of harm to the
2 Environment or to human health and safety; and

3 (c) any such supplementary information as is
4 required by the NSRA.

5 (3) The NSRA shall provide such administrative
6 assistance to a Title Holder as is expedient to
7 facilitate the Title Holder's efficient response to an
8 Incident.

9 (4) The NSRA may hold, or may commission, inquiries
10 into Incidents or any matter in the interests of the
11 orderly conduct of Seabed Mineral Activities."

12 Section 23. Title 24 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting a
14 new section 213 under chapter 2 of subtitle II, to read as follows:

15 "Section 213. Inspectorate - The NSRA shall maintain an
16 inspectorate and shall appoint such persons appearing to
17 the NSRA to be technically qualified for the purpose as
18 Inspectors, to assist with the NSRA's monitoring and
19 compliance function."

20 Section 24. Title 24 of the Code of the Federated States of
21 Micronesia, as amended, is hereby further amended by inserting a
22 new section 214 under chapter 2 of subtitle II, to read as follows:

23 "Section 214. Inspectors' Powers

24 (1) Any person appointed by the NSRA as an Inspector
25 under section 213 of this subtitle, shall, if reasonably

1 necessary for the purpose of determining compliance with
2 this subtitle, be entitled at all reasonable times and
3 with reasonable notice to a Title Holder to—

4 (a) board or obtain access to the Title Area and
5 all parts of any premises, vessel or equipment used for
6 or in connection with the Title;

7 (b) inspect or test any machinery or equipment
8 that in the Inspector's opinion is being or is intended
9 to be used for the purposes of the Title;

10 (c) inspect, test, or take temporary possession
11 of any samples or assays of such samples of Seabed
12 Minerals taken under the Title;

13 (d) examine and take copies of books, accounts,
14 documents, or records of any kind required to be kept
15 under this subtitle, Regulations, and the Title;

16 (e) require the Title Holder to carry out such
17 procedures in respect of any equipment used for or in
18 connection with Seabed Mineral Activities as may be
19 deemed necessary by the NSRA;

20 (f) document any site visit or inspection
21 activity using any reasonable means including video,
22 audio, photograph, or other form of recording;

23 (g) upon written authorization from the NSRA,
24 perform any other functions of the NSRA as its
25 representative, including the issue of Orders under

1 sections 206 (2) (Information Order) and 215
2 (Enforcement Order) of this subtitle; and

3 (h) undertake any additional actions as may be
4 Prescribed.

5 (2) An Inspector shall take all reasonable steps to
6 avoid: expending excessive time on a Title Holders'
7 vessel or installation, disruption of Seabed Mineral
8 Activities, unjustified removal of samples, or
9 interference with the safe and normal operation of
10 Seabed Mineral Activities and Ancillary Operations.

11 (3) Any Title Holder who considers that an Inspector
12 is not acting in accordance with subsection (2) may
13 apply for a hearing or a review of the Inspector's
14 decision or action pursuant to title 17 of the Code of
15 the Federated States of Micronesia.

16 (4) A Title Holder and its officers and agents shall
17 cooperate with the reasonable requests and exercise of
18 powers by an Inspector, and to provide an Inspector with
19 reasonable and safe accommodation and subsistence while
20 on board any ship or installation for the purposes of
21 this subtitle.

22 (5) The willful obstruction or intimidation or abuse
23 by any person of an Inspector, or the failure by a Title
24 Holder or its officer or agent to comply with subsection
25 (4), shall be an offense.

1 (6) Any person guilty of an offense under this section
2 shall be liable to a fine not exceeding five thousand
3 dollars (\$5,000)."

4 Section 25. Title 24 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by inserting a
6 new section 215 under chapter 2 of subtitle II, to read as follows:

7 "Section 215. Enforcement Order

8 (1) Where considered necessary or expedient the NSRA
9 (and its authorized officers) may issue an Enforcement
10 Order requiring corrective action in relation to a
11 suspected, observed, or anticipated contravention of
12 this subtitle, Regulations, or a term of a Title, or in
13 respect of any circumstance that presents or would
14 present a risk to life or a risk of Serious Harm to the
15 Environment.

16 (2) An Enforcement Order made under this section may
17 in reasonable terms:

18 (a) require a person to:

19 (i) take corrective action, or

20 (ii) stop taking harmful action; and

21 (b) include a mandatory timeframe for the
22 required action or inaction.

23 (3) Where the subject of an Enforcement Order objects
24 to its requirements, a hearing or review of the Order
25 may be conducted in accordance with title 17 of the Code

1 of the Federated States of Micronesia.

2 (4) Failure to comply with an Enforcement Order made
3 under this section shall be an offense.

4 (5) It is a defense for a person charged with an
5 offense under subsection (4) to prove that he took all
6 reasonable steps within his control for securing that
7 the required action or inaction would be complied with
8 in time.

9 (6) Any person guilty of an offense under this section
10 shall be liable to a fine not exceeding one hundred
11 thousand dollars (\$100,000)."

12 Section 26. Title 24 of the Code of the Federated
13 States of Micronesia, as amended, is hereby further amended
14 by inserting a new section 216 under chapter 2 of subtitle
15 II, to read as follows:

16 "Section 216. Action by the NSRA where there is failure
17 to comply with Enforcement Order.

18 The NSRA may do all or any of the corrective actions
19 required by an Enforcement Order made under section 215
20 of this subtitle if:

21 (a) the time of compliance specified in the
22 Enforcement Order has ended; and

23 (b) the person to whom the Enforcement Order was
24 given or to whom it extended has not complied with the
25 Order."

1 Section 27. Title 24 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by inserting a
3 new section 217 under chapter 2 of subtitle II, to read as follows:

4 "Section 217. Costs incurred by the NSRA in taking
5 corrective action.

6 If the NSRA takes corrective action under section 216 of
7 this subtitle in relation to an Enforcement Order, the
8 reasonable costs and expenses incurred by the NSRA in
9 taking that action are a debt due to the NSRA by the
10 person or persons whose failure to comply with the
11 Enforcement Order led to that action, which is
12 recoverable in a court of competent jurisdiction."

13 Section 28. Title 24 of the Code of the Federate States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 218 under chapter 2 of subtitle II, to read as follows:

16 "Section 218. Administrative Action.

17 (1) The NSRA may take any one or more of the
18 administrative actions in subsection (2) in respect of a
19 Title Holder, upon the NSRA reasonably determining that
20 the Title Holder has materially breached:

21 (a) a condition or term of its Title; or

22 (b) a requirement of this subtitle, Regulations,
23 or other law of the Federated States of Micronesia.

24 (2) Administrative actions that the NSRA may take in
25 accordance with subsection (1) are to:

1 (a) issue written warnings, including warnings in
2 relation to possible action the NSRA may take in the
3 event of a future breach;

4 (b) enter into a written agreement providing for
5 the Title Holder to undertake a program of remedial
6 action and to mitigate the risk of re-occurrence;

7 (c) issue an Enforcement Order under section 215
8 of this subtitle for the Title Holder to prevent, or
9 correct a breach;

10 (d) impose an administrative penalty not
11 exceeding ten thousand dollars (\$10,000) for each day
12 during which the breach continues;

13 (e) impose temporary restrictions on the Seabed
14 Mineral Activities of the Title Holder until the NSRA is
15 satisfied that action has been taken to remedy the
16 breach and to mitigate the risk of re-occurrence;

17 (f) commence a process under section 627 or
18 section 628 of this subtitle to vary, suspend or revoke
19 the Title, including a variation to impose additional
20 conditions on the Title.

21 (3) Action taken under subsection (2) of this subtitle
22 shall be commensurate with the gravity, frequency and
23 other circumstances of the breach, including the Title
24 Holder's previous conduct under the Title.

25 (4) Where a Title Holder objects to a decision by the

1 NSRA to take administrative action, a hearing or review
2 of that decision may be conducted in accordance with
3 title 17 of the Code of the Federated States of
4 Micronesia."

5 Section 29. Title 24 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by inserting a
7 new section 219 under chapter 2 of subtitle II, to read as follows:

8 "Section 219. NSRA - term of office of members;
9 vacancies.

10 (1) Except for the appointment of the Secretary, all
11 appointments of NSRA members shall be for a term of two
12 years. The term of office of each member shall commence
13 either upon the granting of advice and consent to a
14 member's appointment by the Congress of the Federated
15 States of Micronesia or, for any vacancies existing upon
16 the effective date of this subtitle or thereafter, upon
17 the granting of advice and consent of the Congress to
18 the appointment of a member to fill a vacancy.

19 (2) The Executive Director shall notify the President
20 of the Federated States of Micronesia in writing of an
21 impending vacancy on the NSRA not less than ninety (90)
22 days prior to the expiration of the term of a member and
23 immediately upon receipt of a member's notice of intent
24 to resign.

25 (3) Notwithstanding any other provision of this

1 subtitle, an appointment to the NSRA shall be declared
2 vacated or terminated by the President of the Federated
3 States of Micronesia in the event of any of the
4 following:

5 (a) submission of a written resignation, signed
6 by the member and delivered to the President of the
7 Federated States of Micronesia;

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

9 (c) absence of a member, except with the written
10 consent of the President of the Federated States of
11 Micronesia or of the Chairperson of the NSRA Board, from
12 three consecutive meetings of the NSRA;

13 (d) conviction of a member of any offense under
14 this subtitle, or of an offense under any other law
15 punishable by a term of imprisonment for one year or
16 more.

17 (4) Vacancies occurring pursuant to subsection (3), or
18 for any other reason prior to the expiration of a
19 member's term, shall be filled in the same manner as
20 vacancies arising from the expiration of a member's
21 term, provided that such appointments shall only be
22 effective for the remainder of the unexpired term of the
23 departing member."

24 Section 30. Title 24 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by inserting a

1 new section 220 under chapter 2 of subtitle II, to read as follows:

2 "Section 220. Compensation of members.

3 (1) Members of the NSRA Board who are not employees or
4 officials of the Government of the Federated States of
5 Micronesia shall be compensated for time spent
6 performing the official business of the NSRA, at such
7 rate as may be set in the rules of the NSRA.

8 (2) All members of the NSRA Board, including members
9 who are employees or officials of the Government of the
10 Federated States of Micronesia, shall receive per diem
11 and travel expense allowance at established Federated
12 States of Micronesia rates while travelling on the
13 official business of the NSRA."

14 Section 31. Title 24 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by inserting a
16 new section 221 under chapter 2 of subtitle II, to read as follows:

17 "Section 221. NSRA - adoption of regulations.

18 (1) The NSRA Board shall have the authority to adopt
19 regulations in accordance with the Administrative
20 Procedures Act prescribing anything required or
21 authorized to be Prescribed under this subtitle; or
22 generally for carrying this subtitle into effect.

23 (2) Regulations adopted by the NSRA shall have the
24 full force and effect of law, and shall be considered an
25 integral part of this subtitle."

1 Section 32. Title 24 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by inserting a
3 new section 222 under chapter 2 of subtitle II, to read as follows:

4 "Section 222. Executive Director.

5 (1) The NSRA shall employ a full-time Executive
6 Director possessing such qualifications as may be
7 established by the NSRA.

8 (2) The Executive Director will supervise and execute
9 the day-to-day performance of the NSRA's functions.
10 Whenever expressly delegated by the NSRA Board or in the
11 absence of sufficient number of members appointed to the
12 NSRA Board constituting a quorum as required in this
13 subtitle, the Executive Director has the authority to
14 temporarily discharge the duties and functions of the
15 NSRA and to utilize such powers of the NSRA as are
16 reasonably necessary in the discharge of the duties on
17 behalf of the NSRA Board.

18 (3) The Executive Director shall receive remuneration
19 for his services, the amount of which shall be fixed by
20 the NSRA.

21 (4) The Executive Director shall serve at the pleasure
22 of the NSRA Board and shall be exempt from the National
23 Public Service System established in title 52.

24 (5) The Executive Director shall have the following
25 powers and duties:

1 (a) To issue Titles, as approved by the NSRA
2 Board.

3 (b) To report to the NSRA Board any violation of
4 the terms of a Title, and take administrative action of
5 the type specified in section 218, provided prior NSRA
6 Board approval have been obtained for that action.

7 (c) To manage and implement the NSRA's monitoring
8 and compliance function.

9 (d) To perform other duties and responsibilities
10 as may be assigned to him by the NSRA Board from time to
11 time.

12 (e) To prepare the annual report for the approval
13 by NSRA Board in accordance with section 223."

14 Section 33. Title 24 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by inserting a
16 new section 223 under chapter 2 of subtitle II, to read as follows:

17 "Section 223. Annual report.

18 (1) By December 1st of each year, the Chairperson of
19 the NSRA shall present to the President and to Congress
20 a written annual report approved by the NSRA Board on
21 the activities of the NSRA, containing:

22 (a) a detailed accounting of the expenditure of
23 funds of the NSRA,

24 (b) the number of Titles issued,

25 (c) the fees, taxes, royalties, and fines

1 collected,

2 (d) Seabed Mineral Activities undertaken,

3 (e) estimates from current data of the quality,

4 quantity, and location of Seabed Minerals within the

5 national jurisdiction of the Federated States of

6 Micronesia, and within any Contract Area, and

7 (f) such other information regarding the

8 implementation of this subtitle in the preceding fiscal

9 year as the NSRA may determine.

10 (2) The NSRA shall ensure that all departments and

11 offices of the National Government and the governors of

12 the States are furnished copies of the NSRA's annual

13 report, and shall make the annual report publicly

14 available."

15 Section 34. Title 24 of the Code of the Federated States of

16 Micronesia, as amended, is hereby further amended by creating a

17 new chapter 3 under subtitle II entitled: "Areas Available for

18 Seabed Mining Activities in the Federated States of Micronesia".

19 Section 35. Title 24 of the Code of the Federated States of

20 Micronesia, as amended, is hereby further amended by inserting a new

21 section 301 under chapter 3 of subtitle II, to read as follows:

22 "Section 301. Graticulation of earth's surface.

23 For the purpose of this subtitle, the surface of the

24 earth is deemed to be divided into graticular sections:

25 (a) by the meridian of Greenwich and by the

1 meridians that are at a distance from that meridian of 5
2 minutes or a multiple of 5 minutes of longitude;

3 (b) by the equator and by parallels of latitude
4 that are a distance from the equator of 5 minutes, or a
5 multiple of 5 minutes of latitude; and

6 (c) each of which is bounded by:

7 (i) portions of two of those meridians that
8 are at a distance from each other of 5 minutes of
9 longitude; and

10 (ii) portions of two of those parallels of
11 latitude that are at a distance from each other of 5
12 minutes of latitude."

13 Section 36. Title 24 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 302 under chapter 3 of subtitle II to read as follows:

16 "Section 302. Constitution of blocks/cells

17 For the purpose of this subtitle:

18 (a) The seabed and subsoil of any such graticular
19 section is a block.

20 (b) The position on the surface of the Earth of a
21 block or any other position identified for the purpose
22 of this subtitle or Regulations is to be determined by
23 reference to the World Geodetic System (WGS 84); a
24 boundary between points on the surface of the Earth must
25 be a geodesic; and grid coordinates must be described in

1 accordance with the Universal Transverse Mercator Grid
2 System.

3 (c) The NSRA may further divide blocks into
4 smaller divisions called cells."

5 Section 37. Title 24 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by inserting a
7 new section 303 under chapter 3 of subtitle II, to read as follows:

8 "Section 303. Release of blocks for Activities.
9 Subject to section 304 of this subtitle, the NSRA may by
10 reference to geographical coordinates designate an area
11 or areas of the Federated States of Micronesia's
12 Exclusive Economic Zone or Continental Shelf (or
13 Territorial Sea and internal waters where the
14 responsibility over such zones has been delegated to
15 NSRA under this subtitle) to be released for the purpose
16 of Seabed Mineral Activities or specified types of
17 Seabed Mineral Activities, by reference to a block or
18 blocks, or cell or cells."

19 Section 38. Title 24 of the Code of the Federated States of
20 Micronesia, as amended, is hereby further amended by inserting a
21 new section 304 under chapter 3 of subtitle II, to read as follows:

22 "Section 304. Reserved areas.
23 (1) If there is no Title over a particular area of the
24 Federated States of Micronesia's Exclusive Economic Zone
25 or Continental Shelf, the NSRA may declare the area to

1 be a reserved area.

2 (2) Areas may be reserved by the NSRA for purposes
3 inter alia of marine spatial management, environmental
4 protection, or to set aside for future tender for Seabed
5 Mineral Activities.

6 (3) Any area or part of an area declared to be a
7 Marine Reserve or Protected Area shall be deemed
8 automatically to be a declared reserved area for
9 purposes of this subtitle."

10 Section 39. Title 24 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by inserting a
12 new section 305 under chapter 3 of subtitle II, to read as follows:

13 "Section 305. Reserved areas not available for Seabed
14 Mineral Activities. While a reserved area declaration
15 under section 304 of this subtitle is in force, the NSRA
16 shall not tender or grant a Title over any block or
17 blocks contained in that reserved area."

18 Section 40. Title 24 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by inserting a
20 new section 306 under chapter 3 of subtitle II, to read as follows:

21 "Section 306. Cadastral Survey Map and Register of
22 Titles.

23 (1) The NSRA shall, within six months of the effective
24 date of this subtitle, complete an inventory of its
25 geological data and Seabed Mineral records, and

1 acquire the technical capabilities to implement a
2 cadastral survey map, and to delineate on maps of
3 appropriate scale, which blocks or cells are at any
4 time:

5 (a) subject to License Applications, or Licenses
6 issued under this subtitle;

7 (b) open to License Applications; and

8 (c) areas reserved under section 304 of this
9 subtitle.

10 (2) The NSRA shall retain a register of Titles,
11 containing up-to-date and accurate records of
12 Applications received and Titles granted.

13 (3) For every Title granted, the NSRA shall update the
14 cadastral survey map and enter a record in the register
15 of Titles that shall include at least the following
16 information:

17 (a) the name and registered address of the Title
18 Holder;

19 (b) the date of the grant of the Title;

20 (c) the duration of the Title and expiry date;

21 (d) a description of the area or areas in respect
22 of which the Title is granted;

23 (e) the Seabed Minerals in respect of which the
24 Title is granted; and

25 (f) a description of the Seabed Mineral

1 Activities in respect of which the Title is granted.

2 (4) The cadastral survey map and register of Titles
3 should be amended accordingly in the event of any
4 transfer, renewal, variation, suspension, termination,
5 revocation, expiry or surrender of Title."

6 Section 41. Title 24 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by inserting a
8 new section 307 under chapter 3 of subtitle II, to read as follows:

9 "Section 307. Cadastral survey map and register open to
10 public inspection.

11 (1) The cadastral survey map and register of Titles
12 maintained by the NSRA in accordance with section 306
13 shall be open to public inspection during business hours
14 of the NSRA.

15 (2) The NSRA shall include on the register full copies
16 of Applications and Titles, details of any Incident, and
17 each Title Holder's annual report, save for information
18 that is a third party's proprietary information, or
19 where in the NSRA's view the publication of that
20 information would not be in the public interest, such as
21 personal addresses of Title Holder personnel.

22 (3) For the purpose of subsection (2), the NSRA shall
23 take into account any representations received from
24 Applicants and Title Holders in determining the
25 information that may be withheld from publication.

1 (4) The NSRA may upon application and payment of a
2 Prescribed fee issue a certified copy of any Title or
3 other document filed with the NSRA for the purpose of
4 maintaining the register of Titles, which will be
5 admissible in evidence in any court."

6 Section 42. Title 24 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by inserting a
8 new section 308 under chapter 3 of subtitle II, to read as follows:

9 "Section 308. Regulations for prescribing maximum areas
10 to be held under License. The NSRA may prescribe by
11 Regulations maximum areas that may be held under any one
12 License or by any one person or company at any one
13 time."

14 Section 43. Title 24 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by creating a
16 new chapter 4 under subtitle II entitled: "Duties and
17 responsibilities of individuals".

18 Section 44. Title 24 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by inserting a
20 new section 401 under chapter 4 of subtitle II, to read as follows:

21 "Section 401. Prohibited Activities.

22 (1) No person may engage in any Seabed Mineral
23 Activities unless, and only insofar as, authorized to do
24 so under a Title issued under this subtitle.

25 (2) Any person who contravenes subsection (1) shall be

1 guilty of an offense and liable on conviction to a fine
2 not exceeding five hundred thousand dollars (\$500,000)
3 or imprisonment for a period not exceeding five years or
4 both.

5 (3) Any Seabed Minerals or other products, or proceeds
6 obtained as a result of actions prohibited by subsection
7 (1) shall be forfeited to the National Government of the
8 Federated States of Micronesia."

9 Section 45. Title 24 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by inserting a
11 new section 402 under chapter 4 of subtitle II, to read as follows:

12 "Section 402. Adherence to laws and rules.

13 (1) Any Prospector or Licensee in conducting Seabed
14 Mineral Activities and Ancillary Operations is required,
15 inter alia, to adhere to the provisions in each case in
16 force from time to time of:

17 (a) the laws of the Federated States of
18 Micronesia including the Environment Law, this subtitle,
19 and any Regulations;

20 (b) the terms and conditions of the Title
21 permitting the Seabed Mineral Activities;

22 (c) any environmental conditions arising from the
23 Environmental and Social Impact Assessment; and

24 (d) such rules, regulations, and procedures as
25 may be adopted in the Federated States of Micronesia

1 relating to employment (including protection against
2 discrimination in employment), occupational health and
3 safety and public health, labor relations, social
4 security, safety at sea, and living conditions of
5 workers on-site.

6 (2) Any Sponsored Party engaging in Seabed Mineral
7 Activities is required, inter alia, to adhere to the
8 provisions of the Rules of the ISA, relevant parts of
9 this subtitle, Regulations, and the terms of any
10 Sponsorship Certificate issued under chapter 7 of this
11 subtitle."

12 Section 46. Title 24 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting a
14 new section 403 under chapter 4 of subtitle II, to read as follows:

15 "Section 403. Title Holders' Duties

16 In addition to terms and conditions contained in the
17 individual Title, all Title Holders must:

18 *Social and Environmental Management*

19 (a) apply the Precautionary Approach, and employ
20 best environmental practice in accordance with
21 prevailing international standards in order to avoid,
22 remedy, or mitigate the adverse effects of Seabed
23 Mineral Activities on the Environment;

24 (b) take necessary steps to prevent, reduce and
25 control pollution and other hazards to the Marine

1 Environment, including waste material, arising from
2 Seabed Mineral Activities and Ancillary Operations;

3 (c) where and as required by the Environment Law
4 and this subtitle or for Seabed Mineral Activities in
5 the Area the Rules of the ISA, before commencing work,
6 conduct an Environmental and Social Impact Assessment
7 that will identify and analyze the levels of impacts
8 that may be expected from Seabed Mining Activities and
9 Ancillary Operations and provide measures to prevent,
10 mitigate, or compensate for those impacts, and not
11 proceed with Licensed activities unless and until the
12 appropriate approval to the Environmental and Social
13 Impact Assessment under this subtitle or any other laws
14 of the Federated States of Micronesia, or the Rules of
15 the ISA where applicable, has been obtained;

16 (d) if marine or coastal users likely to be
17 directly adversely affected by the Seabed Mineral
18 Activities are identified by the NSRA or the Title
19 Holder at any time, including through the Application
20 and Environmental and Social Impact Assessment
21 processes, obtain free, prior and informed consent,
22 including by way of compensation, from those persons
23 prior to commencing the Seabed Mineral Activities;

24 (e) not proceed or continue with the Seabed
25 Mineral Activities without obtaining prior written

1 consent from the NSRA to proceed, if evidence arises
2 that to proceed is likely to cause Serious Harm to:

3 (i) the Environment that was not anticipated
4 in any Environmental and Social Impact Assessment
5 previously conducted,

6 (ii) the safety, health or welfare of any
7 person, or

8 (iii) to other existing or planned legitimate
9 sea uses including but not limited to Marine Scientific
10 Research;

11 (f) not dump mineral materials or waste, or any
12 other substance, from any vessel except in accordance
13 with international law and the directions of the NSRA or
14 for Seabed Mineral Activities in the Area the Rules of
15 the ISA;

16 (g) at the end of the Title term or upon earlier
17 suspension, revocation, or surrender of the Title,
18 remove all installations, equipment, and materials in
19 the Title Area, so as to ensure that the Title Area does
20 not constitute a danger to persons, shipping, or the
21 Marine Environment, and provide a final report including
22 information on the rehabilitation of the Title Area;
23 Training

24 (h) cooperate in the capacity-building of
25 personnel of the Federated States of Micronesia in

1 connection with Marine Scientific Research, Seabed
2 Mineral Activities, and any related transfer of
3 technology as may be agreed in the Title, including
4 providing opportunities in consultation with the NSRA
5 for the participation of representatives of the
6 Federated States of Micronesia in the Seabed Mineral
7 Activities;

8 (i) provide sufficient training, supervision, and
9 resources to employees, agents, or officers, to ensure
10 compliance with the Title and this subtitle.

11 Financial

12 (j) maintain separately for each Title a complete
13 and proper set of books, accounts, financial records,
14 and performance data consistent with internationally
15 accepted accounting practices, which are annually
16 audited by an independent auditor, and in the case of a
17 Mining License, which are sufficient to determine the
18 amount of royalties, fees, or taxes that may be payable
19 under this or any other Act, and supply such data to the
20 NSRA in the format and at such times as may be required;

21 (k) at all material times, maintain appropriate
22 insurance policies that provide adequate coverage for
23 risks and costs of damages associated with Seabed
24 Mineral Activities, or otherwise satisfy the NSRA of the
25 Title Holder's financial and technical capability to

1 respond to potential Incidents;

2 Legal

3 (l) at all material times, ensure that:

4 (i) any vessels, installation and equipment
5 engaged in Seabed Mineral Activities or Ancillary
6 Operations are in good repair and comply with the laws
7 of the flag state relating to vessel standards; and

8 (ii) working conditions for personnel engaged
9 in Seabed Mineral Activities and Ancillary Operations
10 meet applicable employment rules and health and safety
11 standards, and comply with the laws of the flag state
12 relating to the safety of life at sea;

13 (m) obtain any other permits, approval,
14 certification or other documentation required under the
15 laws of the Federated States of Micronesia for the
16 lawful performance by the Title Holder of the Seabed
17 Mineral Activities;

18 (n) carry out the Seabed Mineral Activities
19 lawfully, with due diligence and efficiency, and within
20 reasonable time limits;

21 (o) not amend, alter or vary the work plan
22 contained in the Title without the prior and informed
23 written consent of the NSRA, following a review in
24 accordance with section 627 of this subtitle;

25 (p) not engage in, and to take all reasonable

1 steps to ensure that its employees, agents, contractors
2 and subcontractors do not engage in, any activity
3 related to the Title in exchange for any improper
4 benefit to the Licensee, employee, agent, contractor or
5 subcontractor, or to associated persons including a
6 friend or family member;

7 (g) notify the NSRA in writing immediately upon
8 becoming aware that any requirement imposed on it is
9 inconsistent with any other requirement, or that any
10 requirement is incompatible with the performance of the
11 Seabed Mineral Activities;

12 Reporting

13 (r) advise the NSRA in writing 30 days in advance
14 of the date of departure from port of the schedule of
15 each cruise planned for the purpose of performing the
16 Seabed Mineral Activities under its Title;

17 (s) submit to the NSRA immediately in writing
18 notice of any new information arising or data collected
19 that materially affects the work plan or the Title
20 Holder's ability to adhere to the terms of the Title;

21 (t) submit to the NSRA immediately by telephone
22 and in writing notice of any Incident, and provide
23 regular reports throughout the occurrence of any
24 Incident;

25 (u) permit access to the Title Holder's books and

1 records, machinery and equipment, samples, office
2 premises or operation sites (including vessels and
3 installations) used in connection with the Seabed
4 Mineral Activities for any Inspector or other NSRA
5 nominated representative, for the purposes of reasonable
6 on-site inspection.

7 (v) in the case of a Mining License and for any
8 period during which Seabed Minerals are being mined,
9 submit to the NSRA a periodic and no less than quarterly
10 report adhering to any Prescribed requirements and
11 providing information about the volume of work performed
12 and quantity and quality of Seabed Minerals mined;

13 (w) submit to the NSRA within 30 days of the end
14 of each calendar year a written annual report in a
15 format to be Prescribed or described in the Title, which
16 shall include:

17 (i) information on: the results of Seabed
18 Mineral Activities, health and safety record, volume of
19 work, quantity, and quality of Seabed identified (and
20 where relevant, extracted), waste and waste disposal,
21 rehabilitation activities,

22 (ii) a statement of expenditures, costs, and
23 persons employed;

24 and in the case of a Mining License

25 (iii) estimate of remaining Seabed Mineral

1 deposit within the Title Area, and

2 (iv) a statement showing the amount of
3 royalty determined to be payable for each reporting
4 period together with all related information and
5 calculations, and receipt showing that the royalties
6 have been paid in accordance with the provisions of this
7 subtitle or any other applicable laws;

8 (x) provide the NSRA with all reasonable
9 information and assistance to enable the NSRA's
10 verification of the Title Holder's adherence to its
11 obligations in performing the Seabed Mineral Activities
12 and Ancillary Operations."

13 Section 47. Title 24 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by creating a
15 new chapter 5 subtitle II under entitled: "Prospecting Permits
16 within Federated States of Micronesia's national jurisdiction".

17 Section 48. Title 24 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by inserting a new
19 section 501 under chapter 5 of subtitle II, to read as follows:

20 "Section 501. Prospecting within national jurisdiction.
21 Prospecting may be carried out within an area of the
22 Exclusive Economic Zone or upon the Continental Shelf
23 (or Territorial Sea and internal waters where such
24 responsibility has been delegated to NSRA by a State
25 under this subtitle) by any person holding a valid

1 Prospecting Permit pertaining to that area."

2 Section 49. Title 24 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by inserting a
4 new section 502 under chapter 5 of subtitle II, to read as follows:

5 "Section 502. Grant of a Prospecting Permit.

6 A Prospecting Permit may be granted by the NSRA upon
7 satisfactory receipt of a properly made application for
8 a Prospecting Permit in the required form and
9 accompanied by the Prescribed fees."

10 Section 50. Title 24 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by inserting a
12 new section 503 under chapter 5 of subtitle II, to read as follows:

13 "Section 503. Prospecting Permit Application.

14 For an application for a Prospecting Permit to have been
15 properly made, for the purposes of section 502 of this
16 subtitle, the application shall be made to the NSRA in
17 writing at least six months before the proposed
18 commencement date of the Prospecting, and shall contain:

19 (a) the cruise name(s) and number(s);

20 (b) the name, nationality, address and contact
21 details, address and incorporation or registration
22 papers of the Applicant and its collaborators and
23 participants;

24 (c) the name, nationality, address, contact
25 details and certificate of the requisite skills of the

1 officer in charge of the proposed Prospecting;

2 (d) the co-ordinates in accordance with the World
3 Geodetic System WGS 84 and appropriate-scale charts of
4 the geographical area or areas within which the proposed
5 Prospecting is to be conducted;

6 (e) the proposed date of commencement and
7 approximate duration of the activities; and the proposed
8 dates and ports of the embarkation and disembarkation of
9 cruises;

10 (f) a general description of the nature and
11 objectives of the proposed Prospecting, including any
12 plans to make the research results internationally
13 available;

14 (g) details of the methods, technology,
15 equipment, scientific instruments and any installations
16 to be used, including as far as practicable:

17 (i) the locations and depths of any sampling
18 stations or installations or equipment and the tracks of
19 any survey lines, and their removal methods and proposed
20 dates of removal,

21 (ii) the dates of planned entries and
22 departures from the research area,

23 (iii) particulars of the vessel(s) and any
24 underwater craft to be used, including type/class,
25 details of owner and operator, nationality (flag State),

1 identification number, particulars of the crew and
2 evidence as to their certification against international
3 standards (e.g. SOLAS 74);

4 (h) insofar as possible at the time of the
5 Application, a preliminary assessment of likely impact
6 on the Environment of the proposed Prospecting,
7 including indication of:

8 (i) the nature and quantity of substances to
9 be released into the marine environment,

10 (ii) whether drilling will be carried out -
11 and if so provide details,

12 (iii) whether explosives will be used - and if
13 so provide details;

14 (i) the details of any intended ports of call,
15 any special logistical requirements and the details of
16 the relevant shipping agent (if available) at ports of
17 call within the Federated States of Micronesia;

18 (j) modalities of the participation of a
19 representative of the Federated States of Micronesia in
20 the Prospecting;

21 (k) the expected dates and method of submission
22 to the Federated States of Micronesia of a preliminary
23 report, a final report, and assessment of data, samples
24 and research results;

25 (l) the proposed means for the NSRA to access

1 data, samples and research results, and any proposed
2 means to provide assistance in their assessment or
3 interpretation;

4 (m) details of any other permits required
5 (whether received or pending) for the proposed
6 Prospecting;

7 (n) an undertaking that this subtitle and the
8 national laws of the Federated States of Micronesia will
9 be adhered to in conducting the proposed Prospecting;

10 (o) any such other matters as may be Prescribed,
11 or that will assist NSRA take a decision whether or not
12 to grant a Prospecting Permit."

13 Section 51. Title 24 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 504 under chapter 5 of subtitle II, to read as follows:

16 "Section 504. Prospecting Permit decision. The NSRA
17 will provide the Applicant Prospector with:

18 (a) a decision to grant a Prospecting Permit;

19 (b) a decision to deny a Prospecting Permit; or

20 (c) a request for further information, within 60
21 days of satisfactory receipt of an Application or of
22 additional information sought by the NSRA during the
23 Application process."

24 Section 52. Title 24 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by inserting a

1 new section 505 under chapter 5 of subtitle II, to read as follows:

2 "Section 505. Denial of a Prospecting Permit.

3 The NSRA will not provide a Prospecting Permit where:

4 (a) information required under section 503 has
5 not been supplied to the NSRA's satisfaction;

6 (b) the past performance of the Applicant as a
7 Title Holder, or equivalent in other jurisdictions, has
8 been materially unsatisfactory to the NSRA's knowledge;

9 (c) the area of the seabed Applied for is within
10 the scope of a pre-existing and current Exploration or
11 Mining License;

12 (d) the terms of the Permit would in the NSRA's
13 opinion likely to lead to the contravention by any
14 person of conditions or restrictions placed on any
15 Marine Reserve or a Protected Area or cause Serious Harm
16 to the Environment, or human health or safety; or

17 (e) the NSRA is aware of other grounds that
18 reasonably indicate that the grant of the Prospecting
19 Permit would be contrary to public interest or contrary
20 to the principles contained in section 204 of this
21 subtitle."

22 Section 53. Title 24 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by inserting a
24 new section 506 under chapter 5 of subtitle II, to read as follows:

25 "Section 506. Written statement of reasons for and

1 appeal from denial.

2 (1) A decision by the NSRA to deny an Application for
3 a Prospecting Permit shall be accompanied by a written
4 statement of the reasons for that denial.

5 (2) An Applicant Prospector who is dissatisfied with
6 the NSRA's denial decision may apply for a hearing or
7 review of the decision pursuant to title 17 of the Code
8 of the Federated States of Micronesia."

9 Section 54. Title 24 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by inserting a
11 new section 507 under chapter 5 of subtitle II, to read as follows:

12 "Section 507. Conditions of Prospecting Permit.
13 Subject to the provisions of this subtitle, the NSRA may
14 grant a Prospecting Permit subject to whatever terms and
15 conditions the NSRA deems appropriate or as may be
16 Prescribed."

17 Section 55. Title 24 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by inserting a
19 new section 508 under chapter 5 of subtitle II, to read as follows:

20 "Section 508. Rights and Obligations of Prospecting
21 Permit.

22 Prospecting:

23 (a) does not entail any exclusive rights of
24 access to the seabed or water column,

25 (b) does not permit extraction of Seabed Minerals

1 except in small-scale samples as detailed in the
2 Application or Title, or as may otherwise be agreed by
3 NSRA in writing prior to any such extraction;

4 (c) does not constitute the legal basis for any
5 claim to any part of the Marine Environment or its
6 resources;

7 (d) may be conducted simultaneously by more than
8 one Prospector in the same area or areas;

9 (e) shall cease within a particular area upon
10 written notice being given to the Prospector by the
11 NSRA, which may be given where:

12 (i) a License or a declaration of a Marine
13 Reserve or Protected Area has been or is about to be
14 issued for that area, which prohibits Prospecting,

15 (ii) the Prospector breaches any material
16 undertaking or requirement pertaining to the Prospecting
17 Permit and fails to remedy the breach within one
18 calendar month of being required to do so by an
19 Enforcement Order,

20 (iii) the NSRA reasonably believes that the
21 Prospector has caused, is causing, or poses a threat of,
22 Serious Harm to the Environment or human life;

23 (f) does not entail any right to drill into the
24 Continental Shelf, use explosives, or introduce harmful
25 substances into the Marine Environment;

1 (g) does not give ownership or property rights to
2 the Prospector over any Seabed Minerals acquired in the
3 course of Prospecting, such Seabed Minerals remaining
4 the property of the National Government of the Federated
5 States of Micronesia."

6 Section 56. Title 24 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by creating a
8 new chapter 6 under subtitle II entitled: "Licensing of Seabed
9 Mineral Activities within Federated States of Micronesia's
10 national jurisdiction".

11 Section 57. Title 24 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by inserting a new
13 section 601 under chapter 6 of subtitle II, to read as follows:

14 "Section 601. Exploration and Mining within national
15 jurisdiction.
16 Exploration and Mining may be carried out in an area of
17 the Exclusive Economic Zone or upon the Micronesia's
18 Continental Shelf (or Territorial Sea and internal
19 waters where such responsibility has been delegated to
20 the NSRA under this subtitle) by any eligible person
21 holding a valid License pertaining to that area, granted
22 in accordance with this subtitle."

23 Section 58. Title 24 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting a
25 new section 602 under chapter 6 of subtitle II, to read as follows:

1 "Section 602. Grant and Issue of Licenses.

2 (1) The NSRA may at any time receive unsolicited
3 License Applications, or may from time to time invite,
4 including by way of a public tender, Applications for a
5 License to conduct Seabed Mineral Activities in any area
6 released for that purpose under section 303 of this
7 subtitle that is not presently subject to a Title or a
8 pre-existing pending Application for grant of a Title.

9 (2) The persons who may apply for a Mining License are
10 limited to:

11 (a) The Title Holder of a valid Exploration
12 License, where the Application relates to the grant of a
13 Mining License within that Exploration License Area,

14 (b) A person for whom an area has been retained
15 under section 617 of this subtitle, where the
16 Application is for a Mining License in one or more
17 Seabed Mineral blocks of that retained area, or

18 (c) Any other person invited to apply in
19 accordance with subsection (1) of this section.

20 (3) Upon Application to conduct Exploration or Mining
21 in an area of the Exclusive Economic Zone or upon the
22 Continental Shelf (or within Territorial Sea and
23 internal waters where such responsibility has been
24 delegated to NSRA by State under this subtitle), subject
25 to the provisions of this subtitle, and following such

1 format, processes, criteria and payments as may further
2 be Prescribed, the NSRA may take a decision:

3 (a) to grant to an Applicant:

4 (i) an Exploration License, or

5 (ii) a Mining License;

6 (b) or not to grant any License, with respect to
7 the whole or any part of the blocks or cells that are
8 the subject of the Application.

9 (4) A License will give the Licensee rights to conduct
10 the specified Exploration or Mining activities within
11 the License area, and the Ancillary Operations necessary
12 for the performance of those Seabed Mineral Activities."

13 Section 59. Title 24 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 603 under chapter 6 of subtitle II, to read as follows:

16 "Section 603. Eligibility to Hold a License.

17 Only a body corporate registered in the Federated States
18 of Micronesia shall be eligible to hold a License."

19 Section 60. Title 24 of the Code of the Federated States of
20 Micronesia, as amended, is hereby further amended by inserting a
21 new section 604 of chapter 6, to read as follows:

22 "Section 604. Content of an Application for a License.

23 Applications for a License shall contain:

24 (1) Information about the Applicant:

25 (a) Name of Applicant

1 (b) Evidence of registration as a body corporate
2 in the Federated States of Micronesia

3 (c) Registered address, and street and postal (if
4 different) address of the principal place of business

5 (d) Telephone number, facsimile number, and email
6 address

7 (e) Nature of business

8 (f) Details of directors and ownership

9 (g) The key positions in charge of the proposed
10 Seabed Mineral Activities, and the name, nationality,
11 contact details and brief curriculum vitae details of
12 the personnel who will fill each key position, where
13 known

14 (h) Brief particulars of the previous experience
15 of the Applicant in Seabed Mineral Activities

16 (i) The credit rating of the Applicant

17 (j) Evidence as to whether the Applicant is a
18 'fit and proper person' subtitle to hold a License
19 within the meaning given by section 605 of this;

20 (2) Clear delineation of the License Area that:

21 (a) adheres to any Prescribed requirements or
22 guidance issued by the NSRA with regards to size,
23 location and shape,

24 (b) includes the coordinates of the proposed
25 Exploration area (in accordance with the World Geodetic

1 System WGS 84),

2 (c) includes a graticulated explanation and
3 appropriate-scale chart of the location and boundaries
4 of the proposed Permit Area with reference to the NSRA's
5 cadastral map and system of blocks, and

6 (d) specifies the total size of the proposed
7 License Area;

8 (3) A description of the type or types of minerals
9 sought;

10 (4) A plan of work, covering the life of the proposed
11 Seabed Mineral Activities, and including:

12 (a) cruise name(s) and number(s),

13 (b) particulars of the vessel(s) and any
14 underwater craft to be used, including type/class,
15 details of owner and operator, nationality (flag State),
16 identification number, particulars of the crew, and
17 evidence as to their certification against international
18 standards (e.g. SOLAS 74),

19 (c) Scope of the proposed Seabed Mineral
20 Activities, including

21 (i) the locations, size, and depths of any
22 sampling or extraction sites, stations or installations
23 or equipment, and the tracks of any survey lines,

24 (ii) a time schedule for the Proposed Seabed
25 Mineral Activities, and the dates of planned entries and

1 departures from the License Area,

2 (iii) the proposed date of commencement and
3 approximate duration of the Seabed Mineral Activities;
4 and the proposed dates and ports of embarkation and
5 disembarkation, and

6 (iv) estimated annual expenditures;

7 (d) a description of the proposed Seabed Mineral
8 Activities, including details of any proposed:

9 (i) sampling of Seabed Mineral Deposits or
10 ore, and estimated volumes to be extracted,

11 (ii) testing or operation of shipboard
12 processing systems,

13 (iii) testing or use of mining systems, and
14 estimated volumes to be mined,

15 (iv) release of substances into the Marine
16 Environment,

17 (v) drilling into the seafloor or substrate,

18 (vi) use of explosives,

19 (vii) methods, technology, equipment,
20 scientific instruments, processes and installations to
21 be used, and

22 (viii) details of any intended ports of call
23 within the Federated States of Micronesia, any special
24 logistical requirements at those ports of call and the
25 details of the relevant shipping agent, if available;

1 (5) A financing plan for the Seabed Minerals
2 Activities, including insofar as possible:

3 (a) a forecast of: capital investment, operating
4 costs, sale revenues,

5 (b) the anticipated type and source of financing,
6 and

7 (c) copies of the Applicant's financial
8 statements for the preceding three financial years,
9 audited in conformity with internationally accepted
10 accounting principles and certified by a duly qualified
11 firm of public accountants; or if the Applicant is a
12 newly organized entity, a pro forma balance sheet
13 certified by the Chair of the Board of the Applicant;

14 (6) A summary of any feasibility or other studies
15 previously conducted by the Applicant, or other party,
16 upon which the Applicant is relying in relation to the
17 potential of the proposed Permit area;

18 (7) A preliminary assessment of the possible impact on
19 the Environment of the proposed Seabed Mineral
20 Activities, insofar as possible on data held at the time
21 of Application;

22 (8) A proposal for oceanographic and environmental
23 baseline studies, in accordance with any Prescribed
24 rules, to be used to measure the impact of the proposed
25 Seabed Mineral Activities, and any future Seabed Mineral

1 Activities taking place under a future License in the
2 same area;

3 (9) An environmental management plan, covering:

4 (a) risk assessment and mitigation strategies for
5 the protection of the Environment and prevention of
6 pollution,

7 (b) measures for the protection and conservation
8 of biological diversity,

9 (c) measures to avoid or minimize air emissions
10 that could contribute to climate change,

11 (d) measures to minimize the dumping of waste or
12 other materials into the Marine environment, and

13 (e) any decommissioning or site rehabilitation
14 plans;

15 (10) The proposed use of the data collected, including
16 any plans to make any data internationally available;

17 (11) The expected dates and method of submission to the
18 NSRA of annual and other reports required under the, and
19 the proposed means for the Federated States of
20 Micronesia to access data, samples and research results,
21 and any proposed means to provide assistance in its
22 assessment or interpretation;

23 (12) A list of employees required to operate the Seabed
24 Mineral Activities and an employment strategy for local
25 workers;

1 (13) A capacity-building program providing for the
2 training of personnel of the Federated States of
3 Micronesia and their participation in matters pertaining
4 to the proposed Seabed Mineral Activities;

5 (14) A report of the goods and services anticipated to
6 be required by the Applicant for the proposed Seabed
7 Mineral Activities, identifying insofar as possible,
8 which can be obtained within the Federated States of
9 Micronesia, and the Applicant's intention thereto;

10 (15) A public engagement and information plan;

11 (16) Details as to the Applicant's technical and
12 financial capacity, any relevant insurance, and any
13 emergency response plan, for responding to any
14 Incidents;

15 (17) Details as to the Applicant's occupational health
16 and safety plan and track record;

17 (18) In the case of an Application for Exploration,
18 that the Applicant is aware of, and commits to adhere
19 to, prescribed requirements for minimum expenditure, and
20 License Area relinquishment;

21 (19) In the case of an Application for Mining:

22 (a) whether the Applicant can recover Seabed
23 Minerals in sufficient quantities to satisfy the
24 Applicant's estimated production requirements over the
25 License term in an efficient and economical manner (with

1 due regard for conservation and protection of the Marine
2 Environment),

3 (b) financial analyses, with comments on the
4 financial viability of seabed mining, including expected
5 capital investments, market analysis for the target
6 Seabed Minerals, estimated rate of return on investment
7 and cash flow for the Seabed Mineral Activities,
8 operational (including staffing) costs, and compliance
9 costs,

10 (c) the Applicant's proposals concerning the
11 disposal of tailings, waste rock and water, and any
12 other waste arising from the Seabed Mineral Activities
13 and Ancillary Operations, including any toxic
14 substances,

15 (d) analysis of best available technology and
16 best industry and environmental practice for the
17 proposed Seabed Mineral Activities and the alternative
18 technologies and methods considered, the Applicant's
19 regime for the testing and evaluation of such technology
20 and methods, and justification of the technology and
21 methods selected, including a discussion of the relative
22 costs and benefits of the technologies and methods
23 considered, and

24 (e) brief particulars of interest in and access
25 to refining and marketing facilities for the Seabed

1 Minerals recovered under the License;

2 (20) Details of any other permits required (whether
3 received or pending) for the proposed Seabed Mineral
4 Activities;

5 (21) The proposed start and end date of the License;

6 (22) The Application fee required by section 901 of
7 this subtitle (or proof of payment of the Application
8 fee);

9 (23) A statement as to any incompatibility or
10 substantial impracticality between the Applicant's
11 proposed Seabed Mineral Activities and the requirements
12 of the laws of the Federated States of Micronesia, or
13 the terms that would apply to the Applicant under the
14 proposed License;

15 (24) An undertaking that:

16 (a) the content of the Application is true and
17 accurate to the best of the Applicant's belief,

18 (b) the License and the laws of the Federated
19 States of Micronesia will be adhered to in conducting
20 the Seabed Mineral Activities,

21 (c) the Applicant has, or will have at the
22 commencement of the proposed Seabed Mineral Activities
23 if the License is issued, sufficient financial and
24 technical resources and capability to-

25 (i) properly perform the Seabed Mineral

1 Activities that are the subject of the Application; and
2 (ii) respond to any incident or activity that
3 causes Serious Harm to the Marine Environment, including
4 having sufficient funding or insurance to cover the
5 costs of any potential liability arising from accidents
6 or pollution occurring as a result of the Seabed Mineral
7 Activities and Ancillary Operations;

8 (25) Any further matters that are Prescribed by
9 Regulations; and

10 (26) Any additional information:

11 (a) to demonstrate that the Applicant is
12 technically capable of carrying out the proposed Seabed
13 Mineral Activities in compliance with License
14 operational obligations and standards,

15 (b) to demonstrate that the Applicant is capable
16 of committing or raising sufficient resources to cover
17 the estimated costs of the Seabed Mineral Activities,
18 and of fulfilling its financial obligations under a
19 License, or

20 (c) that will otherwise assist NSRA take a
21 decision whether or not to grant a License."

22 Section 61. Title 24 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by inserting a
24 new section 605 under chapter 6 of subtitle II, to read as follows:

25 "Section 605. Fit and Proper Person.

1 (1) For the purpose of determining whether the
2 Applicant is a fit and proper person under this section,
3 the NSRA must take into account (but is not limited to
4 only considering) whether the Applicant (including each
5 director, trustee, executive officer, secretary,
6 Affiliate or any other person associated or connected
7 with the ownership, administration or management of the
8 Applicant's business) has previously:

9 (a) been found on reasonable evidence to have
10 breached a term or condition of an approval (however
11 labeled) to conduct Seabed Mineral Activities or similar
12 sea or land based activities, which related to the
13 protection or rehabilitation of the environment or the
14 safeguarding of the interests of the local community;

15 (b) been convicted of an offense pertaining to
16 the conduct of Seabed Mineral Activities or similar sea
17 or land based activities; or

18 (c) been convicted of an offense involving fraud
19 or dishonesty.

20 (2) The NSRA must not consider an Applicant to be a
21 fit and proper person if it is currently insolvent or
22 under administration."

23 Section 62. Title 24 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting a
25 new section 606 under chapter 6 of subtitle II, to read as follows:

1 "Section 606. Evaluation of License Applications

2 (1) In evaluating a License Application the NSRA may
3 take into account

4 (a) the information in the Application;

5 (b) any additional information requested by the
6 NSRA in order to assist consideration of the
7 Application;

8 (c) any relevant information in the public domain
9 or otherwise in the records of the National Government
10 of the Federated States of Micronesia; and

11 (d) any advice obtained from government
12 departments.

13 (2) The NSRA shall evaluate an Application against the
14 Qualification criteria, which include:

15 (a) that the Applicant has a registered office in
16 the Federated States of Micronesia, and has met the 'fit
17 and proper person' test

18 (b) The Applicant's financial capabilities to
19 cover the costs of

20 (i) the Seabed Mineral Activities, and

21 (ii) responding to any Incident, and any
22 clean-up, damages or other liability that may arise;

23 (c) The Applicant's operational and technical
24 capacity;

25 (d) In the case of an Application for an

1 Exploration License, whether the Applicant's proposed
2 work plan is reasonably likely to enable the Applicant
3 by the end of the License period, to apply for a Mining
4 License;

5 (e) Size and location of License Area, and the
6 Applicant's environmental management plan, and
7 capabilities to carry out that plan;

8 (f) The legality of the proposed Seabed Mineral
9 Activities and Ancillary Operations, and whether safety
10 at sea, legitimate other sea uses, and international
11 peace and security are likely to be appropriately
12 safeguarded;

13 (g) Public interest and overall benefit and risk
14 assessment; and

15 (h) Any other criteria as may be Prescribed.

16 (3) In considering the subsection (2)(g) criterion,
17 NSRA will take into account the extent to which the
18 proposed Seabed Mineral Activities are likely to:

19 (a) Create opportunities for employment, training
20 and capacity building of the citizens of the Federated
21 States of Micronesia,

22 (b) Contribute positively to the Federated States
23 of Micronesia's sustainable economic development;

24 (c) Have an adverse impact on existing economic
25 activity, and the well-being of individuals and

1 communities, of the Federated States of Micronesia; and

2 (d) Lead to anti-competitive practices."

3 Section 62. Title 24 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by inserting a
5 new section 607 under chapter 6 of subtitle II, to read as follows:

6 "Section 607. Restrictions on issue of Licenses.

7 The NSRA shall not issue a License where to do so:

8 (a) would give Exploration or Mining rights over
9 an area already included within the scope of any
10 existing License valid for any of the same time period -
11 save for the situation where an Exploration Licensee
12 applies for a Mining License for an area within the
13 Licensee's existing Exploration License Area, or that
14 has been retained by the NSRA under section 617 of this
15 subtitle;

16 (b) would be likely to lead to any person
17 contravening a declaration of a Marine Area or Protected
18 Area; or

19 (c) would grant Mining rights over an area or
20 part of an area over which an Exploration License has
21 been valid within the preceding three years, unless:

22 (i) the Mining Applicant is the same person
23 who held the Exploration License pertaining to that
24 area; or

25 (ii) the Mining Application is accompanied by

1 the consent of the person who held that preceding
2 Exploration License."

3 Section 63. Title 24 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by inserting a
5 new section 608 under chapter 6 of subtitle II, to read as follows:

6 "Section 608. Issue of more than one License.
7 Nothing in this subtitle shall prevent more than one
8 License being issued to the same person."

9 Section 64. Title 24 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by inserting a
11 new section 609 under chapter 6 of subtitle II, to read as follows:

12 "Section 609. License Decision-Making: neighboring
13 nations

14 The NSRA, upon satisfactory receipt of an Application
15 for an Exploration or Mining License, shall before
16 taking a decision under section 602 of this subtitle
17 provide:

18 (a) timely and appropriately comprehensive
19 information about the Application to any neighboring
20 nation who may be adversely affected by the proposed
21 Seabed Mineral Activities contained within that
22 Application; and

23 (b) an opportunity for that nation to provide
24 information that will be taken into account by the NSRA
25 in making a decision under section 602 of this subtitle

1 in relation to that Application."

2 Section 65. Title 24 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by inserting a
4 new section 610 under chapter 6 of subtitle II, to read as follows:

5 "Section 610. License Decision-Making: Public
6 Consultation.

7 The NSRA, upon satisfactory receipt of an Application
8 for a Mining License (or any Application proposing
9 Seabed Mineral Activities within the Territorial Sea or
10 internal waters where such responsibility has been
11 delegated to NSRA by State under this subtitle), shall
12 before making a decision under section 602 of this
13 subtitle provide:

14 (a) timely and appropriately comprehensive
15 information about the Application during consultations
16 with the public and the relevant stakeholders; and

17 (b) an opportunity for the members of the public
18 or interest groups representing the public to provide
19 information that will be taken into account by the NSRA
20 in making a decision under section 602 of this subtitle
21 in relation to the Application."

22 Section 66. Title 24 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by inserting a
24 new section 611 under chapter 6 of subtitle II, to read as follows:

25 "Section 611. License Decision-Making: General

1 The NSRA -

2 (1) shall deal with License Applications promptly, in
3 accordance with Prescribed procedures and within
4 Prescribed time limits;

5 (2) may request further information from a License
6 Applicant, or require the Applicant to perform a test or
7 demonstration, before making a decision under section
8 602 or any other section of this subtitle and may return
9 a License Application without a decision if the
10 Applicant fails properly to comply with a request under
11 this subsection; and

12 (3) in making any decision under section 602 of this
13 subtitle shall:

14 (i) adhere to its objective, functions, and
15 duties as provided for in sections 202, 203 and 204,
16 respectively; and

17 (ii) take into account the Qualification
18 Criteria in relation to the Applicant."

19 Section 67. Title 24 of the Code of the Federated States of
20 Micronesia, as amended, is hereby further amended by inserting a
21 new section 612 under chapter 6 of subtitle II, to read as follows:

22 "Section 612. License Decision-Making: Written
23 statement of reasons

24 Within thirty days of a decision having been made by the
25 NSRA under section 602 of this subtitle:

1 (1) where the decision is to grant a License, a
2 written statement of reasons will be promulgated by the
3 NSRA; and

4 (2) where the decision is not to grant a License, a
5 written statement of reasons will be provided to the
6 Applicant by the NSRA."

7 Section 68. Title 24 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by inserting a
9 new section 613 under chapter 6 of subtitle II, to read as follows:

10 "Section 613. Appeal against License decision.

11 (1) An Applicant who is dissatisfied with a decision
12 by the NSRA on a License Application may apply for a
13 hearing or a review of the decision pursuant to title 17
14 of the Code of the Federated States of Micronesia.

15 (2) Any other interested party with legal standing who
16 is dissatisfied with a decision by the NSRA on a License
17 Application may appeal the decision as provided in
18 subsection (1) above."

19 Section 69. Title 24 of the Code of the Federated States of
20 Micronesia, as amended, is hereby further amended by inserting a
21 new section 614 under chapter 6 of subtitle II, to read as follows:

22 "Section 614. Duration of License Term. A License may
23 be issued for such period as may be agreed between the
24 NSRA and the Applicant provided the duration is no more
25 than fifteen years, which term may be renewed upon

1 expiry in accordance with this subtitle."

2 Section 70. Title 24 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by inserting a
4 new section 614 of chapter 6, to read as follows:

5 "Section 614. Terms of License

6 When a decision has been made under section 602 of this
7 subtitle to issue a License:

8 (a) the NSRA will in pursuance with Prescribed
9 procedures provide the Licensee with a draft License
10 based on:

11 (i) the requirements of this subtitle and
12 the Regulations,

13 (ii) the Prescribed format, and

14 (iii) the content of the Application, for the
15 Licensee to check and confirm its ability and
16 willingness to be bound by its terms, before it is
17 formally issued by the NSRA;

18 (b) the License shall be signed by the Secretary
19 and granted on the terms and conditions Prescribed and
20 any additional terms as may be agreed between the NSRA
21 and the Applicant provided these do not conflict with
22 this subtitle and the Prescribed terms;

23 (c) the License will specify the Seabed Minerals
24 in respect of which it is granted;

25 (d) each License will include a detailed approved

1 Exploration or Mining work plan in the Prescribed
2 format, including time schedules, and specified annual
3 expenditure requirements; and

4 (e) where not already required by this subtitle
5 or other laws of the Federated States of Micronesia, the
6 License may also require an Environmental and Social
7 Impact Assessment or other studies to be conducted and
8 reported upon by the Licensee before particular Seabed
9 Mineral Activities can commence."

10 Section 71. Title 24 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by inserting a
12 new section 616 under chapter 6 of subtitle II, to read as follows:

13 "Section 616. Exclusivity of License and Security of
14 Tenure

15 (1) A License will, in consideration of:

16 (a) payments required by this subtitle,
17 Regulations and the License; and

18 (b) the performance and observance by the
19 Licensee of all the terms and conditions provided by
20 this subtitle, Regulations, and the License, grant to
21 the Licensee during the validity period of the License,
22 exclusive rights to conduct Seabed Mineral Activities
23 with regards to the specified Seabed Minerals of the
24 License Area and to conduct Ancillary Operations, in
25 accordance with the agreed work plan contained in the

1 License.

2 (2) The NSRA will not vary, suspend, or revoke any
3 License except in accordance with this subtitle.

4 (3) A License may be renewed for successive periods by
5 the NSRA in accordance with this subtitle."

6 Section 72. Title 24 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by inserting a
8 new section 617 under chapter 6 of subtitle II, to read as follows:

9 "Section 617. Right of Retention arising from
10 Exploration License

11 (1) Where the NSRA has issued an Exploration License

12 (a) the NSRA will not issue an Mining License in
13 respect of any part of the License Area within three
14 years of the end of the term of the Exploration License,
15 except in accordance with section 607(c) of this
16 subtitle; and

17 (b) within three years of the end of the term of
18 the Exploration License, the Licensee may request that
19 the NSRA retain nominated blocks from the Exploration
20 License Area for future exclusive Mining by the
21 Licensee.

22 (2) The NSRA may determine to retain an area nominated
23 by a Licensee under subsection (1) (b) for future
24 exclusive Mining by the Licensee for a renewable period
25 of not more than five years, subject to the Licensee

1 continuing to demonstrate to the NSRA's satisfaction
2 that:

3 (a) the Licensee is taking diligent steps towards
4 making an Application for a Mining License in respect of
5 the retained area; or

6 (b) there are good grounds for the Licensee not
7 presently applying for a Mining License in respect of
8 the area, including (without limitation) on the basis of
9 the state of technology for the relevant Mining
10 activities and the market for the Seabed Minerals in the
11 retained area.

12 (3) The NSRA may at its discretion determine the
13 length of time for which an area may be retained under
14 this section for future Mining by a Licensee, provided
15 it is for no longer than five years.

16 (4) there is no limit to the number of times that the
17 NSRA may make such a determination to retain an area,
18 subject to the NSRA holding the requisite satisfaction.

19 (5) If the NSRA makes a determination under subsection
20 (1) (b) to retain an area for future Mining by a
21 Licensee, the NSRA shall:

22 (a) not consider an Application from any other
23 person to conduct Seabed Mineral Activities in the
24 retained area during the time period determined under
25 subsection (3);

1 (b) notify the Licensee of such terms and
2 conditions of the determination, not inconsistent with
3 this subtitle and Regulations, as the NSRA considers
4 fit, which may include the payment of a retention fee in
5 accordance with section 901 of this subtitle; and

6 (c) within thirty days of the determination
7 publish the retention by notice.

8 (5) If the NSRA is not satisfied for the purpose of
9 subsection (2) (a) or (b) in respect of some or all of a
10 retained area, the NSRA may determine that the area is
11 no longer retained, any so such area may form the
12 subject of a new Application."

13 Section 73. Title 24 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 618 under chapter 6 of subtitle II, to read as follows:

16 "Section 618. Exploration License may require
17 relinquishment of License Area
18 The NSRA may require the Exploration Licensee to
19 relinquish a percentage or portions of the License area
20 over a set time period in accordance with a requirement
21 and schedule to be Prescribed or set by the NSRA in the
22 License."

23 Section 74. Title 24 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting a
25 new section 619 under chapter 6 of subtitle II, to read as follows:

1 "Section 619. Seabed Minerals recovered under
2 Exploration License.

3 (1) Any core or sample or other quantity of Seabed
4 Minerals acquired by the Licensee in the course of
5 undertaking Seabed Mineral Activities and Ancillary
6 Operations under an Exploration License shall remain the
7 property of the National Government of the Federated
8 States of Micronesia (or in the case of Seabed Minerals
9 extracted from within the Territorial Sea or internal
10 waters, the relevant State Government) and shall not be
11 disposed of or removed from the Federated States of
12 Micronesia, except:

13 (a) for the purposes of assay, identification,
14 analysis, or storage, or

15 (b) with the consent of the NSRA, who may grant
16 consent subject to such conditions as the NSRA may deem
17 fit to impose.

18 (2) Where cores or other samples of Seabed Minerals
19 are acquired by the Licensee, a record sufficient for
20 the identification of the core or sample and the
21 location of its origin shall be maintained by the
22 Licensee, and the samples shall be made accessible to
23 the NSRA, upon request.

24 (3) Any person who does not comply with subsection (1)
25 commits an offense.

1 (4) Any person guilty of an offense under this section
2 shall be liable to a fine not exceeding one hundred
3 thousand dollars (\$100,000)."

4 Section 75. Title 24 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by inserting a
6 new section 620 under chapter 6 of subtitle II, to read as follows:

7 "Section 620. Conditions for commencing Licensed Seabed
8 Mineral Activities.

9 (1) Licensee may commence the Licensed Seabed Mineral
10 Activities only upon entry of its Title in the register
11 of Titles, and upon providing the NSRA with evidence of:

12 (a) Written notice from the Office of Environment
13 and Emergency Management of its endorsement of the
14 environmental management and impact mitigation plan, and
15 approval to commencement of the Seabed Mineral
16 Activities under section 623(3) of this subtitle; and

17 (b) A bank statement indicating that the Title
18 Holder has appropriate financial resources, security
19 deposit or monetary guarantee, in accordance with the
20 provisions of this subtitle.

21 (2) A Mining Licensee may also be required as a term
22 of the License to provide financial security under
23 section 903 of this subtitle to guarantee its compliance
24 with its environmental management and mitigation plan
25 and other environmental and social obligations under

1 this subtitle, as a condition for commencing Mining."

2 Section 76. Title 24 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by inserting a
4 new section 621 under chapter 6 of subtitle II, to read as follows:

5 "Section 621. Mining License gives Licensee rights to
6 the Seabed Minerals recovered
7 When Seabed Minerals are recovered by a Mining Licensee
8 from the License area in accordance with the terms of
9 the License:

10 (a) the Licensee shall acquire title to, and
11 property rights over, those Seabed Minerals at the point
12 of extraction;

13 (b) this includes the right to market, process,
14 sell and export the Seabed Minerals and subject to this
15 subtitle to freely expend the sale proceeds; and

16 (c) those Seabed Minerals are not subject to the
17 rights of any other person."

18 Section 77. Title 24 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by inserting a
20 new section 622 under chapter 6 of subtitle II, to read as follows:

21 "Section 622. Diligent Mining

22 (1) Once mining of Seabed Minerals has commenced under
23 a Mining License, the Licensee shall, within reasonable
24 limits and taking into consideration all relevant
25 factors, continue mining throughout the period of the

1 License.

2 (2) Notwithstanding subsection (1), the NSRA may at
3 the Licensee's request under section 628 of this
4 subtitle, and upon demonstration to the NSRA's
5 satisfaction that there is good cause to do so,
6 authorize temporary suspension of Mining."

7 Section 78. Title 24 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by inserting a
9 new section 623 under chapter 6 of subtitle II to read as follows:

10 "Section 623. Environmental and Social Impact
11 Assessment

12 (1) An Environmental and Social Impact Assessment:

13 (a) shall not be required under this subtitle
14 prior to a Prospector or Licensee commencing the
15 following activities, unless the NSRA advises otherwise
16 in accordance with subsection (1)(c):

17 (i) Gravity and magnetometric observations
18 and measurements;

19 (ii) Bottom and sub-bottom acoustic or
20 electromagnetic profiling of resistivity, multi-beam
21 bathymetric mapping, self-potential or induced
22 polarization, or imaging without the use of explosives
23 or frequencies known to significantly affect marine
24 life;

25 (iii) Water, biotic, sediment, and rock

-
-
- 1 sampling for environmental baseline study including:
- 2 (A) Sampling of small quantities of
- 3 water, sediment and biota (e.g. from remotely-operated
- 4 vehicles);
- 5 (B) Mineral and rock sampling of a
- 6 small-scale and limited nature. For the purposes of this
- 7 subsection (B) 'small-scale and limited' means:
- 8 (a) core samples of up to 10 meters,
- 9 (b) for Seabed Mineral deposits that are seafloor
- 10 massive sulphides, grab, or bucket samples of up to 2
- 11 square meters, or
- 12 (c) for other Seabed Mineral deposits, grab,
- 13 dredge or bucket samples covering, in total, no more
- 14 than 10,000 square meters of the seabed.
- 15 (C) Sediment sampling by box corer and
- 16 small diameter corer;
- 17 (iv) Meteorological observations and
- 18 measurements;
- 19 (v) Oceanographic and hydrographic
- 20 observations and measurements;
- 21 (vi) Video/film and still photographic
- 22 observations and measurements;
- 23 (vii) Shipboard mineral assaying and analysis;
- 24 (viii) Positioning systems;
- 25 (ix) Towed plume-sensor measurements;

1 (x) In situ faunal metabolic measurements;
2 (xi) DNA screening of biological samples; and
3 (xii) Dye release or tracer studies unless
4 required under national or international laws governing
5 the activities of flagged vessels.

6 (b) shall be required under this subtitle for any
7 Mining licensed under this subtitle;

8 (c) shall be required for any aspect of Seabed
9 Mineral Activities or Ancillary Operations, including
10 bulk-sampling or test-mining and equipment-testing,
11 where it appears to the Licensee, NSRA or the Office of
12 Environment and Emergency Management that the nature or
13 degree of that activity, and/or particular sensitivity
14 of the site, is such that it is likely to result in
15 Serious Harm to the Environment; and

16 (d) shall not be required for any activity not
17 covered by subsections 1 (a), (b) or (c) upon the
18 Licensee obtaining written notice from the Office of
19 Environment and Emergency Management that is satisfied
20 on the information before it that the activity may
21 proceed without prior Environmental and Social Impact
22 Assessment.

23 (2) Where an Environmental and Social Impact
24 Assessment is required for Seabed Mineral Activities
25 under this subtitle or any other law of the Federated

1 States of Micronesia, this must at a minimum contain the
2 matters described in Schedule 1 to this subtitle.

3 (3) No Seabed Mineral Activities requiring an
4 Environmental and Social Impact Assessment under this
5 section may be commenced until the Environmental and
6 Social Impact Assessment and any subsequent amendments
7 to the environmental management and impact mitigation
8 plan, work plan, or License terms have been completed to
9 the satisfaction of the Office of Environment and
10 Emergency Management, as shall be evidenced by written
11 notice from the Office of Environment and Emergency
12 Management, specifying prior approval to the
13 commencement of the activities in question.

14 (4) Further procedures and requirement for an
15 Environmental and Social Impact Assessment for Seabed
16 Mineral Activities as may be Prescribed."

17 Section 79. Title 24 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by inserting a
19 new section 624 under chapter 6 of subtitle II, to read as follows:

20 "Section 624. Liability of Licensee.

21 (1) The Licensee is responsible for the Seabed Mineral
22 Activities and Ancillary Operations carried out within
23 its License area, and their compliance with this
24 subtitle, Regulations, and the License.

25 (2) The Licensee shall at all times keep the Federated

1 States of Micronesia indemnified against all actions,
2 proceedings, costs, charges, claims and demands which
3 may be made or brought by any third party in relation to
4 its Seabed Mineral Activities, and will be liable for
5 the actual amount of any compensation or damage arising
6 out of its failure to comply with this subtitle,
7 Regulations, or the License, and any wrongful acts or
8 omissions and those of its employees, officers,
9 subcontractors, and agents in the conduct of the Seabed
10 Mineral Activities or Ancillary Operations under
11 License, including but not limited to that arising from
12 injury to coastal or marine users, damage to the
13 Environment, and any related economic loss or
14 compensation.

15 (3) Any obligations which are to be observed and
16 performed by the Licensee shall at any time at which the
17 Licensee is more than one person be joint and several
18 obligations.

19 (4) The Licensee shall remain liable for damage
20 resulting from its Seabed Minerals Activities
21 notwithstanding that its Title may have been terminated
22 or suspended."

23 Section 80. Title 24 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting a
25 new section 625 under chapter 6 of subtitle II, to read as follows:

1 "Section 625. Part of License Area outside of national
2 jurisdiction.

3 If part of the License area includes or purports to
4 include an area that is outside of the national
5 jurisdiction of the Federated States of Micronesia, or
6 an area that comprises or is within a Protected Area or
7 a Marine Reserve, (or an area within the Territorial Sea
8 where such responsibility has not been delegated to NSRA
9 by State under this subtitle), then the License remains
10 valid, but does not authorize Seabed Mineral Activities
11 to be carried out within that part until further
12 consultations and conditions are met."

13 Section 81. Title 24 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 626 under chapter 6 of subtitle, to read as follows:

16 "Section 626. Renewal of License.

17 (1) A Licensee can apply to the NSRA for that License
18 to be renewed for successive periods of up to five years
19 each.

20 (2) The NSRA will grant such a renewal provided the
21 application to renew is received at least ninety days
22 before the expiry date of the initial term of the Title,
23 and the Title Holder continues to meet the Qualification
24 Criteria and has met its obligations under the
25 subsisting Title.

1 (3) If a renewal is granted after the expiry date of
2 the initial term of the Title, the Title is deemed to
3 have continued in force during the period between that
4 expiry date and the date the renewal is granted.

5 (4) If a renewal is to be refused, the NSRA will
6 follow the processes contained in section 628(2) of this
7 subtitle.

8 (5) If the renewal relates to a Mining License, prior
9 written approval from the Office of Environment and
10 Emergency Management must be obtained for any renewal to
11 be valid."

12 Section 82. Title 24 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting a
14 new section 627 under chapter 6 of subtitle II, to read as follows:

15 "Section 627. Review of Licenses.

16 (1) A joint review of each License work plan,
17 anticipated annual expenditure, and time schedule by the
18 NSRA:

19 (a) will be performed after completion of any
20 Environmental and Social Impact Assessment conducted
21 after the date of issue of the License; and

22 (b) may be performed periodically at the request
23 of the Licensee or the NSRA upon material new
24 information coming to the attention of the Licensee or
25 the NSRA.

1 (2) The Licensee may be required to submit additional
2 data for the purposes of such a review.

3 (3) The review shall be conducted in accordance with
4 any Prescribed procedures, or procedures provided by the
5 License, and will consider whether any changes are
6 required to the License terms or work plan.

7 (4) The NSRA's prior consent to any amendment to the
8 work plan or License must be confirmed in writing.

9 (5) The NSRA may consult with the Office of
10 Environment and Emergency Management, before giving
11 consent to the variation of a term of a Mining License
12 in a material particular."

13 Section 83. Title 24 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 628 under chapter 6 of subtitle II, to read as follows:

16 "Section 628. Variation, suspension, or revocation of a
17 License

18 (1) The NSRA may vary, suspend, or revoke any License
19 under this section:

20 (a) where any of the Qualification Criteria
21 ceases to be met by the Licensee in a material
22 particular;

23 (b) if a security deposit required under section
24 903 of this subtitle is not deposited in accordance with
25 this subtitle;

1 (c) where the variation or revocation is in the
2 opinion of the NSRA necessary to

3 (i) prevent serious risk to:

4 (a) the safety, health or welfare of any person,
5 or

6 (b) the Environment;

7 (i) avoid a conflict with any obligation of
8 the Federated States of Micronesia arising out of any
9 international agreement or instrument in force for the
10 Federated States of Micronesia; or

11 (ii) avoid any situation which may reasonably
12 be expected to lead to a breach of international or
13 domestic peace and security;

14 (d) in any case, with the consent of the
15 Licensee;

16 (e) in order to secure compliance by the Licensee
17 with the Licensee's obligations and undertakings under
18 this subtitle, the Regulations, and the License;

19 (f) if the Licensee has failed to comply with a
20 final judgment of a court or binding decision of a
21 dispute settlement body applicable to it;

22 (g) upon the bankruptcy, insolvency, or
23 receivership of the Licensee, or upon the Licensee
24 ceasing to exist as a legal entity;

25 (h) upon consultation with the Licensee, where

1 the Licensee is prevented for a continuous period
2 exceeding two years from undertaking the Licensed Seabed
3 Mineral Activities under the License despite taking all
4 reasonable measures to do so, because of an event
5 outside of the Licensee's control;

6 (i) where no material efforts have been made by
7 the Licensee to undertake the Licensed Seabed Mineral
8 Activities for a period exceeding two years;

9 (j) where there has been a serious, persistent or
10 willful breach by the Licensee of:

11 (i) a material undertaking or term or
12 condition of the License,

13 (ii) the provisions of this subtitle or
14 Regulations or other laws of the Federated States of
15 Micronesia,

16 (iii) conditions imposed under the Environment
17 Law, or

18 (iv) requirement of an Order made under this
19 subtitle;

20 and such breach either cannot be remedied or has not
21 been remedied upon the giving of reasonable notice by
22 the NSRA;

23 (k) where the relevant Seabed Mineral Activities
24 in the reasonable view of the NSRA constitute an
25 unacceptable risk to the Federated States of Micronesia

1 or are clearly no longer in the public interest.

2 (l) where any payment owing under section 901 of
3 this subtitle, or any part of this subtitle, is in
4 arrears or unpaid for six months following the day on
5 which it ought to have been paid; or

6 (m) upon transfer, mortgage, lease of a Title, or
7 significant change in the constitution, ownership or
8 control of the Title Holder, without the NSRA's prior
9 approval.

10 (2) Before making a decision under this section the
11 NSRA, shall unless the decision is made on the exact
12 terms of a request by the Licensee, give to the Licensee
13 at least ninety days written notice of the NSRA's
14 intention to make the decision, setting out details of
15 that proposed decision and the reasons for it, and
16 inviting a person to whom the notice or a copy of the
17 notice has been given, and who objects to it, to make a
18 written submission to the NSRA about the proposal within
19 a specified timeframe.

20 (3) Except in the case of a variation to the work plan
21 of the type envisaged in subsection (7), where the
22 License in question underwent a public consultation
23 procedure in accordance with this subtitle, NSRA shall
24 give a copy of the section 628(8) notice to such persons
25 as it thinks fit and publish a summary of the notice.

1 (4) If the NSRA has suspended a License, it may by
2 notice require the Licensee to resume its activities and
3 comply with the terms and conditions of the License, not
4 later than 90 days after such notice.

5 (5) In lieu of variation, suspension or revocation
6 under subsections (1)(a), (b), (c), (e), (f), (i), (j),
7 and (l), the NSRA may take any of the administrative
8 actions provided for in section 218 of this subtitle, or
9 impose upon the Licensee monetary penalties
10 proportionate to the seriousness of the violation and in
11 any case not exceeding ten thousand dollars (\$10,000),
12 which amount excludes any compensation payable for
13 damage or harm.

14 (6) The NSRA shall not execute a decision involving
15 monetary penalties under subsection (5) until the
16 Licensee has been accorded a reasonable opportunity to
17 exhaust the judicial remedies available to it under the
18 laws of the Federated States of Micronesia.

19 (7) A variation of a detail of the License work plan
20 that in the NSRA's view is minor and/or requires
21 expeditious action to meet the objectives of this
22 subtitle, and which does not require variation of a term
23 of the License, can be effected by written notice to the
24 Licensee from the NSRA.

25 (8) Upon effecting a variation of a term of the

1 License, the NSRA shall:

2 (a) prepare an instrument of variation signed by
3 the Secretary and the designated representative of the
4 Licensee;

5 (b) register the variation to that License in the
6 register of Titles, maintained by the NSRA under section
7 306 of this subtitle;

8 (c) issue to the Licensee a copy of that
9 instrument of variation; and

10 (d) publish notice of the variation."

11 Section 84. Title 24 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by inserting a
13 new section 629 under chapter 6 of subtitle II, to read as follows:

14 "Section 629. Surrender of a License.
15 Subject to payment of outstanding sums payable in
16 accordance with section 901 of this subtitle and without
17 prejudice to any obligation or liability imposed by this
18 subtitle or Regulations, or incurred under any term or
19 condition contained in the License, the Licensee may at
20 any time surrender the License without penalty by giving
21 to the NSRA not less than six months' prior notice in
22 writing to that effect."

23 Section 85. Title 24 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting a
25 new section 630 under chapter 6 of subtitle II, to read as follows:

1 "Section 630. Ongoing liability of a Licensee
2 Upon a revocation of a License by the NSRA, or surrender
3 of the License by the Licensee, all rights granted shall
4 cease and determine, but the Licensee will remain
5 subject to any ongoing obligation or liability incurred
6 by the Licensee as a result of Seabed Mineral Activities
7 or Ancillary Operations already conducted, or otherwise
8 by reason of having entered into the License, including
9 requirements to submit reports and to make payments to
10 the NSRA for the period during which Seabed Mineral
11 Activities were conducted."

12 Section 86. Title 24 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting a
14 new section 631 under chapter 6 of subtitle II, to read as follows:

15 "Section 631. Extension of Exploration License while
16 Mining License Application under consideration
17 If an Application for a Mining License is made by an
18 Exploration Licensee for the same License area, the
19 Exploration License is deemed to have continued in force
20 until the time at which the Applicant receives a final
21 decision on the Mining License Application."

22 Section 87. Title 24 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by inserting a
24 new section 632 under chapter 6 of subtitle II, to read as follows:

25 "Section 632. Mineral development agreements.

1 (1) The NSRA may enter into written agreements with a
2 Licensee at any time to establish additional terms and
3 conditions as to the arrangements for Exploration or
4 Mining, including but not limited to:

5 (a) the circumstances or the manner in which the
6 NSRA shall exercise any discretion conferred by this
7 subtitle;

8 (b) the settlement of disputes arising out of or
9 relating to the License or the administration of this
10 subtitle, including provisions relating to the
11 settlement of any such dispute by international
12 arbitration; and

13 (c) the acquisition by the National Government of
14 the Federated States of Micronesia either directly or
15 indirectly of a participating interest in the project
16 subject to the Mining development agreement, provided,
17 that, the terms of such an agreement are not
18 inconsistent with this subtitle or Regulations, and do
19 not or are not likely to lead to a contravention by the
20 Federated States of Micronesia of the Licensee of the
21 laws of the Federated States of Micronesia or the
22 international law obligations of the Federated States of
23 Micronesia; and

24 (2) Nothing in subsection (1) shall be read or
25 construed as authorizing the NSRA to enter in a special

1 agreement relating to the payment of any applicable tax,
2 duty, fee or other fiscal impost, or to grant in respect
3 thereof any exemption, moratorium, tax holiday, or other
4 indulgence howsoever described."

5 Section 88. Title 24 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by creating a
7 new chapter 7 under subtitle II entitled: "Sponsorship of Seabed
8 Mineral Activities in the Area".

9 Section 89. Title 24 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by inserting a
11 new section 701 under chapter 7 of subtitle II to read as follows:

12 "Section 701. The NSRA may contract for Seabed Mineral
13 Activities in the Area.

14 The NSRA may, upon consultation with the relevant
15 stakeholders:

16 (a) On behalf of the Federated States of
17 Micronesia, submit applications to the ISA for the
18 approval of plans of work for Seabed Mineral Activities
19 in the Area and enter into contracts with the ISA to
20 conduct those plans of work;

21 (b) Enter into sub-contracts with third party
22 sub-contractors for the delivery of services pertaining
23 to the performance of Seabed Mineral Activities in the
24 Area, provided:

25 (i) the sub-contractor meets such of the

1 Sponsorship Qualification Criteria as are relevant in
2 the circumstances;

3 (ii) the sub-contract follows any Prescribed
4 terms and otherwise or additionally contains terms to
5 ensure the sub-contractor will, insofar as is relevant
6 in the circumstances, be held to duties, undertakings,
7 guarantees, indemnities, and other requirements that are
8 no less comprehensive and stringent than those required
9 of a Sponsored Party under this subtitle and any
10 Regulations;

11 (iii) the Secretary of Finance and
12 Administration endorses that he or she is satisfied that
13 the terms of the sub-contract are sufficiently likely to
14 lead to sufficient benefit to the Federated States of
15 Micronesia, to outweigh the likelihood and quantum of
16 any associated costs or risks;

17 (iv) the sub-contract can be suspended,
18 varied, revoked or otherwise terminated on the same
19 ground as those provided for a Sponsorship Certificate,
20 insofar as is relevant in the circumstances, under
21 chapter 8 of this subtitle; and

22 (v) the NSRA monitors the sub-contractor's
23 conduct and takes any such steps as are required to
24 secure compliance with the terms of the sub-contract."

25 Section 90. Title 24 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by inserting a
2 new section 702 under chapter 7 of subtitle II, to read as follows:

3 "Section 702. Entry into Sponsorship of Seabed Mineral
4 Activities in the Area.

5 (1) The NSRA may on behalf of the Federated States of
6 Micronesia sponsor another party, by way of a
7 Sponsorship Certificate issued under this subtitle, to
8 conduct Seabed Mineral Activities in the Area under
9 contract with the ISA.

10 (2) The NSRA may in any manner it sees fit invite
11 sponsorship Applications, or entertain discussions, with
12 sponsorship Applicants or potential sponsorship
13 Applicants.

14 (3) To be eligible to perform Seabed Mineral
15 Activities under the Federated States of Micronesia's
16 sponsorship, a Sponsored Party must first:

17 (a) obtain a valid Sponsorship Certificate from
18 the NSRA, and

19 (b) enter into a valid contract with the ISA,
20 pertaining to those Seabed Mineral Activities in the
21 Area.

22 (4) Upon Application to conduct Seabed Mineral
23 Activities within the Area under the sponsorship of the
24 Federated States of Micronesia, and following such
25 format and processes as may be Prescribed, the NSRA may

1 take a decision:

2 (a) to issue to an Applicant:

3 (i) a Sponsorship Certificate for
4 Exploration, or

5 (ii) a Sponsorship Certificate for Mining,
6 committing to sponsor the Applicant to conduct specified
7 Seabed Mineral Activities within the Area under contract
8 with the ISA; or

9 (b) not to issue any Sponsorship Certificate.

10 (5) The NSRA may provide opportunity for members of
11 the public or interest groups representing the public,
12 to provide information be taken into account by the NSRA
13 in taking a decision under subsection (4)."

14 Section 91. Title 24 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by inserting a
16 new section 703 under chapter 7 of subtitle II, to read as follows:

17 "Section 703. Conditions to issue of Sponsorship
18 Certificate.

19 (1) A Sponsorship Certificate shall only be issued to
20 an Applicant who meets the Sponsorship Qualification
21 Criteria.

22 (2) The NSRA shall not issue a Sponsorship Certificate
23 where in the NSRA's reasonable opinion the sponsorship
24 would not be in the public interest of the Federated
25 States of Micronesia."

1 Section 92. Title 24 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by inserting a
3 new section 704 under chapter 7 of subtitle II, to read as follows:

4 "Section 704. Sponsorship Application and Sponsorship
5 Qualification Criteria.

6 (1) A sponsorship Application must be made in writing
7 to the NSRA and must:

8 (a) provide evidence that the Sponsorship
9 Applicant meets the Sponsorship Qualification Criteria,
10 and

11 (b) include:

12 (i) the same content that is required by the
13 Rules of the ISA for an application to the ISA for
14 approval of a plan of work to obtain a contract for the
15 proposed Seabed Mineral Activities

16 (ii) written undertakings that the Applicant:

17 (A) will fully comply with its
18 obligations under the Rules of the ISA and relevant
19 parts of this subtitle,

20 (B) warranties that the content of the
21 Application is true and accurate to the best of its
22 belief, and

23 (C) intends to apply for a contract
24 with the ISA to conduct Seabed Mineral Activities in the
25 Area under the sponsorship of the Federated States of

1 Micronesia;

2 (iii) Copies or summaries of any studies
3 conducted by the Sponsorship Applicant or other data in
4 relation to: the Seabed Mineral potential of the
5 proposed Contract Area, and the potential impact of the
6 Seabed Mineral Activities on the Environment;

7 (iv) An indication insofar as known of the
8 Applicant's proposed:

9 (A) methods for financing the Seabed
10 Mineral Activities,

11 (B) ownership, lease or other
12 arrangement to use vessels and equipment required for
13 the operation of the Seabed Mineral Activities, and

14 (C) insurance or contingency funding to
15 cover damage that may be caused by the Seabed Mineral
16 Activities or the costs of responding to an Incident;

17 (v) A list of employees required to operate
18 the Seabed Mineral Activities, and an indication if any
19 of these will be recruited from the Federated States of
20 Micronesia;

21 (vi) A capacity-building program providing
22 for the training of personnel of the Federated States of
23 Micronesia;

24 (vii) The Application fee required by section
25 901 of this subtitle;

1 (viii) A statement as to whether the Sponsored
2 Party or any of its Directors has previously been found
3 on reasonable evidence to have:

4 (A) breached a material term or
5 condition of the Rules of the ISA;

6 (B) been convicted of an offense or
7 incurred a civil penalty pertaining to the conduct of
8 Seabed Mineral Activities or similar sea or land based
9 activities in another jurisdiction; or

10 (C) been convicted of an offense
11 involving fraud or dishonesty;

12 (ix) Any other matters as may be Prescribed.

13 (2) The Sponsorship Qualification Criteria are that:

14 (a) the Sponsorship Applicant:

15 (i) is an existing body corporate,
16 registered in the Federated States of Micronesia;

17 (ii) has, or will have at the commencement of
18 the proposed Seabed Mineral Activities, sufficient
19 financial and technical resources and capability:

20 (A) properly to perform the Seabed
21 Mineral Activities in compliance with the Rules of the
22 ISA; and

23 (B) to cover damage that may be caused
24 by the Seabed Mineral Activities or the costs of
25 responding to an Incident;

1 (iii) has submitted a valid Application in
2 accordance with this subtitle and these Regulations,
3 including the Sponsorship Application fee;

4 (b) the proposed Seabed Mineral Activities are
5 consistent with the Rules of the ISA in relation to
6 environmental management;

7 (c) the proposed Seabed Mineral Activities are
8 compatible with applicable national and international
9 laws, including those relating to safety at sea and the
10 protection and preservation of the Marine Environment;
11 and

12 (d) the proposed Seabed Mineral Activities will
13 not unduly affect:

14 (A) the rights of other legitimate sea
15 users, or

16 (B) the protection and preservation of
17 the Marine Environment,

18 (C) international and domestic peace
19 and security.

20 (3) A decision by an official organ of the ISA to
21 grant to Sponsored Party a contract may be considered by
22 the NSRA as evidence in relation to its Sponsorship
23 Certificate decision-making."

24 Section 93. Title 24 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by inserting a

1 new section 705 under chapter 7 of subtitle II, to read as follows:

2 "Section 705. Terms of the Sponsorship Certificate
3 A Sponsorship Certificate, shall be issued to a
4 Sponsored Party in a form necessary to satisfy the Rules
5 of the ISA, and shall contain:

6 (a) the name of the Sponsored Party;

7 (b) a statement that the Sponsored Party is:

8 (i) a national of the Federated States of
9 Micronesia; or

10 (ii) subject to the effective control of the
11 Federated States of Micronesia or its nationals;

12 (c) a statement by the Federated States of
13 Micronesia that it sponsors the Sponsored Party;

14 (d) the date of deposit by the Federated States
15 of Micronesia of its instrument of ratification of, or
16 accession or succession to, the UN Convention on the Law
17 of the Sea;

18 (e) a declaration that the Federated States of
19 Micronesia assumes responsibility in accordance with
20 article 139, article 153, paragraph 4, and Annex III,
21 article 4, paragraph 4, of the UN Convention on the Law
22 of the Sea;

23 (f) the date at which the sponsorship commences;

24 (g) a statement that the Sponsorship Certificate
25 shall remain in force for the duration of an ISA

1 contract awarded to the Sponsored Party under the
2 State's sponsorship, unless otherwise terminated in
3 accordance with this subtitle; and

4 (h) any additional content reasonably required by
5 the ISA or that the NSRA considers fit to include."

6 Section 94. Title 24 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by inserting a
8 new section 706 under chapter 7 of subtitle II, to read as follows:

9 "Section 706. Sponsorship agreements.

10 (1) The NSRA may enter into written agreements with
11 the Sponsored Party at any time to establish additional
12 terms and conditions as to the sponsorship arrangement
13 including terms as to the calculation and payment of
14 royalties, taxes, sponsorship fees or other fiscal
15 impositions payable by the Sponsored Party, provided the
16 terms of such an agreement do not, or are not likely to,
17 lead to a contravention by the Federated States of
18 Micronesia or the Sponsoring Party of the Rules of the
19 ISA or this subtitle, and do not conflict with any
20 international law obligations of the Federated States of
21 Micronesia.

22 (2) The NSRA may consult the relevant stakeholders,
23 and their views taken into account, before any
24 sponsorship agreement is entered into the NSRA."

25 Section 95. Title 24 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by inserting a
2 new section 707 under chapter 7 of subtitle II, to read as follows:

3 "Section 707. Liability of Sponsored Party.

4 (1) The Sponsored Party shall be responsible for the
5 performance of all Seabed Mineral Activities carried out
6 within the Contract Area, and its compliance with the
7 Rules of the ISA, and will be liable:

8 (a) for the actual amount of any compensation or
9 damage or penalties arising out of a failure to comply,
10 or

11 (b) for any wrongful acts or omissions and those
12 of its employees, officers, subcontractors, and agents
13 in the conduct of the Seabed Mineral Activities.

14 (2) Any obligations which are to be observed and
15 performed by the Sponsored Party shall at any time at
16 which the Sponsored Party is more than one person be
17 joint and several obligations.

18 (3) A Sponsored Party shall at all times keep the
19 Federated States of Micronesia indemnified against all
20 actions, proceedings, costs, charges, claims and demands
21 which may be made or brought by any third party in
22 relation to its Seabed Mineral Activities."

23 Section 96. Title 24 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting a
25 new section 708 under chapter 7 of subtitle II, to read as follows:

1 "Section 708. Government Responsibilities.

2 Where the Federated States of Micronesia is sponsoring a
3 Sponsored Party, which holds a contract with the ISA to
4 conduct Seabed Mineral Activities in the Area, the
5 Federated States of Micronesia will, via the NSRA:

6 (a) take all actions necessary to give effect to
7 the sponsorship of the Sponsored Party, including
8 undertaking any communications with, and providing any
9 assistance, documentation, certificates and undertakings
10 to, the ISA or other relevant party required in respect
11 of the sponsorship;

12 (b) ensure that its conduct in relation to the
13 ISA, the Area, and Seabed Mineral Activities adheres to
14 the requirements and standards established by general
15 principles of international law;

16 (c) take all appropriate means to exercise its
17 effective control over Sponsored Parties, seeking to
18 ensure that their Seabed Mineral Activities are carried
19 out in conformity with the UN Convention on the Law of
20 the Sea, the Rules of the ISA, and other requirements
21 and standards established by general principles of
22 international law;

23 (d) not impose unnecessary, disproportionate, or
24 duplicate regulatory burden on Sponsored Parties, and
25 not impose requirements upon a Sponsored except insofar

1 as these are consistent with existing requirements
2 imposed by, the UN Convention on the Law of the Sea, the
3 Rules of the ISA, and other applicable standards of
4 international law; and

5 (e) promote the application of the Precautionary
6 Approach and employment of best environmental practice.”

7 Section 97. Title 24 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by inserting a
9 new section 709 under chapter 7 of subtitle II, to read as follows:

10 “Section 709. Termination of Sponsorship Certificate.

11 (1) A Sponsorship Certificate shall remain in force
12 unless and until it is terminated in accordance with
13 this section;

14 (2) A Sponsorship Certificate terminates if:

15 (a) The Sponsored Party’s contract with the ISA
16 expires, is surrendered or is terminated,

17 (b) It is surrendered by the Sponsored Party in
18 accordance with section 711 of this subtitle,

19 (c) It is revoked by the NSRA in accordance with
20 section 710 of this subtitle, and upon termination all
21 rights granted to the Sponsored Party by the Federated
22 States of Micronesia shall cease and determine.”

23 Section 98. Title 24 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting a
25 new section 710 under chapter 7 of subtitle II, to read as follows:

1 "Section 710. Revocation of a Sponsorship Certificate.

2 (1) The NSRA may revoke a Sponsorship Certificate:

3 (a) where any of the Sponsorship Qualification
4 Criteria ceases to be met by the Sponsored Party in a
5 material particular;

6 (b) where the Sponsored Party has failed to apply
7 to the ISA for a contract, or has applied but failed to
8 obtain a contract with the ISA, within three years of
9 the date of the issue of the Sponsorship Certificate;

10 (c) in any case, with the written consent of the
11 Sponsored Party;

12 (d) where no material efforts have been made by
13 the Sponsored Party to undertake the sponsored Seabed
14 Mineral Activities for a period exceeding five years
15 from the date of signing the contract with the ISA;

16 (e) where the Sponsored Party has conducted
17 itself in such a way as to result in a serious,
18 persistent, or willful breach of the Rules of the ISA,
19 the requirements of this subtitle, Regulations, an Order
20 made under this subtitle, or a final binding decision of
21 a dispute settlement body applicable to the Sponsored
22 Party, and such breach cannot be remedied, or has not
23 been remedied notwithstanding the giving of reasonable
24 notice to the Sponsored Party by the NSRA;

25 (f) where, following at least two written notices

1 given by the NSRA to the Sponsored Party in accordance
2 with this subtitle, any payment or deposit required or
3 owing under this subtitle is in arrears or unpaid for
4 six months following the day on which it ought to have
5 been paid;

6 (g) where the Sponsored party knowingly or
7 recklessly provides the ISA or the NSRA with information
8 that is false or misleading in a material particular, or
9 fails to retain or willfully alters, suppresses,
10 conceals, or destroys any document which is required to
11 be produced to the ISA or the NSRA; or

12 (h) upon transfer, mortgage, lease of a Title, or
13 significant change in the constitution, ownership or
14 control of the Title Holder, without the NSRA's
15 approval.

16 (2) Before making a decision under this section of
17 this subtitle the NSRA shall:

18 (a) give to the Sponsored Party at least 30 days'
19 written notice of the NSRA's intention to make the
20 decision, setting out details of the proposed decision
21 and the reasons for it, and inviting a person to whom
22 the notice, or a copy of the notice has been given to
23 make a written submission to the NSRA about the proposal
24 within a specified timeframe; if there are any
25 objections;

1 (b) give a copy of the notice to any such other
2 persons as the NSRA thinks fit;

3 (c) take into account any submissions made in
4 accordance with the notice; and

5 (d) where the decision is to revoke the
6 Sponsorship Certificate, give the Sponsored Party no
7 fewer than six months' notice before that revocation
8 takes place."

9 Section 99. Title 24 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by inserting a
11 new section 711 under chapter 7 of subtitle II to read as follows:

12 "Section 711. Surrender of sponsorship.

13 A Sponsored Party may at any time surrender a
14 Sponsorship Certificate without penalty by giving to the
15 NSRA not less than six months' prior notice in writing
16 to that effect."

17 Section 100. Title 24 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by inserting a
19 new section 712 under chapter 7 of subtitle II, to read as follows:

20 "Section 712. Ongoing liability after termination of
21 sponsorship.

22 Following termination of sponsorship, a Sponsoring Party
23 shall remain:

24 (a) subject to any ongoing obligations with
25 respect to Seabed Mineral Activities that occurred prior

1 to termination, including requirements to submit reports
2 and to make payments to the NSRA and the ISA; and
3 (b) responsible for any damage from its wrongful
4 acts or otherwise arising from Seabed Minerals
5 Activities carried out prior to termination."

6 Section 101. Title 24 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by creating a
8 new chapter 8 under subtitle II entitled: "Marine Scientific
9 Research".

10 "Section 801. Marine Scientific Research within
11 national jurisdiction.

12 Marine Scientific Research may not be carried out within
13 an area of the Exclusive Economic Zone or Continental
14 Shelf (or Territorial Sea and internal waters where such
15 responsibility has been delegated to NSRA by State under
16 this subtitle) by any person, unless that person has:

17 (a) properly applied for a permit by the NSRA in
18 accordance with this subtitle;

19 (b) properly applied for a marine scientific
20 research permit from National Oceanic Resource
21 Management Authority (NORMA) in accordance with section
22 104 chapter 1 subtitle I of this title; and

23 (c) received consent to both applications, or not
24 received a denial of consent within six months of the
25 date of the applications."

1 Section 102. Title 24 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by inserting a
3 new section 802 under chapter 8 of subtitle II, to read as follows:

4 "Section 802. Application for Marine Scientific
5 Research.

6 For an application for consent to conduct Marine
7 Scientific Research to have been properly made, for the
8 purposes of section 801 of this subtitle, the
9 application shall be made to the NSRA in writing at
10 least six months before the proposed commencement date
11 of the Marine Scientific Research project, and shall
12 contain:

13 (i) the cruise name and number;

14 (ii) the name, nationality, contact details,
15 and address of the sponsoring institution, the scientist
16 in charge of the project, and any other collaborators
17 and participants;

18 (iii) the co-ordinates and charts of the broad
19 area or areas within which the project is to be
20 conducted;

21 (iv) a general description of the nature and
22 objectives of the proposed project, including the date
23 of commencement and its approximate duration, and the
24 use of the data collected, including any plans to make
25 the research results internationally available;

1 (v) the details of the methods, the
2 equipment, and any installations to be used;

3 (vi) insofar as possible at the time of the
4 application, a preliminary assessment of likely impact
5 on the Marine Environment of the proposed project;

6 (vii) the details of any intended ports of
7 call;

8 (viii) modalities of the participation of a
9 representative of the Federated States of Micronesia in
10 the project; and

11 (ix) the expected dates and method of
12 submission to the Federated States of Micronesia of a
13 preliminary report, a final report, and assessment of
14 data, samples and research results."

15 Section 103. Title 24 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by inserting a
17 new section 803 under chapter 8 of subtitle II, to read as follows:

18 "Section 803. Consent to Marine Scientific Research.
19 Unless there are reasonable grounds for a denial of
20 consent in accordance with section 901 of this subtitle,
21 the NSRA shall provide its consent to a Marine
22 Scientific Research project as soon as reasonably
23 practicable, and no later than six months after receipt
24 of an application containing the information required by
25 section 802 of this subtitle."

1 Section 104. Title 24 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by inserting a
3 new section 804 under chapter 8 of subtitle II, to read as follows:

4 "Section 804. Grounds for denial of consent to Marine
5 Scientific Research.

6 The NSRA shall deny consent to an application to conduct
7 Marine Scientific Research where:

8 (a) the NSRA reasonably considers that:

9 (i) the proposed Marine Scientific Research
10 is of direct significance to the exploration and Mining
11 of the natural resources of the Federated States of
12 Micronesia, whether living or non-living;

13 (ii) the information supplied pursuant
14 section 802 of this subtitle is inaccurate in a material
15 particular; or

16 (iii) the person applying to conduct Marine
17 Scientific Research already has an overdue outstanding
18 obligation to the Federated States of Micronesia from a
19 prior Marine Scientific Research project; or

20 (iv) the proposed Marine Scientific Research
21 will interfere with another subsisting legitimate use of
22 the same marine space; or

23 (b) the proposed Marine Scientific Research
24 involves:

25 (i) drilling into the Continental Shelf;

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- 1 (ii) the use of explosives;
2 (iii) the introduction of harmful substances
3 into the Marine Environment;
4 (iv) the construction, operation or use of
5 artificial islands, installations or structures (as
6 referred to in Articles 60 and 80 of the UN Convention
7 on the Law of the Sea); or
8 (v) an unacceptable risk to the Marine
9 Environment."

10 Section 105. Title 24 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by inserting a
12 new section 805 under chapter 8 of subtitle II, to read as follows:

13 "Section 805. Nature of Marine Scientific Research
14 consent.

15 Consent to conduct Marine Scientific Research:

16 (a) does not entail any exclusive rights of
17 access to the seabed or water column, and does not
18 permit extraction of Offshore Minerals;

19 (b) does not constitute the legal basis for any
20 claim to any part of the Marine Environment or its
21 resources; and

22 (c) shall cease entirely or within a particular
23 area upon written notice being given by the NSRA to that
24 effect."

25 Section 106. Title 24 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by inserting a
2 new section 806 under chapter 8 of subtitle II, to read as follows:

3 "Section 806. Duties of persons conducting Marine
4 Scientific Research.

5 It is a condition of any consent for Marine Scientific
6 Research within the Federated States of Micronesia's
7 national jurisdiction, that the persons conducting the
8 Marine Scientific Research shall at all times:

9 (a) adhere to the terms of this subtitle,
10 Regulations, the Environment Law, and any rules or
11 procedures relating to Marine Scientific Research issued
12 by the Federated States of Micronesia's Government;

13 (b) apply the Precautionary Approach and best
14 environmental practices at all times;

15 (c) conduct the Marine Scientific Research
16 exclusively:

17 (i) for peaceful purposes; and

18 (ii) to increase scientific knowledge for the
19 benefit of all mankind;

20 (d) not proceed with Marine Scientific Research
21 if there is evidence indicating that to proceed is
22 likely to cause serious harm to the Marine Environment;

23 (e) submit to the NSRA a preliminary report, a
24 final report, and assessment of data, samples and
25 research results at such times and in such formats as

1 are prescribed or agreed with the NSRA prior to
2 commencement of the project;

3 (f) hold securely and provide the NSRA with
4 access at its request to all data and samples derived
5 from the project;

6 (g) work with the NSRA to facilitate and support
7 financially the participation of a representative of the
8 Federated States of Micronesia in the project;

9 (h) inform the NSRA of any major changes to the
10 proposed Marine Scientific Research program from the
11 information provided in the application for consent;

12 (i) submit to the NSRA immediately by telephone
13 and in writing notice of any Incident; and

14 (j) after completion of the project, remove any
15 installations or equipment unless otherwise agreed with
16 the NSRA."

17 Section 107. Title 24 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by creating a
19 new chapter 9 under subtitle II entitled: "Financial
20 Arrangements".

21 Section 109. Title 24 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by inserting a
23 new section 901 under chapter 9 of subtitle II to read as follows:

24 "Section 901. Payments by Prospectors, Licensees and
25 Sponsored Parties.

1 (1) Application fee

2 An Applicant for a Title under this subtitle shall upon
3 Application pay to the NSRA the Prescribed fee, which
4 shall be non-recoverable.

5 (2) License fees

6 The NSRA may prescribe that a Licensee shall be required
7 to pay an annual License fee, the amount or manner of
8 determining the License fee, and the times and manner of
9 payment.

10 (3) Sponsorship payments

11 The holder of a Sponsorship Certificate shall pay to the
12 NSRA:

13 (a) such sums by way of annual administrative
14 fees for the Federated States of Micronesia's
15 sponsorship of its Seabed Mineral Activities in the
16 Area, and

17 (b) where the Sponsorship Certificate pertains to
18 a contract for Mining in the Area, such sums by way of a
19 commercial recovery payment, at such times and in such
20 amounts as may be Prescribed, or provided in the
21 Sponsorship Certificate or a sponsorship agreement made
22 under this subtitle.

23 (4) Retention fees

24 Where the NSRA makes a determination under subsection
25 617(2) to retain an area for future Mining by a

1 Licensee, the NSRA may prescribe that a Licensee shall
2 be required to pay an annual retention fee, the amount
3 or manner of determining the retention fee, and the
4 times and manner of payment.

5 (5) Taxes

6 Title Holders, and their sub-contractors, advisors, and
7 employees shall pay all applicable customs duties and
8 taxes in accordance with the relevant applicable laws of
9 the Federated States of Micronesia.

10 (6) Seabed Minerals royalties

11 (a) The holder of a Mining License shall pay into
12 a dedicated Treasury account such sums by way of
13 royalties for the extraction of the Federated States of
14 Micronesia's Seabed Minerals and at such times as may be
15 specified in Regulations or in any other law enacted for
16 such purpose. Each payment shall be accompanied by
17 details of the Seabed Minerals produced, sold or
18 disposed of, and the details of the payment and how the
19 payment has been calculated.

20 (b) Where any such royalty payment relates to
21 Seabed Minerals located within a State's Territorial
22 Seas or internal waters, Treasury shall transfer any
23 such royalties to that State.

24 (7) Transfer fees

25 A Title Holder shall upon any transfer of Title under

1 section 1005 of this subtitle, or any significant change
2 in the ownership of the Title Holder under section 1006
3 of this subtitle, pay any transfer fees as may be
4 Prescribed."

5 Section 110. Title 24 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by inserting a
7 new section 902 under chapter 9 of subtitle II, to read as follows:

8 "Section 902. Recovery of payments owed by Title
9 Holders.

10 A sum of money payable pursuant to section 901 of this
11 subtitle, is a debt due to the Federated States of
12 Micronesia, and may be recovered in a court of competent
13 jurisdiction, where:

14 (a) in any such proceedings a certificate of the
15 NSRA certifying that a specified sum of money is so
16 payable, shall be received as evidence of that fact;

17 (b) any sum unpaid by the Title Holder may at the
18 court's discretion may be recovered from any security
19 deposited by the Title Holder under section 1003 of this
20 subtitle; and

21 (c) interest on the amount outstanding may
22 additionally be charged at a Prescribed or otherwise
23 reasonable rate determined by the court."

24 Section 111. Title 24 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by inserting a

1 new section 903 of chapter 9, to read as follows:

2 "Section 903. Security Deposit.

3 (1) The NSRA may before granting a Title require an
4 Applicant for a Title to deposit security as a guarantee
5 of performance of the obligations attaching to the Title
6 and that may be used to rectify any damage, clean-up,
7 compensation, or other loss arising or resulting from a
8 failure or fault by the Licensee to adhere to its
9 obligations under this subtitle.

10 (2) The NSRA shall, in consultation with the Licensee
11 at Application stage, determine the form of the
12 security, the amount or value of the security, and the
13 terms and conditions under which the security is held or
14 may be used by the NSRA."

15 Section 112. Title 24 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by inserting a
17 new section 904 under chapter 9 of subtitle II, to read as follows:

18 "Section 904. The Seabed Resources Fund.

19 (1) There shall be established under the control and
20 management of the Department of Finance and
21 Administration a fund to be called the Seabed Resources
22 Fund into which there shall be paid any sums paid under
23 section 901 of this subtitle excepting:

24 (a) any funds required to be transferred to State
25 in accordance with section 901(6)(b) of this subtitle,

1 and

2 (b) any funds allocated by the Treasury to be
3 used directly for the purposes of covering the costs of
4 establishing and operating the NSRA to perform its
5 functions under this subtitle.

6 (2) The Seabed Resources Fund is established with the
7 objective to ensure the prudent management of the Seabed
8 Minerals for the benefit of present and future
9 generations.

10 (3) The rules for the operation and management of the
11 Seabed Resources Fund shall be laid down in a separate
12 Act passed by Congress or by regulation promulgated by
13 the NSRA."

14 Section 113. Title 24 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by creating a
16 new chapter 10 under subtitle II entitled: "Miscellaneous".

17 Section 114. Title 24 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by inserting a
19 new section 1001 under chapter 10 of subtitle II, to read as
20 follows:

21 "Section 1001. Vessel Standards.

22 (1) Title Holders must at all material times ensure
23 the following in respect of vessels engaged in Seabed
24 Mineral Activities and Ancillary Operations:

25 (a) all the Federated States of Micronesia's

1 flagged vessels comply with the laws of the Federated
2 States of Micronesia regulating the construction,
3 certification, maintenance, operation, crewing of
4 vessels, including in Title 19 of the Code of the
5 Federated States of Micronesia, and any enactment or
6 amendment replacing, or regulations made under that
7 Title, and comply with all applicable international
8 standards incorporated into the Federated States of
9 Micronesia's laws by reference;

10 (b) all foreign flag vessels whose flag state is
11 party to the International Convention for Safety of Life
12 at Sea, 1974 (SOLAS 74) possess current valid SOLAS 74
13 certificates and comply with the flag state's
14 requirements and standards concerning ship
15 certification;

16 (c) all foreign flag vessels whose flag state is
17 not party to SOLAS 74 but is party to the International
18 Convention for the Safety of Life at Sea, 1960 (SOLAS
19 60) possesses current valid SOLAS 60 certificates and
20 comply with the flag state's requirements and standards
21 concerning ship certification;

22 (d) all foreign flag vessels whose flag state is
23 not a party to either SOLAS 74 or SOLAS 60 meets all
24 applicable structural and safety requirements contained
25 in the published rules of a member of the International

1 Association of Classification Societies (IACS) and
2 comply with other flag state requirements and standards
3 concerning ship certification;

4 (e) submission of the applicable certification in
5 accordance with this section for each vessel to be used
6 in the Seabed Mineral Activities which has not
7 previously been submitted to the NSRA, not less than 5
8 Business Days before the commencement of the cruise on
9 which the vessel will be used; and

10 (f) all vessels, installations and equipment are
11 in good repair.

12 (2) A person who does not comply with any of the
13 provisions of subsection (1) commits an offense, and any
14 person guilty of that offense shall be liable to a fine
15 not exceeding one hundred thousand dollars (\$100,000) or
16 to a prison term not exceeding 3 years or both."

17 Section 115. Title 24 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by inserting a
19 new section 1002 under chapter 10 of subtitle II, to read as
20 follows:

21 "Section 1002. Discovery by Title Holder of Seabed
22 Minerals not covered by Title.

23 (1) A Title Holder shall notify the NSRA during the
24 course of conducting Seabed Mineral Activities of the
25 discovery and location of any Seabed Minerals to which

1 that Title does not relate, within thirty days of the
2 discovery.

3 (2) Any application to include newly discovered Seabed
4 Minerals in an existing Title shall be treated as a
5 variation of the Title, in accordance with the relevant
6 provisions of this subtitle or as may be prescribed."

7 Section 116. Title 24 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by inserting a
9 new section 1003 under chapter 10 of subtitle II, to read as
10 follows:

11 "Section 1003. Environmental conditions arising from
12 Environmental and Social Impact Assessment.
13 The terms of any environmental conditions arising from
14 an Environmental and Social Impact Assessment conducted
15 in compliance with this subtitle or any other law of the
16 Federated States of Micronesia shall be adopted as part
17 of the terms and conditions of any Title issued under
18 this subtitle."

19 Section 117. Title 24 of the Code of the Federated States of
20 Micronesia, as amended, is hereby further amended by inserting a
21 new section 1004 under chapter 10 of subtitle II, to read as
22 follows:

23 "Section 1004. Reports required under this subtitle.
24 The form and content of any date or report required to
25 be supplied to the NSRA under this subtitle shall

1 conform to any requirement Prescribed or specified in
2 the conditions of the relevant Title."

3 Section 118. Title 24 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by inserting a
5 new section 1005 under chapter 10 of subtitle II, to read as
6 follows:

7 "Section 1005. Transfer of Title.

8 (1) No Title granted under this subtitle can be
9 assigned, transferred, leased, sub-let or mortgaged
10 without the NSRA's prior written consent.

11 (2) In considering whether or not to give such
12 consent, the NSRA may require the same information from
13 the proposed transferee as would be required of a new
14 Applicant for the same Title under this subtitle, and an
15 undertaking that the transferee assumes all of the
16 obligations of the transferor, and the NSRA may require
17 the transferee to comply with the same processes as are
18 required by this subtitle or otherwise Prescribed for an
19 Application for that type of Title.

20 (3) A transfer of Title will only become effective
21 upon payment of any transfer fee required under section
22 901 of this subtitle, and entry into the register of
23 Titles maintained by the NSRA under section 406 of this
24 subtitle."

25 Section 119. Title 24 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by inserting a
2 new section 1006 under chapter 10 of subtitle II, to read as
3 follows:

4 "Section 1006. Change of Ownership, Constitution or
5 Control of a Title Holder.

6 (1) A Title Holder shall notify the NSRA of any
7 significant change in the constitution, ownership,
8 control or corporate organization of the Title Holder.

9 (2) The NSRA shall determine whether a change of the
10 type stipulated in subsection (1) shall be considered a
11 transfer for the purposes of section 1005 of this
12 subtitle."

13 Section 120. Title 24 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 1007 under chapter 10 of subtitle, to read as follows:

16 "Section 1007. Suspension of Title.

17 (1) A Title confers no entitlements during any period
18 it is suspended under this subtitle.

19 (2) The power to suspend a Title under this subtitle
20 includes a power to lift the suspension."

21 Section 121. Title 24 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by inserting a
23 new section 1008 under chapter 10 of subtitle II, to read as
24 follows:

25 "Section 1008. Termination of Title. A Title granted

1 terminates if, pursuant to this subtitle:
2 (a) its term expires, without renewal;
3 (b) it is surrendered by the Title Holder;
4 (c) it is revoked by the NSRA; or
5 (d) in the case of an Exploration License, it
6 ceases to be in force in respect of the whole of its
7 area under section 617 of this subtitle."

8 Section 122. Title 24 of the Code of the Federated States of
9 Micronesia, as amended, is hereby further amended by inserting a
10 new section 1009 under chapter 10 of subtitle II, to read as
11 follows:

12 "Section 1009. Grant of Title confers reasonable rights
13 of access.
14 A Title under this subtitle entails the right of
15 navigation within the Exclusive Economic Zone (or
16 Territorial Sea and internal waters where such
17 responsibility has been delegated to NSRA by State under
18 this subtitle) in so far as is reasonably required by
19 the Title Holder to access the area that is the subject
20 of the consent or Title."

21 Section 123. Title 24 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by inserting a
23 new section 1010 under chapter 10 of subtitle II, to read as
24 follows:

25 "Section 1010. Nothing under this subtitle to authorize

1 unnecessary interference with other sea users.

2 (1) A Title Holder must carry out the Seabed Mineral
3 Activities in such a way that will not interfere
4 unreasonably with the exercise of the freedom of the
5 high seas as reflected in Article 87 of the UN
6 Convention on the Law of the Sea, or the unreasonable
7 interference with any other subsisting legitimate use of
8 any part of the sea or the seabed.

9 (2) Any works or installations erected by a Title
10 Holder in or over any part of the sea must be of such
11 sort and must be made, placed, marked and buoyed,
12 equipped and maintained in such a way as to leave safe
13 and convenient channels for shipping in the area.

14 (3) A Title Holder contravenes this section if:

15 (a) its performance of Seabed Mineral Activities
16 or Ancillary Operations, interferes with lawfully
17 conducted:

18 (i) navigation;

19 (ii) fishing;

20 (iii) submarine cabling;

21 (iv) Marine Scientific Research;

22 (v) conservation of the resources of the sea
23 or the seabed; or

24 (vi) any other activities that are lawfully
25 being carried out; and

1 (b) that interference is greater than is
2 necessary for the reasonable exercise of the rights or
3 performance of the person's duties under the Title.

4 (4) Any person who contravenes this section commits an
5 offense punishable upon conviction to a fine not
6 exceeding five thousand dollars (\$5,000)."

7 Section 124. Title 24 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by inserting a
9 new section 1011 under chapter 10 of subtitle II, to read as
10 follows:

11 "Section 1011. Rights of other nations.

12 (1) Nothing in this subtitle affects the rights of
13 other nations in accordance with Article 142 and other
14 relevant provisions of the UN Convention on the Law of
15 the Sea.

16 (2) Any other national Government which has grounds
17 for believing that Seabed Mineral Activities have
18 caused, are causing, or are likely to cause Serious Harm
19 to the Environment under its jurisdiction may notify the
20 NSRA in writing of the grounds upon which such belief is
21 based. The NSRA shall provide any Applicant or Title
22 Holder affected by the notice with a reasonable
23 opportunity to examine the notice and evidence, if any,
24 provided by the Government as the basis for its belief,
25 and submit its observations thereon to the NSRA within a

1 time that is reasonable in the circumstances.

2 (3) If in the NSRA's opinion, upon consultation with
3 the relevant stakeholders, there are clear grounds for
4 the national Government's belief under subsection (2),
5 the NSRA must take immediate measures of a temporary
6 nature to stop, prevent, or mitigate that harm to the
7 Environment, including by direction or Order to any
8 affected Title Holders."

9 Section 125. Title 24 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by inserting a
11 new section 1012 under chapter 10 of subtitle II, to read as
12 follows:

13 "Section 1012. Objects of an archaeological or
14 historical nature:

15 (1) Any Title Holder finding an object of an
16 archaeological or historical nature within the
17 jurisdiction or control of the Federated States of
18 Micronesia must report that find to the NSRA and treat
19 the object in accordance with the NSRA's instructions,
20 and must safeguard the object pending receipt of those
21 instructions.

22 (2) The instructions given by the NSRA under this
23 section shall take into account Articles 149 and 303 of
24 the UN Convention on the Law of the Sea."

25 Section 126. Title 24 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by inserting a
2 new section 1013 under chapter 10 of subtitle II, to read as
3 follows:

4 "Section 1013. No interest in land.
5 The grant of a Title under this subtitle does not create
6 an estate or interest in land other than the rights
7 expressly granted by this subtitle or the Title, nor
8 does a grant of a Title give rise to land taxation
9 duties."

10 Section 127. Title 24 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by inserting a
12 new section 1014 under chapter 10 of subtitle II, to read as
13 follows:

14 "Section 1014. Safety Zones.
15 (1) For the purpose of protecting an installation,
16 infrastructure, facility or vessel being used for Seabed
17 Mining Activities, the NSRA may, by notice, prohibit all
18 vessels or specified classes of vessels, from entering
19 or being present in a specified surrounding area ('the
20 safety zone') without the written consent of the NSRA.
21 (2) The owner of a vessel and any person in formal or
22 substantive command of a vessel commits an offense
23 against this section if the vessel enters or remains in
24 a safety zone in contravention of subsection (1).
25 (3) Any person guilty of an offense under this section

1 shall be liable to a fine not exceeding five thousand
2 dollars (\$5,000).

3 (4) It is a defense to a prosecution of a person for
4 an offense against subsection (2) if the person
5 satisfies the court that:

6 (i) an unforeseen emergency made it necessary for
7 the vessel to enter or remain in the safety zone to
8 attempt to secure the safety of human life, a vessel,
9 pipeline, structure, or equipment;

10 (ii) the vessel entered or remained in the safety
11 zone in circumstances beyond the control of the person
12 who was in command or in charge of the vessel; or

13 (iii) the vessel's owner is under prosecution and
14 did not know that the person in command or in charge of
15 the vessel was in contravention of subsection (2)."

16 Section 128. Title 24 of the Code of the Federated States of
17 Micronesia, as amended, is hereby further amended by inserting a
18 new section 1015 under chapter 10 of subtitle II, to read as
19 follows:

20 "Section 1015. Interference with Seabed Mineral
21 Activities.

22 (1) Unless authorized under this subtitle or
23 Regulations, no person may interfere with Seabed Mineral
24 Activities, or Ancillary Operations.

25 (2) For the purposes of this section, "interfere"

1 means willful sabotage of operations, or violence
2 against any representative of the NSRA or a Title Holder
3 in the performance of their respective functions and
4 duties under this subtitle or a Title, or similar
5 physical interference or obstruction without reasonable
6 excuse.

7 (3) Any person who does not comply with subsection (1)
8 commits an offense.

9 (4) Any person guilty of an offense under this section
10 shall be liable to a fine not exceeding five thousand
11 dollars (\$5,000) or to a prison term not exceeding two
12 years or both."

13 Section 129. Title 24 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 1016 under chapter 10 of subtitle II, to read as
16 follows:

17 "Section 1016. Indemnity of Public Officials
18 The NSRA, authorized officers of the NSRA, and other
19 Public Officials shall not be liable for anything done
20 or omitted to be done in good faith in the performance
21 of any function vested in or delegated to them under
22 this subtitle."

23 Section 130. Title 24 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting a
25 new section 1017 under chapter 10 of subtitle II, to read as

1 follows:

2 "Section 1017. Public Officials prohibited from
3 acquiring Title rights.

4 (1) No Public Official shall, directly or indirectly,
5 acquire any individual right or interest in any Title,
6 and any document or transaction purporting to confer any
7 right or interest on any such officer shall be null and
8 void.

9 (2) No member of the NSRA or Public Official employed
10 in the NSRA shall in their personal capacity acquire or
11 retain any share or commercial interest in a private
12 company carrying Seabed Mineral Activities during that
13 employment or within two years following the cessation
14 of that employment.

15 (3) Any person who violates subsection (2) commits an
16 offense.

17 (4) Any person guilty of an offense under this section
18 shall be liable to a fine not exceeding fifty thousand
19 dollars (\$50,000) or to a prison term not exceeding two
20 years or both."

21 Section 131. Title 24 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by inserting a
23 new section 1018 under chapter 10 of subtitle II, to read as
24 follows:

25 "Section 1018. Conflict of interest.

1 (1) Neither the Executive Director nor any member or
2 employee of the NSRA in his or her capacity as such
3 shall willingly participate in any matter in which he or
4 she knows or reasonably should know he or she has a
5 conflict of interest.

6 (2) A conflict of interest exists if the Executive
7 Director, member or employee could personally benefit
8 directly or indirectly from a decision on a matter over
9 which he or she has influence or control, or if a matter
10 over which he or she has influence or control relates in
11 any way to a business or property he or she or a family
12 member directly or indirectly owns or controls, or in
13 which he or she has a beneficial interest of any kind,
14 whether through a trust or otherwise.

15 (3) Any conflict of interest shall be disclosed, and
16 such disclosure shall be recorded in the minutes of the
17 NSRA, and that member or employee shall not take part in
18 any deliberation, decision, or execution of a decision
19 of the NSRA.

20 (4) In this section, the following terms shall have
21 the meanings stated below:

22 (a) 'Benefit' shall mean gain or advantage of any
23 kind, and shall include financial gain, property,
24 service, or improvement of condition.

25 (b) 'Business' shall mean businesses of any kind

1 whether situated in the Federated States of Micronesia
2 or elsewhere and whether incorporated or not.

3 (c) 'Family member' shall mean a parent, brother,
4 sister, spouse, nephew, niece or child, including a
5 person who is adopted legally or in accordance with
6 custom, or for whom care was given such that a
7 relationship exists in the nature of parent and child.
8 The term shall also include a spouse of any person
9 referred to in this definition and their children.

10 (d) 'Interest' shall mean either direct ownership
11 of, indirect ownership of, shares in, financial benefit
12 from, or complete or partial control of, such property
13 or business.

14 (e) 'Property' shall mean real or personal
15 property of every description whether situated in the
16 Federated States of Micronesia or elsewhere.

17 (5) A person who violates the provisions of this
18 section commits an offense and upon conviction shall be
19 liable to a fine of not more than fifty thousand dollars
20 (\$50,000), imprisonment for not more than three years,
21 or both."

22 Section 132. Title 24 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by inserting a
24 new section 1019 under chapter 10 of subtitle II, to read as
25 follows:

1 "Section 1019. Import Duties.

2 (1) A Title Holder and its nominated contractors and
3 subcontractors engaged in Seabed Mineral Activities are
4 hereby permitted to import into the Federated States of
5 Micronesia's jurisdiction free of duty or other taxes on
6 imports of machinery, equipment, vehicles, materials,
7 supplies, consumable items, and moveable property where
8 imports of any of the said categories have been
9 certified by the Title Holder to be for use solely in
10 carrying out Seabed Mineral Activities under the Title.

11 (2) Any of the items imported into the Federated
12 States of Micronesia may, if no longer required for the
13 Seabed Mineral Activities, be freely exported at any
14 time by the importing party without the payment of any
15 export or import duty.

16 (3) On the sale or transfer by the importer of any
17 duty free imported items to any person in the Federated
18 States of Micronesia, import duty shall be payable by
19 the importer on the value thereof at the date of such
20 sale or transfer."

21 Section 133. Title 24 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by inserting a
23 new section 1020 under chapter 10 of subtitle II, to read as
24 follows:

25 "Section 1020. Offense committed by a body corporate.

1 Where an offense under this subtitle that has been
2 committed by a body corporate is committed with the
3 consent or connivance, or is attributable to the
4 neglect, of any Director or officer of the body
5 corporate, that officer as well as the body corporate is
6 guilty of that offense and, in respect of an offense
7 punishable by a fine only, if the court finds that the
8 offense was committed by that person willfully,
9 recklessly, corruptly or for the purpose of personal
10 gain, that officer is liable to imprisonment for a
11 period of up to two years."

12 Section 134. Title 24 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting a
14 new section 1021 under chapter 10 of subtitle II, to read as
15 follows:

16 "Section 1021. Notice.
17 Any application, request, notice, warning, report, or
18 direction made or given under this subtitle, or service
19 of process or notification in any proceeding of any
20 court or tribunal having jurisdiction, shall be made by
21 the NSRA or the representative of the Title Holder
22 designated in the Title in writing, and shall be deemed
23 served the day after delivery, if delivered by hand,
24 facsimile or email to the NSRA or to the designated
25 representative."

1 Section 135. Title 24 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by inserting a
3 new section 1022 under chapter 10 of subtitle II, to read as
4 follows:

5 "Section 1022. Disputes.

6 (a) Any dispute arising between the Federated
7 States of Micronesia and another State in connection
8 with Seabed Mineral Activities shall be resolved
9 pursuant to the provisions of the UN Convention on the
10 Law of the Sea;

11 (b) Any dispute between the Federated States of
12 Micronesia and a Title Holder arising in connection with
13 the administration of this subtitle shall be dealt with
14 by:

15 (i) the parties attempting to reach
16 settlement by mutual agreement or mediation, and in the
17 event this is not successful then,

18 (ii) by referral to the courts of the
19 Federated States of Micronesia or, upon agreement by the
20 parties, by arbitration to be conducted by the
21 International Centre for Settlement of Investment
22 Disputes established under Convention on the Settlement
23 of Investment Disputes between States and Nationals of
24 other States."

25 Section 136. Title 24 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by inserting a
2 new section 1023 under chapter 10 of subtitle II, to read as
3 follows:

4 "Section 1023. Transitional provisions

5 One year from the commencement of this subtitle:

6 (a) any authority or minerals right granted under
7 any other legislation or otherwise to carry out Seabed
8 Mineral Activities in the Exclusive Economic Zone or
9 upon the Continental Shelf shall expire; and

10 (b) any person or persons who were before the
11 commencement of this subtitle authorized to carry out
12 Seabed Mineral Activities in the Exclusive Economic Zone
13 or upon the Continental Shelf, to allow the continuation
14 of such activities, shall obtain a Permit or License
15 under this subtitle and comply with the requirements of
16 this subtitle."

17 Section 137. Title 24 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by inserting a
19 new section 1024 under chapter 10 of subtitle II, to read as
20 follows:

21 "Section 1024. Schedule I: Environmental and Social
22 Impact Assessment Contents.

23 For the purpose of section 622 of this subtitle, the
24 following is the minimum required content of an
25 Environmental and Social Impact Assessment and resulting

1 report, where one is required under this subtitle or any
2 other laws of the Federated States of Micronesia for any
3 part of any Seabed Mineral Activities carried out under
4 License under this subtitle.

5 A. Executive Summary: providing an explanation of the
6 Seabed Mineral Activities for non-technical readers,
7 including:

8 (1) description of the proposed activity and its
9 objectives,

10 (2) anticipated bio-physical and socio-economic of the
11 activity, highlighting which are direct and which
12 indirect, and which are reversible and which are
13 irreversible,

14 (3) details of remedial actions that are proposed,

15 (4) description of all benefits to be derived from the
16 project,

17 (5) details of consultation program undertaken by the
18 applicant, including degree of public interest,

19 (6) description of end-use plans for the development
20 activity

21 B. Introduction

22 (1) Background: summary of the project being proposed.

23 (2) Project History: summary of the work undertaken to
24 date, including Seabed Mineral deposit discovery and any
25 prospecting, exploration or test mining activities

1 conducted to date.

2 (3) Project Proponent: summary of the credentials of
3 the Licensee, including major shareholders, other Titles
4 owned or applied for (or similar within other
5 jurisdictions).

6 (4) Purpose and Justification: information on the
7 viability of the proposed activity, including but not
8 limited to the following:

9 (i) information on the capital cost
10 associated with the development,

11 (ii) details of the proponent's technological
12 expertise and resources,

13 (iii) results of any feasibility
14 investigations that have been carried out,

15 (iv) information on the extent of landowner
16 and/or resource owner support, including a copy of the
17 formal written approval of their consent,

18 (v) the anticipated life-span and
19 development phases of the project.

20 (5) This Report: statutory context, description of the
21 scope of the EIA, and the report's structure.

22 C. Policy, Legal and Administrative Framework:
23 information on relevant national legislation, agreements
24 or policy, relevant international agreements or
25 conventions, and other non-legal standards or

1 guidelines, that are applicable to the proposed
2 activity, and how the Licensee will comply with these
3 requirements.

4 D. Stakeholder Consultation: description of what
5 consultation has occurred with interested parties and
6 stakeholders, any consents received from local
7 communities, and what continuing consultation is
8 planned.

9 E. Description of Proposed Activity: including the
10 following:

11 (1) Location (with reference to a map)

12 (2) Details of the type, grade and volume of the
13 Seabed Mineral deposit, and estimates of inferred and
14 indicated resource

15 (3) The activity or activities that have triggered the
16 Environmental and Social Impact Assessment requirement,
17 a work plan showing how these are proposed to be
18 conducted

19 (4) A proposed timetable, with milestone dates by
20 which tasks are expected to be completed

21 (5) Seabed infrastructure to be used

22 (6) Technology to be employed (with reference to
23 relevant diagrams and drawings), and details of any
24 construction and operating standards used

25 (7) Transport to be used

1 (8) Storage facilities to be used

2 (9) Anticipated waste products, and waste disposal
3 mechanisms to be used

4 (10) Any material-handling or hazardous material
5 management methods or protocols to be used

6 (11) Any Ancillary Operations, support equipment or
7 onshore infrastructure or processes required to carry
8 out the activity.

9 (12) Alternative sites or methods considered

10 (13) Workforce description and details of any health
11 and safety standards used

12 (14) Decommissioning, closure, and site rehabilitation
13 plans

14 F. Description of Existing Environment: detailed
15 account of knowledge of the environmental conditions at
16 the site, and a baseline description of geological,
17 oceanographic and biological conditions against which
18 impacts will be measured and assessed, including:

19 (1) Regional oceanographic, geological and biological
20 overview

21 (2) Studies and research activities completed which
22 provide relevant information

23 (3) Special characteristics of the site

24 (4) Meteorology and air quality

25 (5) Geological setting

1 (6) Physical oceanographic setting, including water
2 quality and sediment characteristics

3 (7) Biological environment

4 (i) Pelagic (surface to 200m depth)

5 (ii) Midwater (between 200m depth and seafloor)

6 (iii) Benthic (at seafloor level)

7 (8) Natural hazards

8 (9) Noise

9 (10) Air quality

10 (11) Description of existing onshore environment, as
11 relevant

12 (12) Socio-economic environment of the site, including:
13 other Seabed Mineral Activities, fisheries, Marine
14 Scientific research, navigation lanes, submarine
15 cablings, tourism, customary sea use, aquaculture.

16 (13) Cultural/Historic resources

17 (14) Socio-economic and socio-cultural issues
18 generally, including onshore direct or indirect impacts,
19 and anticipated effects on the livelihoods and
20 lifestyles of the population of the Federated States of
21 Micronesia.

22 G. Environmental impacts on the seabed site, the
23 regional site, and the coastal and onshore environment,
24 mitigation and management measures-

25 (1) the nature and extent of any impact on any and all

1 of the categories listed in section F, and also, insofar
2 as not covered by the section F categories, the effects
3 / issues anticipated from:

4 (i) Greenhouse gas emissions and climate
5 change;

6 (ii) Biosecurity

7 (iii) Pollution

8 (iv) Health and safety of workers

9 (v) Waste management

10 (vi) Economic benefit or impact for the
11 Federated States of Micronesia

12 (vii) Skills development, industry diversity
13 and community impacts for the Federated States of
14 Micronesia

15 (viii) Supply chain, utilities, access to
16 water, fuel, and impact to local communities in terms of
17 access to supplies

18 (ix) Any other direct or indirect impacts on
19 the Federated States of Micronesia's population

20 (x) Environmentally hazardous discharges
21 resulting from accidental and extreme natural events

22 (2) measures that will be taken to avoid, mitigate,
23 minimize or such impact; and

24 (3) what unavoidable impacts will remain;

25 (4) how those impacts will be compensated for.

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