A BILL FOR AN ACT

To further amend title 22 of the Code of the Federated States of Micronesia, as amended, by repealing chapter 4 in its entirety, and by creating a new chapter 4, to prevent animal and plant pests and diseases from entering the Federated States of Micronesia, to regulate the movement of animals and plants and their products, to control the establishment and spread of animal and plant pests and diseases that enter the Federated States of Micronesia, to facilitate international cooperation in respect of animal and plant diseases, and for other purposes.

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

Section 1. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by repealing chapter 4 in its entirety.

Section 2. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by creating a new chapter 4 entitled, “Biosecurity”.

Section 3. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding new subchapter 1, under chapter 4 entitled: “General Provisions”

Section 4. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 401 under subchapter I of chapter 4, to read as follows:

"Section 401. Short title.

This chapter may be cited as the Federated States of Micronesia Biosecurity Act."

Section 5. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 402 under subchapter I of chapter 4, to read as follows:

"Section 402. Regulation of the movement of plants and animal products.

The Director shall have the authority to regulate the movement of plants and animal products into the Federated States of Micronesia to prevent the entry of animal and plant pests and diseases.

Section 403. Establishment of zones.

The Director shall have the authority to establish zones to prevent the entry of animal and plant pests and diseases.

Section 404. Quarantine zones.

The Director shall have the authority to establish quarantine zones to prevent the entry of animal and plant pests and diseases.

Section 405. Pest and disease surveillance.

The Director shall have the authority to establish pest and disease surveillance programs to prevent the entry of animal and plant pests and diseases.

Section 406.avirus and disease control.

The Director shall have the authority to establish programs to control animal and plant pests and diseases.

Section 407. Research and development.

The Director shall have the authority to conduct research and development to prevent the entry of animal and plant pests and diseases.

Section 408. Training and education.

The Director shall have the authority to conduct training and education programs to prevent the entry of animal and plant pests and diseases.

Section 409. Emergency response.

The Director shall have the authority to respond to emergencies caused by animal and plant pests and diseases.

Section 410. Reporting requirements.

All persons and organizations shall comply with the reporting requirements established by the Director to prevent the entry of animal and plant pests and diseases.

Section 411. Penalties.

Any person who violates any provision of this chapter shall be fined or imprisoned, as provided by law.

Section 412. Severability.

If any provision of this chapter is held invalid by any court of competent jurisdiction, the remainder of this chapter shall not be affected.

Section 413. Effective date.

This chapter shall take effect upon approval by the President of the Federated States of Micronesia.
Micronesia, as amended, is hereby further amended by adding a new section 402 of subchapter I of chapter 4 to read as follows:

"Section 402. Public policy.

The Federated States of Micronesia, through the implementation of this chapter, adopts a policy of maintaining and enhancing national biosecurity protection for the benefit of the nation’s citizens and environment. Specifically, to the extent of the available resources, this chapter aims:

(a) to protect the Federated States of Micronesia against the entry of regulated pests and diseases affecting animals, plants, human beings and the environment;

(b) to monitor pests and diseases in the Federated States of Micronesia and assess the status of regulated pests and diseases;

(c) to prevent the establishment and spread of regulated pests and diseases and the release of organisms that might adversely affect animals, plants, human beings and the environment in the Federated States of Micronesia;

(d) to eradicate, contain or control the movement of regulated pests and diseases that are already present in the Federated States of Micronesia;

(e) to prevent the introduction and spread of
regulated pests and diseases not already present in the
Federated States of Micronesia;
(f) to facilitate the safe importation into the
Federated States of Micronesia of animals and plants and
their products, and related equipment and technology;
(g) to facilitate the export of animals and
plants and their products in accordance with the
biosecurity requirements of the receiving countries; and
(h) to facilitate international cooperation to
prevent the spread of
pests and diseases affecting plants, animals, human
beings and the environment.”
Section 6. Title 22 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 403 under subchapter I of chapter 4, to read as follows:
“Section 403. Definitions.
Wherever used in this chapter:
(1) “Aircraft” means any conveyance that may be used
in navigation by air;
(2) “Animal” means any mammal (other than a human),
bird, insect, amphibian, reptile, fish, mollusk, or any
other living organism except a plant, whether alive or
dead, and includes the egg, embryo, ova or semen and any
organic animal tissue from which another animal could be
produced, and the hide, skin, hair, feathers, shell,
horns, hoof, viscera or any other part or portion of the body of an animal;

(3) “Animal product” means any article or substance derived from an animal, whether or not in combination with any other article or substance, and includes –

   (a) meat, fat, milk, whey, cream, butter, cheese, egg and other foodstuffs derived from an animal;
   
   (b) the dung, urine, feces, saliva, bone or blood of an animal, or any article or substance derived from the dung, urine, feces, saliva, bone or blood of an animal;
   
   (c) the secretions of any animal;
   
   (d) any product or biological preparation derived from any animal tissue or animal secretion;

(4) “Article” means a single unit of any goods;

(5) “Authorized” means duly authorized by the Secretary for the purposes of this chapter;

(6) “Baggage” means any goods which accompany a passenger or crew member on a conveyance, including clothing and any article attached or otherwise connected to the body or clothing of any passenger or crew member;

(7) “Ballast water” means water (including sediment that is or has been contained in water) used as ballast in a vessel;

(8) “Biosecurity” means the control by legal and
administrative means of pests and diseases affecting 
animals, plants and their products, in order to avoid 
adverse effects from such pests and diseases on the 
economy and health of the Federated States of 
Micronesia;

(9) “Biosecurity approved premises” means premises 
approved for the inspection, testing and treatment of 
regulated articles under section 426;

(10) “Biosecurity authority” of a receiving country 
means the authority or officer in that country which 
administers its biosecurity laws;

(11) “Biosecurity certification requirement”, in 
relation to an article, means a requirement by a 
receiving country for a sanitary or phytosanitary 
certificate or a certificate of origin in respect of the 
article;

(12) “Biosecurity clearance”, in respect of a regulated 
article or consignment, means biosecurity import 
clearance or biosecurity export clearance;

(13) “Biosecurity clearance agent” means a person in 
the Federated States of Micronesia appointed by an 
importer or exporter under section 414 for the purposes 
of this chapter as the agent of the importer or exporter 
to supervise the biosecurity clearance of a conveyance, 
container, animal, plant, animal or plant product or any
(14) “Biosecurity control” of a regulated article means submission of the article for inspection under this chapter, and thereafter taking such biosecurity measures, or permitting such measures to be taken, as are directed pursuant to this chapter, until biosecurity clearance is granted in respect of the article;

(15) “Biosecurity controlled area” means an infested biosecurity controlled area declared under section 445 or a pest-free biosecurity controlled area declared under section 447;

(16) “Biosecurity declaration” in relation to an article or consignment means a written statement of the nature, quantity and origin of the article or consignment, and of other details relating to it required by or under this chapter;

(17) “Biosecurity emergency” means the incursion or suspected incursion of a regulated pest or disease into any area of the Federated States of Micronesia, or the existence of some other biosecurity threat, which requires urgent action, whether by eradication, containment or other response, and for which the powers under this chapter are not otherwise adequate;

(18) “Biosecurity emergency area” means an area declared in response to a biosecurity emergency under
section 452;
(19) “Biosecurity export clearance” of an article means permission granted under this chapter or the regulations;
(20) “Biosecurity functions of the national government” means the regulatory and administrative functions set out in this chapter or the regulations;
(21) “Biosecurity goods holding area” means an area of land at or adjacent to a seaport or airport designated under section 412 for the biosecurity inspection of incoming or outgoing articles and consignments;
(22) “Biosecurity holding area” means a biosecurity port holding area, a biosecurity goods holding area or a biosecurity postal holding area;
(23) “Biosecurity import clearance” of an article means permission for the article or consignment to be removed from a biosecurity holding area provided in accordance with this chapter or the regulations;
(24) “Biosecurity import clearance inspection” of an incoming article means inspection of it to determine whether to grant biosecurity import clearance;
(25) “Biosecurity import permit” means a biosecurity import permit issued under this chapter or the regulations permitting the entry of an incoming article or articles;
(26) “Biosecurity import requirements” in relation to an article or consignment mean –

(a) the conditions of a biosecurity import permit, if one is required;

(b) the requirements of any sanitary or phytosanitary certificate relating to the article or consignment;

(c) any other biosecurity measures specified by a biosecurity officer under this chapter or the regulations;

(27) “Biosecurity inspection” of an incoming or outgoing conveyance, article or consignment means an inspection to ascertain whether the conveyance, article or consignment presents a biosecurity risk to the Federated States of Micronesia or a receiving country and whether in other respects it conforms to the requirements of this chapter;

(28) “Biosecurity measure” means the inspection, detention, quarantining, testing, treatment, re-consignment or destruction of a regulated article to eliminate or reduce the biosecurity threat presented by the article;

(29) “Biosecurity officer” means –

(a) the Secretary;

(b) any person designated as a biosecurity
officer under section 415;

(c) in respect of any particular function, a biosecurity officer to whom the function has been assigned or delegated under section 417;

(30) “Biosecurity point of departure” means a seaport, airport or post office designated under section 411 for the export of regulated articles;

(31) “Biosecurity point of entry” means a seaport, airport or post office designated under section 411 for the importation of regulated articles;

(32) “Biosecurity port holding area” means an area designated under section 412 for the biosecurity inspection of incoming vessels or aircraft;

(33) “Biosecurity port quarantine” means quarantine of a vessel or aircraft in a biosecurity port quarantine area;

(34) “Biosecurity port quarantine area” means an area designated under this chapter or the regulations for the quarantine of vessels and aircraft;

(35) “Biosecurity postal holding area” means an area of a post office designated under section 412 for the biosecurity inspection of incoming or outgoing postal items;

(36) “Biosecurity quarantine” means confinement in isolation of a regulated article and any
conveyance, container or packaging in which the article is carried, for inspection, testing and/or treatment; in order to prevent or limit the entry, introduction, establishment or spread of a regulated pest or disease;

(37) “Biosecurity quarantine station” means a facility under the control of the Secretary and designated under this chapter or the regulations for the performance of biosecurity quarantine, and includes a temporary biosecurity quarantine station;

(38) “Biosecurity register” means the register kept by the Secretary under section 418;

(39) “Biosecurity risk” means the likelihood of the introduction, establishment or spread of a pest or disease which would adversely affect animals, plants, human beings, the environment or economic activities, and the likely extent of such harm;

(40) “Biosecurity risk assessment” in relation to a regulated article means evaluation of the biosecurity risk posed by the article;

(41) “Biosecurity specifications” means biosecurity import or export requirements relating to an outgoing or incoming article specified by a biosecurity officer under this chapter or the regulations;

(42) “Biosecurity threat” means the threat of harm being caused or adverse effects resulting to animals.
plants, human beings, the environment or economic activities as a result of the introduction, establishment or spread of a regulated pest or disease;

(43) “Captain“, in relation to an aircraft, means the person for the time being in command of the aircraft;

(44) “Compliance agreement” means an agreement between the Secretary and another person as provided for in section 425;

(45) “Consignment” means a quantity of goods which arrive in the same vessel or aircraft and which in accordance with this chapter can be covered by a single import permit or sanitary or phytosanitary certificate;

(46) “Container” means anything in which or by which goods are encased, covered, enclosed or packed, including any material in contact with the goods;

(47) “Contamination” means the presence in any item of a pest, not constituting an infestation;

(48) “Conveyance” means a ship, aircraft, vehicle or other means of transporting people, goods or animals from one location to another, while it is being used or prepared for such transport;

(49) “Country of origin” includes a re-exporting country;

(50) “Custodian“, in respect of an item, means the occupier of a place or the person in possession and
charge of an article, whether lawfully or not, but does not include a person who has possession or control of the item only for the purpose of taking biosecurity measures in respect of it;

(51) “Department” means the Department of Resources and Development of the National Government of the Federated States of Micronesia;

(52) “Disease” means any unhealthy condition in an animal or plant which is known or suspected to be caused by an organism, and includes a disease transmissible from animals to humans and a disease capable of harming the environment;

(53) “Document” means any mode of communicating information in a retrievable form, including electronically;

(54) “Environment” includes -

(a) the ecosystem and its constituent parts, including people and communities;

(b) all natural and physical resources;

(c) the qualities and characteristics of locations, places and areas.

(55) “Eradication” means the application of measures to eliminate a pest or disease from an area;

(56) “Establishment”, in relation to a pest or disease, means the perpetuation in an area of the pest or disease
for the foreseeable future after its entry into the area;

(57) “Export” means:

(a) to take or send goods out of the Federated States of Micronesia; or

(b) to take goods, or cause goods to be taken, out of a State of the Federated States of Micronesia into another State of the Federated States of Micronesia.

(58) “Exporter” means a person who exports or seeks to export goods, other than as the master of the vessel or captain of the aircraft in which the goods are carried; and includes a biosecurity clearance agent;

(59) “Fittings” means any stall, box, cage, enclosure, pen, net or other material used for penning, yarding, confining or containing any animal and includes any harness, saddlery, rope, bucket, trough, bedding, utensil or implement used in the handling or keeping of animals or animal products;

(60) “Fodder” means any water, meat, vegetables, grain or material used for the food or litter of animals, or the storage of animal products;

(61) "Garbage" means waste material derived in whole or in part from plants, fruit, vegetables, meat or other plant or animal material, or other refuse of any kind that
has been associated with any plants, fruits, vegetables, meat or other plant or animal material;

(62) “Genetic material” means any material of plant, animal, microbial or other origin containing functional units of heredity;

(63) “Goods” means any kind of moveable property or thing;

(64) “Host material” means any packing material, container, fittings, litter, manure, fodder or similar goods that might have had contact with animals or plants or their products;

(65) “Import” means:

(a) to bring goods, or cause goods to be brought, into the Federated States of Micronesia; or

(b) to bring goods, or cause goods to be brought, from a State of the Federated States of Micronesia into another State of the Federated States of Micronesia.

(66) “Importer” means a person who imports or seeks to import goods, other than as the master of a vessel or captain of the aircraft in which the goods are carried; and includes a biosecurity clearance agent;

(67) “In transit”, in relation to goods, means the goods are not imported into an area but pass through it to another area, whether by the same or another conveyance, during which time they remain enclosed, are
not split up, are not combined with other goods, and do not have their packaging changed;

(68) “Infected”, in relation an animal or plant, means that the animal or plant is diseased or may have been exposed to the risk of infection during the preceding 6 months;

(69) “Infested”, in relation an item or area, means that there is present in the item or area a living pest or disease;

(70) “Inspection”, in relation to an item, means an official examination of the item to determine if any pest or disease is present in the item and whether in other respects the item conforms to the requirements of this chapter;

(71) “IPPC” means the International Plant Protection Convention of the Food and Agriculture Organization of the United Nations;

(72) “Introduction”, in relation to a pest or disease, means the entry of the pest or disease into an area, resulting in its establishment in the area;

(73) “Item” means any kind of moveable or immovable property or thing, including premises;

(74) “Living organism” means any organism capable of transferring or replicating genetic material, including sterile organisms, viruses, viroids, plasmids,
bacteriophages and prions;

(75) “Judicial officer” means a judge or justice of the Supreme Court of the Federated States of Micronesia;

(76) “Master”, in relation to a vessel, means the person for the time being in charge of the vessel, not being the pilot;

(77) “Microbe” means any organism or biotic entity of microscopic proportions, whether unicellular, multicellular or sub-cellular in common form;

(78) “Notifiable pest or disease” means a pest or disease which is declared under section 450 to be notifiable;

(79) “OIE” means the Organisation Internationale Epizootique;

(80) “Organism” means a biotic entity capable of reproduction or replication, other than a human;

(81) “Packing material” means any fabric, paper, cardboard, plastic, wood, straw, grass or leaves used in packing any goods, and any other type of material in which goods are covered, enclosed, contained or wrapped;

(82) “Person” means the Federated States of Micronesia, a State, municipality, political subdivision, a public or private institution, corporation, partnership, joint venture, association, firm, or company organized or existing under the laws of the Federated States of
Micronesia or any State or country, lessee or other occupant of property, or individual, acting singly or as a group;

(83) “Pest” means any species, strain or biotype of a plant, animal, microbe or pathogenic agent, or any organism, which:

(a) causes disease; or

(b) is detrimental to or capable of harming or adversely affecting animals or animal products, plants or plant products, human beings or the environment;

(84) “Pest risk analysis” means the evaluation by a qualified person of biological or other scientific and economic evidence to determine whether a pest or disease should be regulated and the nature of any biosecurity measures to be taken against it;

(85) “Phytosanitary certificate” means a certificate relating to a plant or plant product which:

(a) is issued by the biosecurity authority of the country of origin or re-exporting country;

(b) certifies that the plant or plant product is substantially free from plant pests and diseases and in other respects meets the plant health import requirements of the receiving country; and

(c) is patterned after the model certificates of the IPPC;
(86) “Plant” includes seeds, germplasm, any other part of a plant, a dead or preserved plant, and an aquatic plant;

(87) “Plant material” means any unmanufactured material of plant origin, including grain;

(88) “Plant product” means:

   (a) plant material;

   (b) timber; and

   (c) any product manufactured wholly or partly from one or more plants;

(89) “PPPO” means the Pacific Plant Protection Organization;

(90) “Precautionary principle” means the principle that it is reasonable to refuse permission for an activity where there are reasonable concerns that granting permission may result in substantial negative impact, even if the data in support of a refusal is uncertain, incomplete or not supported by full scientific consensus. Application of the precautionary principle in relation to this chapter must be consistent with Article 5.7 of the SPS Agreement;

(91) “Premises” means any immoveable property, other than land;

(92) “Prescribed” means prescribed by this chapter or by regulations made under it;
(93) “Prohibited import” means a regulated article the importation or ownership of which is prohibited under section 410;

(94) “Re-exporting country”, in relation any goods, means a country which is not the country of origin of the goods, but where a container or consignment of goods is opened and re-packed for export;

(95) “Receiving country” means a country which is the intended destination of an article being or proposed to be exported;

(96) “Reconsign”, in relation to a regulated article or consignment which has been refused biosecurity import clearance, means to send the article or consignment out of the Federated States of Micronesia, either by the vessel or aircraft on which it was imported or by another vessel or aircraft;

(97) “Regulated article” means:

(a) any animal or animal product;

(b) any plant or plant product;

(c) any living organism, whether modified or not;

(d) soil, sand gravel and aggregate;

(e) any genetic material;

(f) human remains;

(g) any host material;

(h) a regulated pest or disease;
(i) any clothing, machinery or other article that contains or has adhering to it anything mentioned in paragraph (a), (b), (c) or (d);

(j) garbage;

(k) any other article, substance, goods or thing declared by the Secretary by order under subsection (2) to be a regulated article for the purposes of this chapter;

(98) “Regulated consignment” means a consignment of regulated articles;

(99) “Regulated pest or disease” means a pest or disease the importation of which into the Federated States of Micronesia is prohibited or restricted under section 409;

(100) “Regulations” means regulations, orders and any other subsidiary legislation made under this chapter;

(101) “Sanitary certificate” means an international health certificate relating to an animal or animal product which:

(a) is issued by the biosecurity or agricultural Director of the country of origin or re-exporting country;

(b) certifies that the animal or animal product is substantially free from animal pests and diseases and in other respects meets the animal health import
requirements of the receiving country; and

(c) complies with relevant requirements of the
SPS Agreement or the exporting country, as the case may
be;

(102) “Secretary” means the Secretary of the Department
of Resources and Development;

(103) “Ship’s stores” means any food or other regulated
articles carried on a vessel or aircraft for consumption
or use on the vessel or aircraft;

(104) “Specified”, in relation to a requirement,
document, procedure or any other matter, means specified
by the Secretary under section 452;

(105) “Spread”, in relation to a pest or disease, means
the expansion of the geographical distribution of the
pest or disease within an area;

(106) “SPS Agreement” means the World Trade Organisation
Agreement on the Application of Sanitary and
Phytosanitary Measures;

(107) “State government means” the Governments of the
States of Yap, Chuuk, Pohnpei and Kosrae;

(108) “Status”, in relation to a pest or disease, means
its presence, absence, prevalence, incidence,
distribution and occurrence in an area;

(109) “Test” means an examination which goes beyond a
visual inspection, to determine if a pest or disease is,
or is likely to be, present or to identify a pest or disease, and includes chemical tests of plant material and diagnostic tests in respect of an animal;

(110) “this chapter” includes regulations and orders made under it;

(111) “Timber” includes round wood, sawn wood, wood chips and dunnage, with or without bark;

(112) “Treatment” means an authorized procedure for the killing, removal, modification or rendering infertile or non-viable of a pest or disease by way of cleansing, fumigation, inoculation, disinfection, disinfestation, decontamination, or otherwise;

(113) “Uncleared”, in relation to a regulated article, means that the article has not received biosecurity clearance;

(114) “under official control”, in relation to a pest or disease, means that its presence is known, its distribution is limited and its further spread is controlled by the exercise of powers under this chapter;

(115) “Vehicle” includes a car, truck, motorcycle, bicycle (whether motorized or not), cart and any other wheeled conveyance;

(116) “Vessel” includes a ship, hovercraft, boat, ferry, raft, yacht, canoe or pontoon that is used as a conveyance in or on water, whether or not it is self-
propelled;

(117) “Written” and “in writing” mean any mode form, including electronically;

Section 7. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 404 under subchapter I of chapter, to read as follows:

“Section 404. Declarations by Secretary.
The Secretary may by order declare any article, substance, goods or thing to be a regulated article for the purposes of this chapter.”

Section 8. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 405 under subchapter I of chapter 4, to read as follows:

“Section 405. Application of chapter.

(1) The provisions of this chapter apply to every person in the Federated States of Micronesia, irrespective of the person’s nationality or citizenship.

(2) The provisions of this chapter apply to all conveyances, containers and goods while they are in the Federated States of Micronesia, including vessels and aircraft owned or operated by the government of a foreign State;

(3) The provisions of this chapter apply to persons, conveyances, containers and goods outside the Federated States of Micronesia to the extent needed for its
effective enforcement.”

Section 9. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 407 under subchapter I of chapter 4, to read as follows:

“Section 406. Chapter binds the National and State Governments.
This chapter binds the Federated States of Micronesia, including every department of the National Government, the State Governments, every statutory authority and every person in the employment of the National Government or a State Government.”

Section 10. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 408 under subchapter I of chapter 4, to read as follows:

“Section 407. Responsibility for the chapter.
The Secretary is responsible for the implementation of this the provisions of this chapter and the performance of the biosecurity functions of the National Government, within the resources available to the Department.”

Section 11. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 408 under subchapter I of chapter 4, to read as follows:

“Section 408. Relationship with other laws.
(1) This chapter is in addition to and does not derogate from any other law of the Congress or of any of
the State Governments.

(2) To the extent of any inconsistency between this chapter and any other law of the National Government or of a State Government, every other law must so far as possible be construed so as to fulfill the purpose of this chapter.”

Section 12. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding new subchapter II, of chapter 4 entitled “Border Biosecurity Control”.

Section 13. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 409 under subchapter II of chapter 4, to read as follows:

“Section 409. Regulated pests and diseases.

(1) The Secretary may by order declare pests or diseases:

(a) the importation of which is prohibited for all purposes; or

(b) the importation of which is permitted subject to conditions specified under this chapter or the regulations;

(2) A person who imports or attempts to import a pest or disease which is prohibited under subsection (1)(a) commits a level five offense.

(3) A person who imports or attempts to import a pest or disease which is regulated under subsection (1)(b) in
breach of the conditions of import commits a level 5 offense."

Section 14. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 410 under subchapter II of chapter 4, to read as follows:

“Section 410. Prohibited imports.

(1) The Secretary may by order prohibit the importation of:

(a) particular regulated articles from all countries; or

(b) particular regulated articles from one or more countries of origin,

if the importation would present an unacceptable biosecurity risk to the Federated States of Micronesia.

(2) An order under this section in respect of an article:

(a) may be made at any time before biosecurity import clearance is granted in respect of the article;

(b) continues in force until it is revoked or varied, but must be reviewed every 12 months.

(3) In making a decision under this section, the Secretary must:

(a) have regard to the international obligations of the Federated States of Micronesia in respect of biosecurity;
(b) apply the precautionary principle.

(4) Before making an order under this section the Secretary must obtain a pest risk analysis in relation to the article;

(5) If a person imports or attempts to import a prohibited article:

(a) the person commits a level five offense; and

(b) biosecurity import clearance under must be refused for the article.

(6) A person who without lawful excuse owns or possesses any prohibited article commits a level five offense.”

Section 15. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 411 under subchapter II of chapter 4, to read as follows:

“Section 411. Biosecurity points of entry and departure.

(1) The Secretary may by order designate as biosecurity points of entry the seaports, airports and post offices at which regulated articles may enter the Federated States of Micronesia.

(2) Subject to subsection (9), a master or captain who causes or permits an incoming vessel or aircraft to berth or land except at a seaport or airport that is a biosecurity point of entry commits a level five offense.
(3) A person who imports, or attempts to import, a regulated article or consignment except at a biosecurity point of entry commits a level three offense.

(4) The Secretary may by order designate as biosecurity points of departure the seaports, airports and post offices at which regulated articles may be exported.

(5) A master or captain who causes or permits a vessel or aircraft to leave the Federated States of Micronesia except from a seaport or airport that is a biosecurity point of departure commits a level five offense.

(6) A person who exports, or attempts to export, a regulated article or consignment except at a biosecurity point of departure commits a level three offense.

(7) A designation of a biosecurity point of entry or departure may be limited to particular types of vessels, aircraft or articles or to arrivals from or exports to particular countries.

(8) A post office may only be designated as a biosecurity point of entry or departure in respect of regulated articles that at the time of entry or departure are in a mail bag or other container that conforms to the requirements of the postal legislation of the Federated States of Micronesia.

(9) A vessel or aircraft may berth or land elsewhere
than at a biosecurity point of entry:

(a) if constrained by adverse weather, mechanical failure or superior force; or

(b) if so directed or permitted by the Secretary or a biosecurity officer.

(10) In the circumstances mentioned in subsection (9), the place where the vessel has berthed or the aircraft has landed is deemed to be a biosecurity point of entry for the purposes of this chapter, once the Secretary has been notified of the berthing or landing.

(11) Prior to designating any biosecurity point of entry and departure the Secretary must first secure the consent and written agreement of the Governor of the state where the proposed biosecurity point of entry and departure is located.”

Section 16. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 412 under subchapter II of section 4, to read as follows:

“Section 412. Designation of biosecurity holding areas.

(1) The Secretary may by order designate:

(a) any territorial waters or any part of a seaport as a biosecurity port holding area for vessels;

(b) any part of an airport as a biosecurity port holding area for aircraft.

(2) The Secretary may by order designate any area of
land at or adjacent to a seaport or airport as a biosecurity goods holding area for incoming or outgoing containers and goods.

(3) The Secretary may designate any part of a post office that has been designated as a biosecurity point of entry or departure as a biosecurity postal holding area for incoming or outgoing postal items.

(4) Prior to designating any land or water as a biosecurity holding area the Secretary must first secure the consent and written agreement of the Governor of the state where the proposed biosecurity holding area is located.

(5) The Secretary must ensure that every biosecurity holding area is provided with such buildings and facilities as are reasonably needed:

(a) to hold regulated articles in biosecurity quarantine;

(b) to prevent unauthorized persons from entering the station or removing items from the station;

(c) to enable biosecurity officers to perform tests, provide treatment and apply other biosecurity measures as required by or under this chapter.”

Section 17. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 413 under subchapter II of chapter 4, to read as follows:
“Section 413. Management of biosecurity holding areas.

(1) No person, other than the person in charge of the area or a biosecurity officer acting in the course of duty, may enter a biosecurity holding area without the written permission of the Secretary, or the permission of the person in charge of the area or of a biosecurity officer.

(2) A biosecurity officer may, in order to reduce a biosecurity threat, lock, seal or otherwise prevent entry to and exit from a biosecurity holding area or any building in it.

(3) A person who:

   (a) enters a biosecurity holding area without permission given under subsection (2); or

   (b) damages, interferes with or in any way reduces the effectiveness of measures taken to secure a biosecurity holding area, or any regulated article or other item in the area,

commits a level two offense.

(4) A person who removes or attempts to remove from a biosecurity holding area any regulated article without obtaining biosecurity clearance in respect of it, unless for the purpose of biosecurity measures being applied to the article in accordance with this chapter, commits a level six offense.”
Section 18. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 414 under subchapter II of chapter 4, to read as follows:


(1) A person who proposes to import or export regulated articles through a seaport or airport and who will not be present when biosecurity inspection is to take place must:

(a) in writing appoint a person resident in the Federated States of Micronesia as a biosecurity clearance agent for the purposes of this chapter; and

(b) notify the Secretary in writing of the appointment before the agent performs any agency functions.

(2) A biosecurity clearance agent appointed under subsection (1) ceases to be an agent for the purposes of this chapter if the Secretary notifies the importer or exporter in writing that, in the opinion of the Secretary, the agent’s conduct in the performance of functions under this chapter renders the agent unacceptable for purposes of this chapter.

(3) Where practicable, notice under subsection (2) must be given in sufficient time to allow the importer or exporter to appoint another agent.

(4) A biosecurity clearance agent who performs or
purports to perform any functions of an importer or
exporter under this chapter is liable to the same extent
as the importer or exporter for any act or omission
which amounts to an offense or which creates any legal
obligation under this chapter.

(5) If a person referred to in subsection (1) fails to
comply with that subsection, biosecurity clearance must
not be granted for any regulated article or consignment
which the person seeks to import or export.”

Section 19. Title 22 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding new
subchapter III under chapter 4, entitled: “Biosecurity
Administration”.

Section 20. Title 22 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 415 under subchapter III of the chapter 4, to read as
follows:

“Section 415. Designation of biosecurity officers.

(1) The Secretary must in writing designate four or
more suitably qualified public officers as biosecurity
officers for the purposes of this chapter.

(2) The Secretary may in writing designate any public
officer or employee of a statutory authority to be a
biosecurity officer for a particular purpose or at a
particular location.
(3) The Secretary may in writing appoint any person to be a temporary biosecurity officer for a period not exceeding 6 months for a particular purpose or at a particular location.

(4) Before designating or appointing a public officer from another Department, the Secretary must consult the relevant Secretary, but failure to do so does not invalidate the designation or appointment.

(5)(a) The powers of a biosecurity officer are as prescribed by or under this chapter.

(b) A biosecurity officer must perform such duties, not inconsistent with this chapter, as are assigned to the officer by the Secretary.

(c) The Secretary may limit the functions to be performed by a biosecurity officer to those within the officer’s technical sphere of competence;

(d) The functions assigned to an officer designated under subsection (2) or (3) must be consistent with the terms of the designation.

(6) The Secretary must provide every biosecurity officer with a badge, card or other form of official identification that clearly identifies the person as a biosecurity officer of the National Government of the Federated States of Micronesia.

(7) A person who:
(a) upon the termination of his or her appointment as a biosecurity officer fails to return to the Secretary the identification issued under subsection (6) within 24 hours of the termination taking effect commits a level two offense; or

(b) copies, forges or alters an identification issued under subsection (6) without the written authority of the Secretary commits a level four offense.

(8) A person who is to perform duties as a biosecurity officer under this section must be given adequate training in biosecurity control measures and in the provisions of this chapter before embarking on those duties.”

Section 21. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 416 under subchapter III of chapter 4, to read as follows:

“Section 416. Biosecurity planning and administration.

(1) Within 12 months of the date upon which this chapter enters into force the Secretary must, in consultation with other National Government departments and statutory authorities and State Governments, prepare a Biosecurity Emergency Response Plan to deal with incursions of regulated pests and diseases in the Federated States of Micronesia.

(2) The Secretary must ensure that the Biosecurity
Emergency Response Plan is updated whenever necessary, and at a minimum the plan must be reviewed biannually.

(3) The Secretary must develop and publish a manual of standard operating procedures to guide biosecurity officers in their duties under this chapter and regulations issued pursuant to this chapter.

(4) The Secretary must, to the extent possible, publicize the requirements of this chapter and increase public awareness of the importance of biosecurity.”

Section 22. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 417 under subchapter III of chapter 4, to read as follows:

“Section 417. Delegation of functions.

(1) The Secretary may in writing delegate any of the Secretary’s functions, powers and duties under this chapter to another public officer or officers employed by the Department, other than any legislative or appellate function or this power to delegate.

(2) A delegation under this section may be to a specified person or to the holder for the time being of a specified office or to the holders of offices of a specified class.

(3) A delegation under this section may be made subject to such restrictions and conditions as determined by the Secretary, and may be made either
generally or in relation to any particular case or class of cases.

(4) A person purporting to perform any function by virtue of a delegation under this section must, when required to do so, produce evidence of the authority to perform the function.

(5) A delegation under this section continues in force notwithstanding a change in the identity of the delegator, until revoked.”

Section 22. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 418 under subchapter III of chapter 4, to read as follows:

“Section 418. Biosecurity register and records.

(1) The Secretary must maintain a biosecurity register and other records needed for the administration of this chapter and the performance of the biosecurity functions of the National Government.

(2) Without limiting the matters to be recorded in the biosecurity register, details of the following must be included:

(a) regulated pests and diseases;

(b) prohibited imports;

(c) biosecurity points of entry and departure;

(d) biosecurity holding areas;

(e) biosecurity clearance agents;
(f) biosecurity port quarantine areas;
(g) biosecurity quarantine stations;
(h) biosecurity approved premises;
(i) biosecurity import permits issued, refused and revoked under this chapter or the regulations;
(j) biosecurity controlled areas declared;
(k) occurrences of notifiable pests and diseases notified under regulation;
(l) beneficial organisms released under regulation;
(m) agreements and memoranda of understanding with other governments, government departments, statutory authorities and overseas agencies under sections 421 and 422;
(n) compliance agreements entered into by the Secretary under section 424;
(o) bilateral agreements entered into with potential receiving countries under section 426;
(p) any other public biosecurity register required by or under this chapter or considered by the Secretary to be necessary or appropriate.

(3) The biosecurity register must include details of:
(a) specifications for regulated articles made under this chapter or the regulations, including the biosecurity measures appropriate to each type of
regulated article;

(b) any other form or matter specified by the Secretary under this chapter or which is required by the regulations to be included on the register.

(4) In respect of the biosecurity requirements of receiving countries, the biosecurity register must include details of:

(a) the requirements of those countries for which biosecurity export clearance has been granted in the previous 12 months;

(b) source material for ascertaining the biosecurity requirements of all potential receiving countries.

(5) The Secretary must maintain records relating to the biosecurity functions of the National Government, including, but not limited to:

(a) financial and resource management records, with budgets and records of expenditure and revenue;

(b) personnel records including the identities, duty statements and terms and conditions of employment of all biosecurity officers;

(c) operational statistics relating to the biosecurity functions of the Government.”
section 419 under subchapter III of chapter 4, to read as follows:

“Section 419. Status of biosecurity register and records.

(1) The biosecurity register kept pursuant to section 418 must be made available for inspection and copying by members of the public during office hours at the office of the Department on payment of the prescribed fee.

(2) Copies of relevant extracts from the biosecurity register must be made available for inspection and copying by members of the public at post offices in each FSM state on payment of the prescribed fee.

(3) A copy of an entry in the biosecurity register which is certified by the Secretary to be an accurate copy may be produced in court as *prima facie* evidence of the entry.

(4) The biosecurity register and other records kept under section 418 may be in electronic format, provided the information is readily retrievable and is protected against unintended loss and unauthorized alteration.

(5) The Secretary may by order determine the period for which entries in the biosecurity register and other records under section 418 must be kept, consistent with any other law relating to public records.”

Section 24. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new
section 420 under subchapter III of chapter 4, to read as follows:

“Section 420. Payments.

(1) Fines, fees and charges payable under this chapter are to be paid into the General Fund.

(2) If a fee or charge payable under this chapter is not paid:

(a) if the service for which the fee or charge is payable has not been provided - it may be withheld until the fee is paid;

(b) if the service has been provided - the fee or charge may be recovered as a debt owing to the Government;

(c) if the fee or charge is in respect of an item in quarantine - the item may be sold once it has cleared quarantine, or otherwise be treated as abandoned goods.”

Section 25. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 421 under subchapter III of chapter 4, to read as follows:

“Section 421. Consultation and outsourcing.

(1) Prior to exercising a power under this chapter that will or might affect matters within the responsibility of another government department or statutory authority (including but not limited to health, natural resources, environment, tourism, postal services, shipping, aviation, transport and trade) the
Secretary must consult the relevant department, authority or officer, but failure to do so does not invalidate the exercise of the power.

(2) The Secretary may, for the effective implementation of this chapter, enter into memoranda of understanding or other agreements with State Governments, other National Government departments and statutory authorities, and with private organizations in the Federated States of Micronesia or elsewhere.

(3) The Department may:

(a) hire the services of a laboratory for testing of samples;

(b) hire consultants to perform biosecurity risk assessments and to carry out surveys authorized under this chapter;

(c) purchase any treatment or other service deemed necessary for the effective implementation of this chapter.”

Section 26. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 422 under subchapter III of chapter 4, to read as follows:

“Section 422. Duty to coordinate.

(1) Biosecurity officers and other persons administering this chapter should so far as possible coordinate their functions with those of officers of
state governments, other national government departments
and statutory authorities, in respect of border control,
the movement of vessels and aircraft, human health,
biosecurity internal control and compliance with the
laws of the Federated States of Micronesia generally.

(2) Without limiting subsection (1):

(a) biosecurity officers should notify officers
of the customs and immigration services of any breach of
customs or immigration law that comes to their notice;

(b) officers of the customs and immigration
services and of the postal service should:

(i) notify a biosecurity officer of the
importation or proposed exportation of any uncleared
regulated article that comes to their notice;

(ii) hand over to a biosecurity officer any
such article which comes into their possession for
inspection and treatment in accordance with this
chapter;

(c) police officers, customs officers,
immigration officers, postal service officers,
environmental officers, agriculture officers, livestock
officers, forestry officers and fisheries officers of
state governments and the National Government should co-
operate with biosecurity officers in the performance of
their functions under this chapter and render such
assistance as they can lawfully do when called upon by
the Secretary or a biosecurity officer.

(3) The Secretary should seek so far as possible to
coordinate the biosecurity functions of the National
Government with those of state governments, other
national government departments and statutory
authorities dealing with policing, customs, immigration,
marine, harbors, civil aviation, health, environment,
fisheries, natural resources and similar services.”

Section 27. Title 22 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 423 under subchapter III of chapter 4, to read as follows:

“Section 423. Facilities at biosecurity points of entry
or departure.

(1) The operator of every biosecurity point of entry
or departure in the Federated States of Micronesia must,
to the extent possible, provide on the premises, for the
purposes of this chapter and to the satisfaction of the
Secretary:

(a) an area suitable for use as offices by
biosecurity officers stationed at the point;

(b) adequate space for the display of notices
regarding the biosecurity requirements of this chapter;

(c) areas for interview and, if necessary,
physical examination of incoming passengers and crew.
if required;

(d) biosecurity holding areas as designated under section 412;

(e) facilities and suitable containers for garbage collection and incineration or other disposal;

(f) facilities for the incineration or other disposal of regulated articles without creating an unacceptable biosecurity risk;

(g) fencing of premises in which garbage holding and disposal equipment is situated;

(h) any other facilities the Secretary reasonably requests in writing as being needed for the performance of biosecurity functions at the point of entry or departure.

(2) The operator of a biosecurity entry or departure point, whether or not a public officer, must keep the premises and facilities mentioned in subsection (1)(e), (f) and (g) free from weeds and vermin to the satisfaction of the Secretary. An operator who fails to do so commits a level one offense.”

Section 28. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 424 under subchapter III of chapter 4, to read as follows:

“Section 424. Compliance Agreements.

(l) The Secretary may enter into a written agreement
with an importer, exporter, producer or any other person
in connection with:

(a) the application of particular biosecurity
measures in respect of any item;

(b) the way in which any requirement under this
chapter can be satisfied by the person; and

(c) the supervision, monitoring and testing of
the person's compliance with those measures or that
requirement.

(2) A compliance agreement may provide that, in
circumstances stated in the agreement, the Secretary
may, by written notice, cancel or vary the agreement or
suspend its operation for a period. The circumstances
may include, but are not limited to, the person’s
failure to comply with specified measures or meet
specified requirements.

(3) A biosecurity officer may release an article to
which a compliance agreement applies, and if it is a
regulated article grant biosecurity clearance in respect
of it, on the basis of a written certificate, given by a
person authorized under the agreement to give such a
certificate, that all the measures to which the
agreement refers have been complied with in respect of
the article.”
Micronesia, as amended, is hereby further amended by adding a new section 425 under subchapter III of chapter 4, to read as follows:

“Section 425. Biosecurity approved premises.

(1) The Secretary, on written application by the owner or occupier of any premises and on payment of the prescribed fee, may in writing:

(a) approve the premises as premises where the inspection, testing and treatment of regulated articles can take place; and

(b) approve specified action being taken under this chapter in relation to all regulated articles, or specified articles, while they are in the approved premises.

(2) In deciding whether to give approval under subsection (1), the Secretary, after inspection of the premises by a biosecurity officer, must take into account:

(a) whether the specified action can be taken in the premises without an unacceptable biosecurity risk and without contravening this chapter or the conditions of any permit;

(b) whether the premises and facilities in them are adequate to enable such action to be taken efficiently and safely;

(c) whether the location of the premises is
appropriate having regard to the nature of the articles,
the specified action and the level of biosecurity risk;

(d) whether the premises are located in a place
where biosecurity officers can conveniently check that
this chapter and the regulations are being complied with
in the premises; and

(e) any other matter the Secretary considers
relevant.

(3) An approval under this section may be expressed to
be subject to conditions stated in the approval and is
of no effect if the conditions are not met.

(4) An approval under this section has effect for a
period not exceeding 12 months but may be renewed by
following the procedure for a new approval.

(5) An approval under this section may be cancelled if
the Secretary is satisfied:

(a) that the premises or facilities or action
taken do not comply with this chapter or the
regulations; or

(b) that the premises are otherwise no longer
suitable for approval.

(6) The provisions of this chapter relating to
biosecurity quarantine stations apply to premises
approved under this section.”

Section 30. Title 22 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new section 426 under subchapter III of chapter 4, to read as follows:


(1) In the interests of enhancing international cooperation in the field of biosecurity and to fulfill FSM’s obligations under international agreements of relevance to biosecurity, the Secretary may:

(a) exchange information with other countries and international organizations;

(b) contribute to the development of international sanitary and phytosanitary standards.

(2) The Secretary must endeavor to implement in the Federated States of Micronesia international standards and requirements relating to biosecurity, and to that end should:

(a) designate one or more officers in the Department as the point of contact and notification authority for the purposes of the IPPC, the OIE and the PPPO;

(b) seek to ensure that notification and reporting requirements of the IPPC, the OIE, the PPPO and any other international agreement relating to biosecurity to which the Federated States of Micronesia belongs are met in a timely manner.”

Section 31. Title 22 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new section 427 under subchapter III of chapter 4, to read as follows:

"Section 427. Notifications.

(1) The Secretary may at any time issue a notice:

(a) stating that a specified pest or disease is known to exist in the Federated States of Micronesia;

(b) stating that, to the best of the Secretary’s knowledge, a specified pest or disease does not exist in the Federated States of Micronesia;

(c) specifying the classification, name or identity by which any animal, animal product, plant, plant product, pest or disease is known in the Federated States of Micronesia.

(2) A notice issued under subsection (1) is, for the purposes of this chapter, conclusive until revoked or amended under that subsection and is admissible in any court or other proceedings as evidence of the matters stated in it."

Section 32. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding new subchapter IV, under chapter 4 entitled: "Powers of Biosecurity Officers".

Section 33. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 428 under subchapter IV of chapter 4, to read as follows:
"Section 428. General rules as to exercise of powers.

(1) The powers conferred by this chapter on biosecurity officers may be exercised only for the purpose of ascertaining whether there is a biosecurity risk presented by a conveyance, container or item and eliminating or reducing the risk.

(2) A reference in this chapter to a biosecurity officer, when exercising powers, means a duly authorized biosecurity officer acting in the performance of his or her duties.

(3) A biosecurity officer may use only such force as is reasonably necessary when exercising a power under this chapter. If necessary, the biosecurity officer should obtain the assistance of a police officer to effect an arrest or enter premises.

(4) Before exercising a power to enter and search premises, to search a conveyance or container or to inspect or test any article, a biosecurity officer must, if practical, request the assistance of the person in control of the premises, conveyance, container or article.

(5) Except as otherwise provided in this chapter, a biosecurity officer may exercise a power under this chapter without a warrant or other order of a judicial officer, provided the action is taken in good faith for
(6) A biosecurity officer exercising powers under this subchapter must produce for inspection his or her identification as an officer, upon request by the person in charge of the conveyance, premises or area, or the importer, exporter, owner or custodian of the item, in respect of which the power is being exercised.

(7) Before exercising a power in a situation that involves shipping, civil aviation, human health, the environment or any other activity governed by another law, a biosecurity officer must if practicable consult public officials responsible for shipping, civil aviation, human health or the environment.

(8) The powers conferred on biosecurity officers by or under this chapter must be exercised subject to:

(a) any regulations made by the Secretary under this chapter in respect of those powers;

(b) any biosecurity specifications made in respect of regulated articles;

(c) any written directions of the Secretary;

(d) the provisions of:

   (i) the Vienna Convention on Diplomatic Relations relating to the premises of a diplomatic mission, diplomatic bags and the personal baggage of diplomatic agents;
(ii) the Vienna Convention on Consular Relations relating to consular premises, archives and documents.”

Section 34. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 429 under subchapter IV of chapter 4, to read as follows:

“Section 429. Entry, search and seizure.

(1) A biosecurity officer may:

(a) search an incoming vessel or aircraft at a biosecurity port holding area to ascertain whether the vessel or aircraft has on board any regulated article that might pose a biosecurity threat to the Federated States of Micronesia;

(b) search an outgoing vessel or aircraft if the officer has reason to believe there are on board any uncleared articles that require export clearance;

(c) at any time enter and search any premises, building or area, including a biosecurity holding area, biosecurity quarantine station or biosecurity approved premises and land adjacent to a dwelling house, but not a dwelling house, in order to ascertain the presence of uncleared regulated articles that have not received biosecurity import clearance;

(d) at any time with the consent of the owner, enter and search a dwelling house for purposes of this
chapter;

(e) at any time, on a warrant issued under subsection (2), enter and search a dwelling house for uncleared regulated articles that the officer reasonably suspects to be in it.

(2) If a judicial officer is satisfied on affidavit evidence by a biosecurity officer that:

(a) there may be in a dwelling house uncleared regulated articles; and

(b) the consent of the owner or occupier to entry and search of the dwelling house cannot be obtained, the judicial officer may issue a warrant authorizing the officer to enter and search the dwelling house for uncleared regulated articles.

(3) A biosecurity officer may at any time enter and search any store, warehouse, silo, pen or similar premises, or any conveyance, in which regulated articles intended for importation to or exportation from the Federated States of Micronesia are kept.

(4) A person who keeps regulated articles in or on any premises, or in a conveyance, prior to importation or exportation of them must make the premises or conveyance available for inspection by a biosecurity officer upon request at any reasonable time.

(5) Subsections (1), (3) and (4) apply to premises and
conveyances outside the Federated States of Micronesia in respect of articles intended for importation to the Federated States of Micronesia.

(6) A person who contravenes subsection (4) commits a level two offense.

(7) During a search of premises or a conveyance under this section a biosecurity officer may seize anything which:

(a) is an uncleared regulated article; or

(b) may be used as evidence of the commission of an offense under this chapter.

(8) A biosecurity officer who seizes anything from a person under subsection (7) must:

(a) inform the person of the reason for the seizure;

(b) give the person a receipt for the thing seized; and

(c) remove the thing to a place of safekeeping and deal with it in accordance with this chapter.

(9) A biosecurity officer may, at the expense of the importer, submit to appropriate biosecurity measures any regulated article seized pursuant to this section.”

Section 35. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 430 under subchapter IV of chapter 4, to read as follows:
“Section 430. Inspection of documents.

(1) A biosecurity officer may:

(a) call for and inspect documents on or in
incoming or outgoing vessels and aircraft;

(b) open and inspect at a biosecurity point of
entry any incoming document, including mail, in order to
ascertain whether the document contains or relates to a
regulated article;

(c) open and inspect at a biosecurity point of
departure any outgoing document, including mail, if the
officer reasonably suspects that the document contains
or relates to:

(i) an uncleared regulated article that
requires biosecurity export clearance; or

(ii) a regulated article that could pose a
serious biosecurity threat to the country of
destination of the document.

(2) The powers relating to mail in subsection (1)(b)
and (c) must only be exercised in respect of personal
letters if the officer reasonably suspects that a letter
contains or relates to a biosecurity threat.”

Section 36. Title 22 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 431 under subchapter IV of chapter 4, to read as follows:

“Section 431. Inspection of articles.
(1) A biosecurity officer may at a biosecurity holding area inspect any incoming regulated article, and any conveyance, container or baggage in which the article is carried, in order to assess the biosecurity risk presented by the article, conveyance, container or baggage.

(2) A biosecurity officer may at a biosecurity point of departure inspect any article, which requires biosecurity export clearance, in order to facilitate such clearance.

(3) The powers of inspection in subsection (1) and (2) are in addition to the powers of inspection provided elsewhere in this chapter or the regulations.

(4) For the purpose of exercising the powers of inspection under this chapter, a biosecurity officer may request an importer or exporter to unpack and/or break up a consignment, or to open a container, at the person’s risk and expense.

(5) If an importer or exporter refuses to comply with a request under subsection (4):

(a) the person commits a level two offense;

(b) the biosecurity officer may break up the consignment or open the container or cause it to be broken or opened;

(c) the cost of action under paragraph (b) is a
debt owing to the Government by the importer or exporter, as the case may be;

(d) no liability lies on the Government, the Secretary or any biosecurity officer and no compensation is payable, for the action of breaking up or opening, unless negligence or malice is proved.

(6) When conducting an inspection under this chapter, a biosecurity officer may seek access to, and take photographic, electronic or other copies of any evidence, information, records and things related to the regulated article or consignment that the officer reasonably requires in order to ensure compliance with this chapter or to investigate a possible offense under it.

(7) The regulations may specific procedures for the inspection of articles in transit.”
carried, for biosecurity measures to be taken.

(2) If an outgoing regulated article that requires biosecurity export clearance has not been cleared, a biosecurity officer may detain the article, and any conveyance, container or baggage in which the article is carried, until clearance or other disposition of the article under this chapter.

(3) An article detained under this section must be detained in a place specified by the officer, being a biosecurity holding area, biosecurity quarantine station or biosecurity approved premises.

(4) If an article is to be detained under this section, a biosecurity officer may:

(a) direct the importer or exporter of the article to remove it to the specified place;

(b) if necessary (because the importer or exporter refuses to obey the direction, or because of the nature of the biosecurity threat,) arrange for the article to be removed to the specified place.

(5) If an article is detained under this section, a biosecurity officer must give to the importer or exporter a notice in writing stating the reasons for the detention and, if it was removed under subsection (4)(b), the specified place.

(6) The cost of removal of an article to and its
detection in a specified place is to be borne by the importer or exporter, and no compensation is payable for any loss or destruction or consequential loss caused as a result of any such removal or detention, unless negligence or malice is proved.

(7) The fee, if any, for detention of an article under this section are as prescribed in regulations.”

Section 38. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 433 under subchapter IV of chapter 4, to read as follows:

“Section 433. Taking of samples.

(1) A biosecurity officer may, with the consent of the importer, owner or custodian, take samples from:

(a) any part of an incoming vessel or aircraft that has on board regulated articles;

(b) any warehouse containing regulated articles intended for importation;

(c) any consignment of incoming regulated articles, wherever located;

(d) any incoming container, baggage or thing that the officer reasonably suspects to be or include a regulated article.

(2) If an importer, owner or custodian refuses consent under subsection (1), the biosecurity officer may require the person to provide appropriate samples.
(3) An importer, owner or custodian who refuses either
to allow samples to be taken or to provide samples, when
required to do so under this section, commits a level
three offense.

(4) A biosecurity officer may, with the consent of
importer, owner or custodian, take samples of any
outgoing regulated article if the taking of a sample is
necessary for the issue of a sanitary or phytosanitary
certificate.

(5) If the importer, owner or custodian refuses
consent under subsection (4), the biosecurity officer
may require the person to provide a sample, failing
which the sanitary or phytosanitary certificate will not
be issued.

(6) A biosecurity officer may request the importer,
exporter, owner or custodian of a consignment to unpack
it or break it up to facilitate sampling, at the risk
and expense of the importer, exporter, owner or
custodian.

(7) When exercising powers under subsection (1) or
(2), a biosecurity officer must give the importer,
exporter, owner or custodian a written notice,
identifying the quantity of the sample and the place
where the sample is to be analyzed.

(8) If, in the course of sampling, goods are destroyed
or damaged, without negligence or malice, no compensation is payable to the importer, exporter, owner or custodian of the goods.

(9) The importer, exporter, owner or custodian of a regulated article from which samples are taken under subsection (1) must be notified in writing of the findings in respect of the samples as soon as reasonably practicable.

(10) The fee for taking and analysis of samples under this section are as prescribed in regulations.”

Section 39. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 433 under subchapter IV of chapter 4, to read as follows:

“Section 433. Testing of Articles.

(1) A biosecurity officer may test, or cause tests to be conducted on, any incoming regulated article, in order to ascertain whether the article meets the biosecurity import requirements in respect of it.

(2) Following a test of an incoming article, and on payment of the prescribed fee, if any, the article must be either released to the importer, and biosecurity import clearance granted in respect of it, or it must be treated in accordance with section 435 or reconsigned or destroyed.

(3) A biosecurity officer may test, or cause tests to
be conducted on, any outgoing regulated article that
requires biosecurity export clearance if such tests are
a condition for importation into the receiving country.

(4) Following tests on an outgoing article,
biosecurity export clearance must either be granted or
refused in respect of the article.

(5) Section 432 applies to articles detained for
testing under this section.

(6) The importer or exporter of a regulated article
which is tested under subsection (1) or (3) must be
notified in writing of the results of the test before
the article is released or otherwise disposed of.

(7) If a test conducted under subsection (1) or (3)
without negligence or malice destroys or damages an
animal or other article being tested, no compensation is
payable to the importer of the animal or other article.

(8) The fee for testing of an article under this
section are as prescribed in regulations.”

Section 40. Title 22 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 435 under subchapter IV of chapter 4, to read as follows:

“Section 435. Treatment of articles.

(1) If an incoming regulated article requires
treatment in order to meet the biosecurity import
requirements in respect of it, the article must be
treated before biosecurity import clearance is granted in respect of it.

(2) If an incoming article is found to be infected, infested or contaminated by a regulated pest or disease, the article may be treated to reduce the biosecurity risk to an acceptable level, whether or not treatment is a specified requirement or a condition of an import permit.

(3) Section 432 applies to articles detained for treatment under this section.

(4) Once treatment has been administered to the satisfaction of the biosecurity officer, and on payment of any applicable charges, the article must, subject to subsection (4), be released to the importer and biosecurity import clearance granted in respect of it.

(5) The cost of treatment is to be borne by the importer of the item, but the importer may instead opt to have the article reconsigned or destroyed.

(6) If an importer fails to have an article which requires treatment under this section treated within a reasonable time, the biosecurity officer may require the article to be destroyed.

(7) If:

(a) appropriate treatment is not available in the Federated States of Micronesia;
(b) in the opinion of a biosecurity officer, there would still be a biosecurity risk after treatment;
or
(c) the importer chooses not to have the article treated,
the article must be reconsigned or, if the importer chooses, or if section 438 applies, destroyed.

(8) Notice of action to be taken under subsection (6) or (7) must be given to the importer in writing before the action is taken, except for articles in passenger baggage which are detained for destruction in the presence of the owner or custodian.

(9) If an outgoing regulated article requires treatment as a condition of importation into the receiving country, the article must be treated at the expense of the exporter before biosecurity export clearance is granted in respect of it.

(10) If, in the course of treatment, goods are destroyed or damaged, without negligence or malice, no compensation is payable to the importer or exporter of the goods.

(11) Treatment of an article:
(a) should be the minimum required to remove or adequately reduce the biosecurity risk posed by the article;
(b) may be administered by an appropriately qualified biosecurity officer, or by any other suitably qualified person at the request of the officer or the importer.

(12) The fees for treatment of an article under this section are as prescribed in regulations.”

Section 41. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 436 under subchapter IV of chapter 4, to read as follows:

“Section 436. Reconsignment of articles.

(1) If an incoming regulated article which requires an import permit or a sanitary or phytosanitary certificate does not have the permit or certificate attached to it, a biosecurity officer may, after informing the importer, detain the article for reconsignment or destruction.

(2) An incoming article that is a prohibited import must be reconsigned or destroyed.

(3) Reconsignment is at the option and cost of the importer, but:

(a) reconsignment must be effected within a time specified by the officer, which must be reasonable in the circumstances;

(b) if the biosecurity officer considers that the biosecurity risk of reconsignment is unacceptable, the option is not available.
(4) The power to order reconsignment of an article under this section applies also to any container, crate, baggage, package or mail which carries it.

(5) If reconsignment is not effected within the time specified under subsection (3)(a), or is not acceptable, the article or consignment must be destroyed.

(6) No compensation is payable to the importer for the cost of reconsignment under this section.”

Section 42. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 437 under subchapter IV of chapter 4, to read as follows:

“Section 437. Destruction of articles.

(1) If this chapter requires or authorizes an article to be destroyed, the destruction of the article must be in accordance with this section.

(2) If an article is found to be infected, infested or contaminated by a regulated pest or disease, and:

(a) appropriate treatment is not available in the Federated States of Micronesia;

(b) in the opinion of the Secretary, there would still be a biosecurity risk after treatment; or

(c) the importer, owner or custodian chooses not to have the article treated,

the article must be reconsigned (if it is an imported article) or, if the importer, owner or custodian
chooses, or if section 438 applies, destroyed.

(3) The power of destruction of articles in subsection (2) is in addition to any other power of destruction in or under this chapter.

(4) Destruction of an article under this chapter may include any container, crate, baggage, package or mail which carries it.

(5) Packaging of an article may be considered as not part of a consignment and may be destroyed, if considered to pose a biosecurity risk, whether or not the article is destroyed.

(6) If the article to be destroyed appears to be of or above the value of $2,000, the biosecurity officer must obtain the written approval of the Secretary before arranging for its destruction.

(7) The manner of destruction of articles under this section is as specified or approved by the Secretary and the importer, owner or custodian of the article, if known, must be invited to witness the destruction.

(8) The Secretary must give notice of an intention to destroy any article to the importer or owner in writing before the action is taken, if the importer, owner or custodian is known.

(9) No compensation is payable to the importer, owner or custodian for destruction of an article under this
section.

(10) The fees for destruction of articles under this section are as prescribed in regulations.”

Section 43. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 438 under subchapter IV of chapter 4, to read as follows:

“Section 438. Post mortem examination of an animal.

(1) If a biosecurity officer examining an animal pursuant to this chapter suspects that the animal is diseased and considers a post mortem examination to be necessary to establish a diagnosis, the officer may, on the written authority of the Secretary, and without the consent of the owner –

(a) take or cause to be taken the life of the animal;

(b) cause a post mortem examination to be conducted to decide whether the animal is diseased; and

(c) obtain specimens from the animal for laboratory examination and diagnosis.

(2) If an examination is conducted pursuant to subsection (1), the results of the examination and of any laboratory reports resulting from the examination must be provided in writing to the Secretary and to the owner of the animal, if the owner can be identified and located.”
Section 44. Title 22 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 439 under subchapter IV of chapter, to read as follows:


(1) If a biosecurity officer is of the opinion that
any person:

(a) seeking to enter or leave the Federated
States of Micronesia;

(b) employed at a biosecurity point of entry or
departure, in a designated area or quarantine station,
or at approved premises; or

(c) engaged in importing or exporting regulated
articles,
is in possession or control of an article that poses a
biosecurity threat to the Federated States of
Micronesia, the officer may detain and question the
person.

(2) If a biosecurity officer suspects that there may
be upon a person seeking to enter the Federated States
of Micronesia an article that would, if imported,
constitute an offense under this chapter, the officer
may cause the person and the person’s baggage to be
searched.

(3) If a biosecurity officer suspects that there may
be upon a person seeking to leave the Federated States
of Micronesia an article that would, if exported, constitute an offense under this chapter, the officer may cause the person and the person’s baggage to be searched.

(4) A search of a person under this section must be carried out by an officer or officers of the same sex as the person searched.

(5) A person may be detained under this section only for as long as is required to question and search the person and the person’s baggage and to arrange for biosecurity measures to be taken in respect of it.

(6) A person who refuses:

(a) to answer to the best of his or her knowledge and ability questions reasonably put by a biosecurity officer; or

(b) to submit to a search reasonably required under this section,

commits a level two offense.

(7) In this section, “person” means an individual.”

Section 45. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding new subchapter V under chapter 4 entitled: “Offenses and Penalties”.

Section 46. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 440 under subchapter V of chapter 4, to read as follows:
Section 440. Dereliction of duty by officers.

A biosecurity officer who:

(a) fails without reasonable excuse to perform any of his or her duties under this chapter or the regulations;

(b) disposes of a regulated article or other item under the control of the officer other than in accordance with this chapter;

(c) discloses information of a confidential or commercial nature which has come into the officer's possession while performing functions under this chapter, except for purposes of this chapter;

(d) in the course of performing his or her duties molests, intimidates or unlawfully assaults any person;

(e) in connection with his or her duties solicits or accepts a bribe; or

(f) knowingly or recklessly makes a false or misleading statement, or issues a false or misleading certificate or other document, while purporting to perform his or her duties,

commits a level three offense.”

Section 47. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 441 under subchapter V of chapter 4, to read as follows:

“Section 441. Obstruction, false information etc.
A person who:

(a) willfully fails to comply with a lawful request made or direction given by a biosecurity officer under this chapter;

(b) knowingly obstructs a biosecurity officer in the performance of his or her functions under this chapter;

(c) assaults, or threatens to assault a biosecurity officer performing functions under this chapter;

(d) bribes a biosecurity officer in relation to the performance of functions under this chapter;

(e) makes a false or incomplete statement, whether orally or in writing, in relation to any matter under this chapter, intending to mislead a biosecurity officer in the performance of functions under this chapter;

(f) for purposes of this chapter knowingly or recklessly:

(i) makes a false or misleading biosecurity declaration; or

(ii) issues any false or misleading certificate;

(g) knowingly or recklessly gives false or misleading information to a biosecurity officer while
the officer is performing functions under this chapter, commits a level three offense.”

Section 48. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 447 under subchapter V of chapter 4, to read as follows:

“Section 442. Fraudulent use of official documents.

(1) A person to whom a permit or other document is issued under this chapter who:

(a) forges or unlawfully alters the document;

(b) allows any other person to use or attempt to use the document for any purpose of this chapter, commits a level four offense.

(2) A person who, for the purposes of this chapter, produces a document which is false or misleading, knowing it to be so and intending another person to rely on it, commits a level three offense.

(3) A person who uses or affixes an official stamp or seal required under this chapter, without lawful authority and with intent to defraud or deceive, commits a level three offense.”

Section 49. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 443 under subchapter V of chapter 4, to read as follows:

“Section 443. Levels of offenses and maximum penalties.

(1) An individual who commits a level one offense
under a section of this chapter is liable on summary conviction to a maximum fine of $5,000 or a one month period of imprisonment, or both.

(2) An individual who commits a level two offense under a section of this chapter is liable on summary conviction to a maximum fine of $10,000 or a three month period of imprisonment, or both.

(3) An individual who commits a level three offense under a section of this chapter is liable on summary conviction to a maximum fine of $20,000 or a six month period of imprisonment, or both.

(4) An individual who commits a level four offense under a section of this chapter is liable on summary conviction to a maximum fine of $40,000 or a twelve month period of imprisonment, or both.

(5) An individual who commits a level five offense under a section of this chapter is liable on summary conviction to a maximum fine of $50,000 or a fifteen month period of imprisonment, or both.

(6) An individual who commits a level six offense under a section of this chapter is liable on summary conviction to a maximum fine of $100,000 or a thirty month period of imprisonment, or both.

(7) A body corporate that commits an offense is liable to a maximum fine of 5 times the maximum fine for the
same offense if committed by an individual.”

Section 50. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 444 under subchapter V of chapter 4, to read as follows:

“Section 444. Forfeiture.

(1) A court convicting a person of an offense under this chapter or the regulations may, in addition to any other penalty imposed, order that any article used in committing the offense, or, if the article has been sold, the proceeds of the sale, be confiscated.

(2) If an article or proceeds are confiscated under subsection (1):

(a) the article or proceeds are forfeited to the National Government;

(b) a forfeited article may be sold and the proceeds of sale paid into the Federated States of Micronesia General Fund; or

(c) if the article poses a biosecurity threat it must be destroyed as directed by the Secretary.

(3) For the purposes of subsection (1), “article used in committing the offense” includes equipment, a conveyance and any other movable thing owned by the offender which was used directly in the commission of the offense, but does not include land or buildings and fixtures on land.
(4) In deciding whether to order confiscation of any article or proceeds under this section, a court must have regard to the principle of proportionality.”

Section 51. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 445 under subchapter V of chapter 4, to read as follows:

“Section 445. Fixed penalty system.

(1) The Secretary, if of the opinion that a person has committed an offense under this chapter, may as an alternative to prosecuting the person:

(a) order the person to pay a fixed penalty as described in subsection (2); and

(b) order any goods liable to confiscation in connection with the offense to be forfeited to the National Government or, if they pose a biosecurity threat, to be destroyed.

(2) The fixed penalty referred to in subsection (1) are a fine of:

(a) $100 for a level one offense;

(b) $200 for a level two offense;

(c) $400 for a level three offense;

(d) $800 for a level four offense;

(e) $1500 for a level five offense; and

(f) $5000 for a level six offense.

(3) The fixed penalty for a body corporate is 5 times
(4) Before imposing a fixed penalty order on a person for an offense, the Secretary must notify the person in writing, giving particulars of the offense, the maximum penalty that a court could impose, the fixed penalty that is proposed, and any item that will be confiscated.

(5) If a person on whom a notice is served under subsection (4):

(a) within the time specified in the notice, and in writing, admits the offense, requests the Secretary to deal with it under this section and consents to the confiscation of the item (if appropriate) - the Secretary may impose a fixed penalty order on the person;

(b) does not respond as in paragraph (a) within the time specified in the notice - the Secretary may prosecute the offense.

(6) A fixed penalty order must:

(a) be in writing and specify the offense which the person has committed, the fixed penalty that is imposed, the place where it is to be paid and the date by which it is to be paid;

(b) specify any item that is to be forfeited or destroyed.

(7) A person against whom an order is made under this
section is not liable to any further criminal
proceedings in respect of the offense and if in custody
must be discharged.

(8) If a fixed penalty payable under this section, or
any part of it, is not paid by the date specified in the
order, the sum payable becomes a debt owing to the
National Government and the Secretary must request the
Secretary of the Department of Justice to place a stop
order on the person leaving the country until the sum is
paid; and either:

(a) send a copy of the order to a court of
competent jurisdiction, which may enforce payment of the
sum outstanding as if it were a fine imposed by the
court, including imposing costs and confiscation as
appropriate; or

(b) prosecute the offense.

(9) The Secretary’s power to make regulations under
section 469 includes the power to make regulations to
supplement the provisions of this section in relation to
fixed penalty notices, including the imposing of stop
orders to prevent a person leaving the country until the
sum is paid.”

Section 52. Title 22 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 446 under subchapter V of chapter 4, to read as follows:
“Section 446. Offenses by corporate bodies.

(1) A corporate body cannot be imprisoned for an offense under this chapter or the regulations and the maximum fine for an offense by a corporate body is as stated in section 443.

(2) If a corporate body commits an offense against this chapter, every person who is a board member or director or otherwise concerned in the management of the body also commits the offense as an individual, unless the person proves:

(a) that the offense was committed without his or her consent or connivance; and

(b) that he or she exercised reasonable diligence to prevent the commission of the offense, having regard to the nature of his or her functions in the corporate body and to all the circumstances.”

Section 53. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding new subchapter VI under chapter 4 entitled: “Miscellaneous Provisions”.

Section 54. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 447 under subchapter VI of chapter 4, to read as follows:

“Section 447. Abandoned goods.

(1) An article may be treated as abandoned and
disposed of under this section if:

(a) any fee or charge payable by a person under this chapter or the regulations in respect of the article is not paid within 3 months of the notice of the fee or charge being served on the person;

(b) the article is in a biosecurity holding area and is not removed from the area within 14 days after biosecurity entry clearance has been granted in respect of it; or

(c) the article is in biosecurity quarantine and is not removed from a biosecurity quarantine station or biosecurity approved premises within 14 days after the end of the quarantine period in respect of it.

(2) An article that has been abandoned may be destroyed, sold or otherwise disposed of in the prescribed manner, or, in the absence of regulations, in any manner the Secretary thinks fit that does not present a biosecurity risk.

(3) The cost of disposal of an abandoned article is a debt due to the National Government by the person who was the owner of it, and the proceeds of any sale or disposal of an abandoned article revert to the National Government.”

Section 55. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new
section 448 under subchapter VI of chapter 4, to read as follows:

"Section 448. Compensation.

(1) Except as otherwise provided in or under this chapter, no compensation is payable for loss of or damage to any item as a result of any search, inspection, examination, sampling, testing, detention, treatment, quarantine or other biosecurity measure taken under this chapter or the regulations, unless negligence or malice on the part of the person taking the measure is proved.

(2) Compensation is not payable under this chapter if the biosecurity measures that caused the loss or damage were occasioned by a willful or negligent act or omission of the person claiming compensation.

(3) If this chapter provides for payment of compensation in any circumstances, the compensation must be:

(a) claimed in accordance with the procedure prescribed in the regulations;

(b) if not agreed, determined by the Secretary in accordance with the procedure prescribed in the regulations and in any event not exceeding the market value of the item plus consequential loss reflecting contemporary costs;

(c) paid out of the funds of the Department.
(4) Appeals against a determination under subsection (3) may be made to the Supreme Court.”

Section 56. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 449 under subchapter VI of chapter 4, to read as follows:

“Section 449. Appeals from decisions.

(1) A person who is aggrieved by a decision of a biosecurity officer under this chapter made at a biosecurity point of entry or departure, in a biosecurity holding area or at a biosecurity quarantine station, may within 7 days of the decision being made appeal in writing to the Secretary.

(2) A person who is aggrieved by a decision of the Secretary, including a decision on an appeal under subsection (1), may within 21 days seek an administrative hearing of the matter in accordance with section 108 of title 17 of the Code of the Federated States of Micronesia.

(3) The lodging of an appeal in respect of an article does not prevent biosecurity measures being taken in respect of the article to reduce or eliminate the biosecurity risk posed by the article.

(4) An appeal in respect of compensation is to be dealt with as provided in section 448(4).”

Section 57. Title 22 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new section 450 under subchapter VI of chapter 4, to read as follows:

"Section 450. Limitation of liability.

(1) Neither the Secretary nor any biosecurity officer or other public officer is personally liable for action taken under this chapter in good faith and without negligence.

(2) A breach of a duty imposed on the Secretary, a biosecurity officer or any other public officer by or under this chapter does not give rise to any civil liability except as provided by or under this chapter."

Section 58. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 451 under subchapter VI of chapter 4, to read as follows:

"Section 451. Evidence.

(1) In any proceedings under this chapter:

(a) a document purporting to have been issued by the Secretary or by a biosecurity officer or other public officer for the purposes of this chapter is presumed, until the contrary is proved, to have been duly executed or signed by that person;

(b) a copy of or extract from a document issued by the Secretary or by a biosecurity officer or other public officer, and certified by the Secretary to be true and correct is, unless the contrary is proved:
(i) presumed to be a true and correct copy
or extract;

(ii) on its production in court be prima
facie proof of any matter contained in it.

(2) In any proceedings under this chapter:

(a) a certificate, in a form approved by the
Secretary, of the results of any test conducted on an
article by the person who conducted the test may be
tendered in evidence and is prima facie evidence of the
facts stated in it;

(b) a certificate of analysis of a sample of any
article or thing may be tendered in evidence and is
prima facie evidence of the facts stated in it if the
procedure prescribed in relation to the sample has been
substantially followed.

(3) Section 419 governs the evidential status of the
biosecurity register and records kept under this
chapter.”

Section 59. Title 22 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 452 under subsection VI of chapter 4, to read as follows:

“Section 452. Specifications.

(1) The Secretary may in writing specify:

(a) documents and forms for use in connection
with this chapter, including the format of documents
transmitted by electronic means;

(b) the procedures for applying for and issuing permits and other documents;

(c) all other matters that can or must be specified, as provided for in this chapter.

(2) If a matter is prescribed by regulations or an order, the regulations or order take precedence over a specification on the same matter.

(3) Specifications must be entered in the biosecurity register and do not take effect until so entered.

(4) Section 419 governs the evidential status of a specification contained in a biosecurity register.”

Section 60. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 453 under subchapter VI of chapter 4, to read as follows:

“Section 453. Regulations.

(1) The Secretary may make regulations not inconsistent with this chapter for the effective implementation of this chapter and the performance of the biosecurity functions of the National Government.

(2) Without limiting subsection (1) or affecting any other regulation-making power in this chapter, regulations made by the Secretary may:

(a) prescribe biosecurity procedures and requirements for vessels and aircraft entering and
departing FSM, including for the management of
quarantine areas;

(b) prescribe biosecurity import procedures
including for the inspection and clearance of regulated
articles, biosecurity import specifications and access
arrangements, and for the application, issuance and
revocation of biosecurity import permits;

(c) prescribe biosecurity export procedures
including for the inspection and clearance of regulated
articles, biosecurity export specifications and access
arrangements, and for the application, issuance and
revocation of biosecurity export permits;

(d) prescribe procedures and requirements for
biosecurity quarantine, including for the management of
biosecurity quarantine stations;

(e) prescribe fees and charges for the
biosecurity services provided by the Department;

(f) prescribe the method of taking and analyzing
samples, recording the results and disposing of the
samples;

(g) prescribe the manner of disposal of abandoned
goods under regulation;

(h) prescribe the procedure for claiming
compensation, and the rates payable, pursuant to
regulation;
(i) provide for the de-ratting of vessels, and
the form of de-ratting certificate;

(j) regulate the disposal of garbage and waste
and second-hand clothing and bedding so as to minimize
any biosecurity risk;

(k) provide for the electronic filing of
declarations and applications required by this chapter
and the electronic keeping of registers;

(l) prescribe the manner and language of markings
on containers of incoming and outgoing regulated
articles;

(m) prescribe the methods of handling, sealing,
treating and disposing of containers of regulated
articles;

(n) provide for the placing and use of amnesty
bins or other containers for regulated articles at
points of entry;

(o) subject to the approval of the civil aviation
and maritime authorities, require a video film about
biosecurity to be shown on all aircraft and vessels
arriving in the Federated States of Micronesia and
carrying passengers;

(p) require treatment to be applied in respect of
a vessel or aircraft before it arrives in the Federated
States of Micronesia;
(q) prescribe additional measures, consistent with this chapter, to implement in the Federated States of Micronesia the standards and requirements relating to biosecurity of the IPPC, the OIE and the PPPO;

(r) prescribe any other matter which this chapter requires to be prescribed or which is necessary for carrying out or giving effect to this chapter.

(3) Regulations made under this section must be adopted in accordance with the procedure set out in section 102 of title 17 of the Code of the Federated States of Micronesia.

(4) Regulations made under this section may create level one, two, three, four, and five offenses.”

Section 61. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 454 under subchapter VI of chapter 4, to read as follows:

“Section 454. Transitional provisions.

(1) Permits equivalent to import permits issued under any provision of the laws repealed upon commencement of this chapter remain in force until they expire in accordance with their terms, or until revoked under this chapter.

(2) Any bond, agreement, instrument or arrangement to which the National Government is a party subsisting immediately before the commencement of this chapter and
relating to the biosecurity functions of the National Government continues to have effect after that date and is enforceable by or against the National Government as if it had been entered into under the provisions of this chapter.

(3) Subject to subsection (4), any action, arbitration, proceeding or cause of action that relates to a biosecurity function of the National Government and that immediately before the commencement of this chapter is pending or existing by, against, or in favor of the National Government, or to which the National Government is a party, may be continued and enforced under the provisions of this chapter.

(4) A prosecution for an offense committed against a repealed law before the commencement of this section must be brought and continued under that law.”

Section 62. Title 22 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 455 under subchapter VI of chapter 4, to read as follows:

“Section 455. Consequential amendments.

(1) A reference in another law to any of the laws repealed upon commencement of this chapter, to the extent possible, is to be read as a reference to this chapter.

(2) A reference in another law to a quarantine
officer, plant protection officer or animal health officer is, to the extent possible, to be read as a reference to the Secretary or a biosecurity officer exercising equivalent functions under this chapter."

Section 63. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 9/25/14

Introduced by: /s/ Florencio S. Harper
Florencio S. Harper
(by request)