

AN ACT

To further amend title 22 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Law No. 18-68, to create a new chapter 4 thereof entitled "Biosecurity", 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:

1 Section 1. Title 22 of the Code of the Federated States
2 of Micronesia (Annotated), as amended by Public Law No. 18-68,
3 is hereby further amended by repealing chapter 4 in its
4 entirety.

5 Section 2. Title 22 of the Code of the Federated States
6 of Micronesia (Annotated), as amended by Public Law No. 18-68,
7 is hereby further amended by creating a new chapter 4 entitled:
8 "Biosecurity".

9 Section 3. Title 22 of the Code of the Federated States
10 of Micronesia (Annotated), as amended by Public Law No. 18-68,
11 is hereby further amended by inserting new subchapter 1 under
12 chapter 4 entitled: "General Provisions".

13 Section 4. Title 22 of the Code of the Federated States
14 of Micronesia (Annotated), as amended by Public Law No. 18-68,
15 is hereby further amended by adding a new section 401 of

1 subchapter 1 under chapter 4 to read as follows:

2 "Section 401. Short title.

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

5 Section 5. Title 22 of the Code of the Federated States
6 of Micronesia (Annotated), as amended by Public Law No. 18-68,
7 is hereby further amended by adding a new section 1 of
8 subchapter 1 under chapter 4 section 402 to read as follows:

9 "Section 402. Public policy.

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

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

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

23 (c) to prevent the establishment and spread
24 of regulated pests and diseases and the release of
25 organisms that might adversely affect animals,

1 plants, human beings and the environment in the
2 Federated States of Micronesia;

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

7 (e) to prevent the introduction and spread of
8 regulated pests and diseases not already present in
9 the Federated States of Micronesia;

10 (f) to facilitate the safe importation into
11 the Federated States of Micronesia of animals and
12 plants and their products, and related equipment and
13 technology;

14 (g) to facilitate the export of animals and
15 plants and their products in accordance with the
16 biosecurity requirements of the receiving countries;
17 and

18 (h) to facilitate international cooperation
19 to prevent the spread of pests and diseases affecting
20 plants, animals, human beings and the environment.”

21 Section 6. Title 22 of the Code of the Federated States
22 of Micronesia (Annotated), as amended by Public Law No. 18-68,
23 is hereby further amended by adding a new section 403 of
24 subtitle 1 under chapter 4 to read as follows:

25 “Section 403. Definitions.

1 Wherever used in this chapter:

2 (1) "Aircraft" means any conveyance that may be
3 used in navigation by air:

4 (2) "Animal" means any mammal (other than a
5 human), bird, insect, amphibian, reptile, fish,
6 mollusk, or any other living organism except a plant,
7 whether alive or dead, and includes the egg, embryo,
8 ova or semen and any organic animal tissue from which
9 another animal could be produced, and the hide, skin,
10 hair, feathers, shell, horns, hoof, viscera or any
11 other part or portion of the body of an animal:

12 (3) "Animal product" means any article or
13 substance derived from an animal, whether or not in
14 combination with any other article or substance, and
15 includes:

16 (a) meat, fat, milk, whey, cream, butter,
17 cheese, eggs and other foodstuffs derived from an
18 animal;

19 (b) the dung, urine, feces, saliva, bone or
20 blood of an animal, or any article or substance
21 derived from the dung, urine, feces, saliva, bone or
22 blood of an animal; and

23 (c) the secretions of any animal; and

24 (d) any product or biological preparation
25 derived from any animal tissue or animal secretion;

1 (4) "Article" means a single unit of any goods;

2 (5) "Authorized" means duly authorized by the
3 Secretary for the purposes of this chapter;

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

9 (7) "Ballast water" means water (including
10 sediment that is or has been contained in water) used
11 as ballast in a vessel;

12 (8) "Biosecurity" means the control by legal and
13 administrative means of pests and diseases affecting
14 animals, plants and their products, in order to avoid
15 adverse effects from such pests and diseases on the
16 economy and health of the Federated States of
17 Micronesia;

18 (10) "Biosecurity approved premises" means
19 premises approved for the inspection, testing and
20 treatment of regulated articles under section 426;

21 (11) "Biosecurity authority" of a receiving
22 country means the authority or officer in that
23 country which administers its biosecurity laws;

24 (12) "Biosecurity certification requirement", in
25 relation to an article, means a requirement by a

1 receiving country for a sanitary or phytosanitary
2 certificate or a certificate of origin in respect of
3 the article;

4 (13) "Biosecurity clearance", in respect of a
5 regulated article or consignment, means biosecurity
6 import clearance or biosecurity export clearance;

7 (14) "Biosecurity clearance agent" means a person
8 in the Federated States of Micronesia appointed by an
9 importer or exporter under section 414 for the
10 purposes of this chapter as the agent of the importer
11 or exporter to supervise the biosecurity clearance of
12 a conveyance, container, animal, plant, animal or
13 plant product or any other goods;

14 (15) "Biosecurity control" of a regulated article
15 means submission of the article for inspection under
16 this chapter, and thereafter taking such biosecurity
17 measures, or permitting such measures to be taken, as
18 are directed pursuant to this chapter, until
19 biosecurity clearance is granted in respect of the
20 article;

21 (16) "Biosecurity controlled area" means an
22 infested biosecurity controlled area declared under
23 section 445 or a pest-free biosecurity controlled
24 area declared under section 447;

25 (17) "Biosecurity declaration" in relation to an

1 article or consignment means a written statement of
2 the nature, quantity and origin of the article or
3 consignment, and of other details relating to it
4 required by or under this chapter;

5 (18) "Biosecurity emergency" means the incursion
6 or suspected incursion of a regulated pest or disease
7 into any area of the Federated States of Micronesia,
8 or the existence of some other biosecurity threat,
9 which requires urgent action, whether by eradication,
10 containment or other response, and for which the
11 powers under this chapter are not otherwise adequate;

12 (19) "Biosecurity emergency area" means an area
13 declared in response to a biosecurity emergency under
14 section 452;

15 (21) "Biosecurity export clearance" of an article
16 means permission granted under this chapter or the
17 regulations;

18 (23) "Biosecurity functions of the national
19 government" means the regulatory and administrative
20 functions set out in this chapter or the regulations;

21 (24) "Biosecurity goods holding area" means an
22 area of land at or adjacent to a seaport or airport
23 designated under section 412 for the biosecurity
24 inspection of incoming or outgoing articles and
25 consignments;

1 (25) "Biosecurity holding area" means a
2 biosecurity port holding area, a biosecurity goods
3 holding area or a biosecurity postal holding area;

4 (26) "Biosecurity import clearance" of an article
5 means permission for the article or consignment to be
6 removed from a biosecurity holding area provided in
7 accordance with this chapter or the regulations;

8 (27) "Biosecurity import clearance inspection" of
9 an incoming article means inspection of it to
10 determine whether to grant biosecurity import
11 clearance;

12 (28) "Biosecurity import permit" means a
13 biosecurity import permit issued under this chapter
14 or the regulations permitting the entry of an
15 incoming article or articles:

16 (29) "Biosecurity import requirements" in relation
17 to an article or consignment mean:

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

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

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

1 (30) "Biosecurity inspection" of an incoming or
2 outgoing conveyance, article or consignment means an
3 inspection to ascertain whether the conveyance,
4 article or consignment presents a biosecurity risk to
5 the Federated States of Micronesia or a receiving
6 country and whether in other respects it conforms to
7 the requirements of this chapter;

8 (32) "Biosecurity measure" means the inspection,
9 detention, quarantining, testing, treatment, re-
10 consignment or destruction of a regulated article to
11 eliminate or reduce the biosecurity threat presented
12 by the article;

13 (33) "Biosecurity officer" means:

14 (a) the Secretary;

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

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

20 (34) "Biosecurity point of departure" means a
21 seaport, airport or post office designated under
22 section 411 for the export of regulated articles;

23 (35) "Biosecurity point of entry" means a seaport,
24 airport or post office designated under section 411
25 for the importation of regulated articles;

1 (36) "Biosecurity port holding area" means an area
2 designated under section 412 for the biosecurity
3 inspection of incoming vessels or aircraft;

4 (37) "Biosecurity port quarantine" means
5 quarantine of a vessel or aircraft in a biosecurity
6 port quarantine area;

7 (38) "Biosecurity port quarantine area" means an
8 area designated under this chapter or the regulations
9 for the quarantine of vessels and aircraft;

10 (40) "Biosecurity postal holding area" means an
11 area of a post office designated under section 412
12 for the biosecurity inspection of incoming or
13 outgoing postal items;

14 (41) "Biosecurity quarantine" means confinement in
15 isolation of a regulated article and any
16 conveyance, container or packaging in which the
17 article is carried, for inspection, testing and/or
18 treatment; in order to prevent or limit the entry,
19 introduction, establishment or spread of a regulated
20 pest or disease;

21 (42) "Biosecurity quarantine station" means a
22 facility under the control of the Secretary and
23 designated under this chapter or the regulations for
24 the performance of biosecurity quarantine, and
25 includes a temporary biosecurity quarantine station;

1 (43) "Biosecurity register" means the register
2 kept by the Secretary under section 418;

3 (44) "Biosecurity risk" means the likelihood of
4 the introduction, establishment or spread of a pest
5 or disease which would adversely affect animals,
6 plants, human beings, the environment or economic
7 activities, and the likely extent of such harm;

8 (45) "Biosecurity risk assessment" in relation to
9 a regulated article means evaluation of the
10 biosecurity risk posed by the article;

11 (46) "Biosecurity specifications" means
12 biosecurity import or export requirements relating to
13 an outgoing or incoming article specified by a
14 biosecurity officer under this chapter or the
15 regulations;

16 (47) "Biosecurity threat" means the threat of harm
17 being caused or adverse effects resulting to animals,
18 plants, human beings, the environment or economic
19 activities as a result of the introduction,
20 establishment or spread of a regulated pest or
21 disease;

22 (48) "Captain", in relation to an aircraft, means
23 the person for the time being in command of the
24 aircraft;

25 (49) "Compliance agreement" means an agreement

1 between the Secretary and another person as provided
2 for in section 425;

3 (50) "Consignment" means a quantity of goods which
4 arrive in the same vessel or aircraft and which in
5 accordance with this chapter can be covered by a
6 single import permit or sanitary or phytosanitary
7 certificate;

8 (51) "Container" means anything in which or by
9 which goods are encased, covered, enclosed or packed,
10 including any material in contact with the goods;

11 (52) "Contamination" means the presence in any
12 item of a pest, not constituting an infestation;

13 (53) "Conveyance" means a ship, aircraft, vehicle
14 or other means of transporting people, goods or
15 animals from one location to another, while it is
16 being used or prepared for such transport;

17 (54) "Country of origin" includes a re-exporting
18 country;

19 (55) "Custodian", in respect of an item, means the
20 occupier of a place or the person in possession and
21 charge of an article, whether lawfully or not, but
22 does not include a person who has possession or
23 control of the item only for the purpose of taking
24 biosecurity measures in respect of it;

25 (56) "Department" means the Department of

1 Resources and Development of the National Government
2 of the Federated States of Micronesia;

3 (57) "Disease" means any unhealthy condition in an
4 animal or plant which is known or suspected to be
5 caused by an organism, and includes a disease
6 transmissible from animals to humans and a disease
7 capable of harming the environment;

8 (58) "Document" means any mode of communicating
9 information in a retrievable form, including
10 electronically;

11 (59) "Environment" includes:

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

14 (b) all natural and physical resources; and

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

17 (60) "Eradication" means the application of
18 measures to eliminate a pest or disease from an area;

19 (61) "Establishment", in relation to a pest or
20 disease, means the perpetuation in an area of the
21 pest or disease for the foreseeable future after its
22 entry into the area;

23 (62) "Export" means:

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

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

5 (63) "Exporter" means a person who exports or
6 seeks to export goods, other than as the master of
7 the vessel or captain of the aircraft in which the
8 goods are carried; and includes a biosecurity
9 clearance agent;

10 (64) "Fittings" means any stall, box, cage,
11 enclosure, pen, net or other material used for
12 penning, yarding, confining or containing any animal
13 and includes any harness, saddlery, rope, bucket,
14 trough, bedding, utensil or implement used in the
15 handling or keeping of animals or animal products;

16 (65) "Fodder" means any water, meat, vegetables,
17 grain or material used for the food or litter of
18 animals, or the storage of animal products;

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

25 (67) "Genetic material" means any material of

1 plant, animal, microbial or other origin containing
2 functional units of heredity;

3 (68) "Goods" means any kind of moveable property
4 or thing;

5 (69) "Host material" means any packing material,
6 container, fittings, litter, manure, fodder or
7 similar goods that might have had contact with
8 animals or plants or their products;

9 (70) "Import" means:

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

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

16 (71) "Importer" means a person who imports or
17 seeks to import goods, other than as the master of a
18 vessel or captain of the aircraft in which the goods
19 are carried; and includes a biosecurity clearance
20 agent;

21 (72) "In transit", in relation to goods, means the
22 goods are not imported into an area but pass through
23 it to another area, whether by the same or another
24 conveyance, during which time they remain enclosed,
25 are not split up, are not combined with other goods,

1 and do not have their packaging changed;

2 (73) "Infected", in relation an animal or plant,
3 means that the animal or plant is diseased or may
4 have been exposed to the risk of infection during the
5 preceding 6 months;

6 (74) "Infested", in relation an item or area,
7 means that there is present in the item or area a
8 living pest or disease;

9 (75) "Inspection", in relation to an item, means
10 an official examination of the item to determine if
11 any pest or disease is present in the item and
12 whether in other respects the item conforms to the
13 requirements of this chapter;

14 (76) "IPPC" means the International Plant
15 Protection Convention of the Food and Agriculture
16 Organization of the United Nations;

17 (77) "Introduction", in relation to a pest or
18 disease, means the entry of the pest or disease into
19 an area, resulting in its establishment in the area;

20 (78) "Item" means any kind of moveable or
21 immoveable property or thing, including premises;

22 (79) "Living organism" means any organism capable
23 of transferring or replicating genetic material,
24 including sterile organisms, viruses, viroids,
25 plasmids, bacteriophages and prions;

1 (80) "Judicial officer" means a judge or justice
2 of the Supreme Court of the Federated States of
3 Micronesia;

4 (81) "Master", in relation to a vessel, means the
5 person for the time being in charge of the vessel,
6 not being the pilot;

7 (82) "Microbe" means any organism or biotic entity
8 of microscopic proportions, whether unicellular,
9 multicellular or sub-cellular in common form;

10 (83) "Notifiable pest or disease" means a pest or
11 disease which is declared under section 450 to be
12 notifiable;

13 (84) "OIE" means the Organization Internationale
14 Epizoötique;

15 (85) "Organism" means a biotic entity capable of
16 reproduction or replication, other than a human;

17 (86) "Packing material" means any fabric, paper,
18 cardboard, plastic, wood, straw, grass or leaves used
19 in packing any goods, and any other type of material
20 in which goods are covered, enclosed, contained or
21 wrapped;

22 (87) "Person" means the Federated States of
23 Micronesia, a State, municipality, political
24 subdivision, a public or private institution,
25 corporation, partnership, joint venture, association,

1 firm, or company organized or existing under the laws
2 of the Federated States of Micronesia or any State or
3 country, lessee or other occupant of property, or
4 individual, acting singly or as a group;

5 (88) "Pest" means any species, strain or biotype
6 of a plant, animal, microbe or pathogenic agent, or
7 any organism, which:

8 (a) causes disease; or

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

13 (89) "Pest risk analysis" means the evaluation by
14 a qualified person of biological or other scientific
15 and economic evidence to determine whether a pest or
16 disease should be regulated and the nature of any
17 biosecurity measures to be taken against it;

18 (90) "Phytosanitary certificate" means a
19 certificate relating to a plant or plant product
20 which:

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

23 (b) certifies that the plant or plant
24 product is substantially free from plant pests and
25 diseases and in other respects meets the plant health

1 import requirements of the receiving country; and

2 (c) is patterned after the model

3 certificates of the IPPC;

4 (91) "Plant" includes seeds, germplasm, any other
5 part of a plant, a dead or preserved plant, and an
6 aquatic plant;

7 (92) "Plant material" means any unmanufactured
8 material of plant origin, including grain;

9 (93) "Plant product" means:

10 (a) plant material;

11 (b) timber; and

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

14 (94) "PPPO" means the Pacific Plant Protection
15 Organization;

16 (95) "Precautionary principle" means the principle
17 that it is reasonable to refuse permission for an
18 activity where there are reasonable concerns that
19 granting permission may result in substantial
20 negative impact, even if the data in support of a
21 refusal is uncertain, incomplete or not supported by
22 full scientific consensus. Application of the
23 precautionary principle in relation to this chapter
24 must be consistent with Article 5.7 of the SPS
25 Agreement;

1 (96) "Premises" means any immoveable property,
2 other than land;

3 (97) "Prescribed" means prescribed by this chapter
4 or by regulations made under it;

5 (98) "Prohibited import" means a regulated article
6 the importation or ownership of which is prohibited
7 under section 410;

8 (99) "Re-exporting country", in relation any
9 goods, means a country which is not the country of
10 origin of the goods, but where a container or
11 consignment of goods is opened and re-packed for
12 export;

13 (100) "Receiving country" means a country which is
14 the intended destination of an article being or
15 proposed to be exported;

16 (101) "Reconsign", in relation to a regulated
17 article or consignment which has been refused
18 biosecurity import clearance, means to send the
19 article or consignment out of the Federated States of
20 Micronesia, either by the vessel or aircraft on which
21 it was imported or by another vessel or aircraft;

22 (102) "Regulated article" means:

23 (a) any animal or animal product;

24 (b) any plant or plant product;

25 (c) any living organism, whether modified or

1 not;

2 (d) soil, sand gravel and aggregate;

3 (e) any genetic material;

4 (f) human remains;

5 (g) any host material;

6 (h) a regulated pest or disease;

7 (i) any clothing, machinery or other article

8 that contains or has adhering to it anything

9 mentioned in paragraph (a), (b), (c) or (d);

10 (j) garbage; and

11 (k) any other article, substance, goods or

12 thing declared by the Secretary by order under

13 subsection (2) to be a regulated article for the

14 purposes of this chapter;

15 (103) "Regulated consignment" means a consignment
16 of regulated articles;

17 (104) "Regulated pest or disease" means a pest or
18 disease the importation of which into the Federated
19 States of Micronesia is prohibited or restricted
20 under section 409;

21 (105) "Regulations" means regulations, orders and
22 any other subsidiary legislation made under this
23 chapter;

24 (106) "Sanitary certificate" means an international
25 health certificate relating to an animal or animal

1 product which:

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

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

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

13 (107) "Secretary" means the Secretary of the
14 Department of Resources and Development;

15 (108) "Ship's stores" means any food or other
16 regulated articles carried on a vessel or aircraft
17 for consumption or use on the vessel or aircraft;

18 (109) "Specified", in relation to a requirement,
19 document, procedure or any other matter, means
20 specified by the Secretary under section 452;

21 (110) "Spread", in relation to a pest or disease,
22 means the expansion of the geographical distribution
23 of the pest or disease within an area;

24 (111) "SPS Agreement" means the World Trade
25 Organization Agreement on the Application of Sanitary

1 and Phytosanitary Measures;

2 (112) "State Government means" the Governments of
3 the States of Yap, Chuuk, Pohnpei and Kosrae;

4 (113) "Status", in relation to a pest or disease,
5 means its presence, absence, prevalence, incidence,
6 distribution and occurrence in an area;

7 (114) "Test" means an examination which goes beyond
8 a visual inspection, to determine if a pest or
9 disease is, or is likely to be, present or to
10 identify a pest or disease, and includes chemical
11 tests of plant material and diagnostic tests in
12 respect of an animal;

13 (115) "this chapter" includes regulations and
14 orders made under it;

15 (116) "Timber" includes round wood, sawn wood, wood
16 chips and dunnage, with or without bark;

17 (117) "Treatment" means an authorized procedure for
18 the killing, removal, modification or rendering
19 infertile or non-viable of a pest or disease by way
20 of cleansing, fumigation, inoculation, disinfection,
21 disinfection, decontamination, or otherwise;

22 (118) "Uncleared", in relation to a regulated
23 article, means that the article has not received
24 biosecurity clearance;

25 (119) "under official control", in relation to a

1 pest or disease, means that its presence is known,
2 its distribution is limited and its further spread is
3 controlled by the exercise of powers under this
4 chapter;

5 (120) "Vehicle" includes a car, truck, motorcycle,
6 bicycle (whether motorized or not), cart and any
7 other wheeled conveyance;

8 (121) "Vessel" includes a ship, hovercraft, boat,
9 ferry, raft, yacht, canoe or pontoon that is used as
10 a conveyance in or on water, whether or not it is
11 self-propelled; and

12 (122) "Written" and "in writing" mean any mode
13 form, including electronically;

14 Section 7. Title 22 of the Code of the Federated States
15 of Micronesia (Annotated), as amended by Public Law No. 18-86,
16 is hereby further amended by adding a new section 404 of
17 subchapter 1 under chapter 4 to read as follows:

18 "Section 404. Declarations by Secretary.

19 The Secretary may by order declare any article,
20 substance, goods or thing to be a regulated article
21 for the purposes of this chapter."

22 Section 8. Title 22 of the Code of the Federated States
23 of Micronesia (Annotated), as amended by Public Law No. 18-86,
24 is hereby further amended by adding a new section 405 of
25 subchapter 1 under chapter 4 to read as follows:

1 “Section 405. Application of chapter.

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

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

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

15 Section 9. Title 22 of the Code of the Federated States
16 of Micronesia (Annotated), as amended by Public Law No. 18-86,
17 is hereby further amended by adding a new section 406 of
18 subchapter 1 under chapter 4 to read as follows:

19 “Section 406. Chapter binds the National and State
20 Governments.

21 This chapter binds the Federated States of
22 Micronesia, including every department of the
23 National Government, the State Governments, every
24 statutory authority and every person in the
25 employment of the National Government or a State

1 Government.

2 Section 10. Title 22 of the Code of the Federated States
3 of Micronesia (Annotated), as amended by Public Law No. 18-86,
4 is hereby further amended by adding a new section 407 of
5 subchapter 1 under chapter 4 to read as follows:

6 "Section 407. Responsibility for the chapter.

7 The Secretary is responsible for the implementation
8 of this the provisions of this chapter and the
9 performance of the biosecurity functions of the
10 National Government, within the resources available
11 to the Department."

12 Section 11. Title 22 of the Code of the Federated States
13 of Micronesia (Annotated), as amended by Public Law No. 18-86,
14 is hereby further amended by adding a new section 408 of
15 subchapter 1 under chapter 4 to read as follows:

16 "Section 408. Relationship with other laws.

17 (1) This chapter is in addition to and does not
18 derogate from any other law of the Congress or of any
19 of the State Governments.

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

25 Section 12. Title 22 of the Code of the Federated States

1 of Micronesia (Annotated), as amended by Public Law No. 18-86,
2 is hereby further amended by inserting new subchapter II under
3 chapter 4 entitled: "Border Biosecurity Control".

4 Section 13. Title 22 of the Code of the Federated States
5 of Micronesia(Annotated), as amended by Public Law No. 18-86,
6 is hereby further amended by adding a new section 409 of
7 subchapter 1 under chapter 4 to read as follows:

8 "Section 409. Regulated pests and diseases.

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

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

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

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

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

23 Section 14. Title 22 of the Code of the Federated States
24 of Micronesia (Annotated), as amended by Public Law No. 18-86,
25 is hereby further amended by adding a new section 410 of

1 subchapter II under chapter 4 to read as follows:

2 "Section 410. Prohibited imports.

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

5 (a) particular regulated articles from all
6 countries; or

7 (b) particular regulated articles from one
8 or more countries of origin,
9 if the importation would present an unacceptable
10 biosecurity risk to the Federated States of
11 Micronesia.

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

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

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

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

21 (a) have regard to the international
22 obligations of the Federated States of Micronesia in
23 respect of biosecurity;

24 (b) apply the precautionary principle.

25 (4) Before making an order under this section the

1 Secretary must obtain a pest risk analysis in
2 relation to the article;

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

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

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

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

12 Section 15. Title 22 of the Code of the Federated States
13 of Micronesia (Annotated, as amended by Public Law No. 18-86,
14 is hereby further amended by adding new section 411 of
15 subchapter II under chapter 4 to read as follows:

16 "Section 411. Biosecurity points of entry and
17 departure.

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

22 (2) Subject to subsection (9), a master or
23 captain who causes or permits an incoming vessel or
24 aircraft to berth or land except at a seaport or
25 airport that is a biosecurity point of entry commits

1 a level five offense.

2 (3) A person who imports, or attempts to import,
3 a regulated article or consignment except at a
4 biosecurity point of entry commits a level three
5 offense.

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

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

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

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

23 (8) A post office may only be designated as a
24 biosecurity point of entry or departure in respect of
25 regulated articles that at the time of entry or

1 departure are in a mail bag or other container that
2 conforms to the requirements of the postal
3 legislation of the Federated States of Micronesia.

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

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

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

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

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

21 Section 16. Title 22 of the Code of the Federated States
22 of Micronesia (Annotated), as amended by Public Law No. 18-86,
23 is hereby further amended by adding a new section 412 of
24 subchapter II under chapter 4 to read as follows:

25 "Section 412. Designation of biosecurity holding

1 areas.

2 (1) The Secretary may by order designate:

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

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

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

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

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

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

23 (a) to hold regulated articles in
24 biosecurity quarantine;

25 (b) to prevent unauthorized persons from

1 entering the station or removing items from the
2 station;

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

7 Section 17. Title 22 of the Code of the Federated States
8 of Micronesia (Annotated), as amended by Public Law No. 18-86,
9 is hereby further amended by adding a new section 413 of
10 subchapter II under chapter 4 to read as follows:

11 "Section 413. Management of biosecurity holding
12 areas.

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

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

23 (3) A person who:

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

1 (b) damages, interferes with or in any way
2 reduces the effectiveness of measures taken to
3 secure a biosecurity holding area, or any regulated
4 article or other item in the area,
5 commits a level two offense.

6 (4) A person who removes or attempts to remove
7 from a biosecurity holding area any regulated article
8 without obtaining biosecurity clearance in respect of
9 it, unless for the purpose of biosecurity measures
10 being applied to the article in accordance with this
11 chapter, commits a level six offense."

12 Section 18. Title 22 of the Code of the Federated States
13 of Micronesia (Annotated), as amended by Public Law No. 18-86,
14 is hereby further amended by adding a new section 414 of
15 subchapter II under chapter 4 to read as follows:

16 "Section 414. Biosecurity clearance agents.

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

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

24 (b) notify the Secretary in writing of the
25 appointment before the agent performs any agency

1 functions.

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

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

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

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

23 Section 19. Title 22 of the Code of the Federated States
24 of Micronesia (Annotated), as amended by Public Law No. 18-86,
25 is hereby further amended by inserting a new subchapter III

1 entitled "Biosecurity Administration".

2 Section 20. Title 22 of the Code of the Federated States
3 of Micronesia (Annotated), as amended by Public Law No. 18-86,
4 is hereby further amended by adding a new section 415 of
5 subchapter III under chapter 4 to read as follows:

6 "Section 415. Designation of biosecurity officers.

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

10 (2) The Secretary may in writing designate any
11 public officer or employee of a statutory authority to
12 be a biosecurity officer for a particular purpose or
13 at a particular location.

14 (3) The Secretary may in writing appoint any
15 person to be a temporary biosecurity officer for a
16 period not exceeding 6 months for a particular purpose
17 or at a particular location.

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

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

24 (a) A biosecurity officer must perform such
25 duties, not inconsistent with this chapter, as are

1 assigned to the officer by the Secretary.

2 (b) The Secretary may limit the functions to
3 be performed by a biosecurity officer to those within
4 the officer's technical sphere of competence;

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

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

13 (7) A person who:

14 (a) upon the termination of his or her
15 appointment as a biosecurity officer fails to return
16 to the Secretary the identification issued under
17 subsection (6) within 24 hours of the termination
18 taking effect commits a level two offense; or

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

23 (8) A person who is to perform duties as a
24 biosecurity officer under this section must be given
25 adequate training in biosecurity control measures and

1 in the provisions of this chapter before embarking on
2 those duties.”

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

7 “Section 416. Biosecurity planning and
8 administration.”

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

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

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

25 (4) The Secretary must, to the extent possible,

1 publicize the requirements of this chapter and
2 increase public awareness of the importance of
3 biosecurity.”

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

8 “Section 417. Delegation of functions.

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

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

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

24 (6) A person purporting to perform any function
25 by virtue of a delegation under this section must,

1 when required to do so, produce evidence of the
2 authority to perform the function.

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

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

10 "Section 418. Biosecurity register and records.

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

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

- 18 (a) regulated pests and diseases;
19 (b) prohibited imports;
20 (c) biosecurity points of entry and
21 departure;
22 (d) biosecurity holding areas;
23 (e) biosecurity clearance agents;
24 (f) biosecurity port quarantine areas;
25 (g) biosecurity quarantine stations;

- 1 (h) biosecurity approved premises;
- 2 (i) biosecurity import permits issued,
3 refused and revoked under this chapter or the
4 regulations;
- 5 (j) biosecurity controlled areas declared;
- 6 (k) occurrences of notifiable pests and
7 diseases notified under regulation;
- 8 (l) beneficial organisms released under
9 regulation;
- 10 (m) agreements and memoranda of
11 understanding with other governments, government
12 departments, statutory authorities and overseas
13 agencies under sections 421 and 422;
- 14 (n) compliance agreements entered into by
15 the Secretary under section 424;
- 16 (o) bilateral agreements entered into with
17 potential receiving countries under section 426;
- 18 (p) any other public biosecurity register
19 required by or under this chapter or considered by
20 the Secretary to be necessary or appropriate.

21 (3) The biosecurity register must include details
22 of:

- 23 (a) specifications for regulated articles
24 made under this chapter or the regulations, including
25 the biosecurity measures appropriate to each type of

1 regulated article;

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

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

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

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

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

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

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

23 (c) operational statistics relating to the
24 biosecurity functions of the Government."

25 Section 23. Title 22 of the Code of the Federated States

1 of Micronesia, as amended, is hereby further amended by
2 inserting under chapter 4 subchapter III a new section 419 to
3 read as follows:

4 "Section 419. Status of biosecurity register and
5 records.

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

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

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

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

25 (5) The Secretary may by order determine the

1 period for which entries in the biosecurity register
2 and other records under section 418 must be kept,
3 consistent with any other law relating to public
4 records."

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

9 "Section 420. Payments.

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

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

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

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

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

24 Section 25. Title 22 of the Code of the Federated States
25 of Micronesia, as amended, is hereby further amended by

1 inserting under chapter 4 subchapter III a new section 421 to
2 read as follows:

3 “Section 421. Consultation and outsourcing.

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

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

20 (3) The Department may:

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

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

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

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

8 “Section 422. Duty to coordinate.

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

18 2) Without limiting subsection (1):

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

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

25 (i) notify a biosecurity officer of the

1 importation or proposed exportation of any uncleared
2 regulated article that comes to their notice;

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

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

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

25 Section 27. Title 22 of the Code of the Federated States

1 of Micronesia, as amended, is hereby further amended by
2 inserting under chapter 4 subchapter III a new section 423 to
3 read as follows:

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

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

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

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

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

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

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

24 (f) facilities for the incineration or other
25 disposal of regulated articles without creating an

1 unacceptable biosecurity risk;
2 (g) fencing of premises in which garbage
3 holding and disposal equipment is situated;
4 (h) any other facilities the Secretary
5 reasonably requests in writing as being needed for
6 the performance of biosecurity functions at the point
7 of entry or departure.

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

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

19 "Section 424. Compliance Agreements.

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

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

25 (b) the way in which any requirement under

1 this chapter can be satisfied by the person; and

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

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

12 (3) A biosecurity officer may release an article
13 to which a compliance agreement applies, and if it is
14 a regulated article grant biosecurity clearance in
15 respect of it, on the basis of a written certificate,
16 given by a person authorized under the agreement to
17 give such a certificate, that all the measures to
18 which the agreement refers have been complied with in
19 respect of the article."

20 Section 29. Title 22 of the Code of the Federated States
21 of Micronesia, as amended, is hereby further amended by
22 inserting under chapter 4 subchapter III a new section 425 to
23 read as follows:

24 "Section 425. Biosecurity approved premises.

25 (1) The Secretary, on written application by the

1 owner or occupier of any premises and on payment of
2 the prescribed fee, may in writing:

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

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

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

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

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

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

25 (d) whether the premises are located in a

1 place where biosecurity officers can conveniently
2 check that this chapter and the regulations are being
3 complied with in the premises; and

4 (e) any other matter the Secretary considers
5 relevant.

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

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

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

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

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

20 (6) The provisions of this chapter relating to
21 biosecurity quarantine stations apply to premises
22 approved under this section."

23 Section 30. Title 22 of the Code of the Federated States
24 of Micronesia (Annotated), as amended by Public Law No. 18-86,
25 is hereby further amended by inserting subchapter IV under

1 chapter 4 entitle: "Powers of Biosecurity Officers".

2 "Section 426. International Cooperation.

3 (1) In the interests of enhancing international
4 cooperation in the field of biosecurity and to
5 fulfill FSM's obligations under international
6 agreements of relevance to biosecurity, the Secretary
7 may:

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

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

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

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

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

24 Section 31. Title 22 of the Code of the Federated States
25 of Micronesia (Annotated), as amended by Public Law No. 18-86,

1 is hereby further amended by inserting under chapter 4
2 subchapter III a new section 427 to read as follows:

3 "Section 427. Notifications.

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

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

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

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

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

20 Section 32. Title 22 of the Code of the Federated States
21 of Micronesia (Annotated), as amended by Public Law No. 18-86,
22 is hereby further amended by inserting new subchapter IV under
23 chapter 4 entitled "Powers of Biosecurity Officers"

24 Section 33. Title 22 of the Code of the Federated States
25 of Micronesia (Annotated), as amended by Public Law No. 18-86,

1 is hereby further amended by adding a new section 428 of
2 subchapter IV under chapter 4 to read as follows:

3 "Section 428. General rules as to exercise of
4 powers.

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

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

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

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

25 (5) Except as otherwise provided in this chapter,

1 a biosecurity officer may exercise a power under this
2 chapter without a warrant or other order of a
3 judicial officer, provided the action is taken in
4 good faith for the purposes of this chapter.

5 (6) A biosecurity officer exercising powers under
6 this subchapter must produce for inspection his or
7 her identification as an officer, upon request by the
8 person in charge of the conveyance, premises or area,
9 or the importer, exporter, owner or custodian of the
10 item, in respect of which the power is being
11 exercised.

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

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

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

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

25 (c) any written directions of the Secretary;

1 (d) the provisions of:

2 (i) the Vienna Convention on Diplomatic
3 Relations relating to the premises of a diplomatic
4 mission, diplomatic bags and the personal baggage of
5 diplomatic agents;

6 (ii) the Vienna Convention on Consular
7 Relations relating to consular premises, archives and
8 documents."

9 Section 34. Title 22 of the Code of the Federated States
10 of Micronesia (Annotated), as amended by Public Law No. 18-86,
11 is hereby further amended by adding a new section 429 of
12 subchapter IV under chapter 4 to read as follows:

13 "Section 429. Entry, search and seizure.

14 (1) A biosecurity officer may:

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

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

23 (c) at any time enter and search any
24 premises, building or area, including a biosecurity
25 holding area, biosecurity quarantine station or

1 biosecurity approved premises and land adjacent to a
2 dwelling house, but not a dwelling house, in order to
3 ascertain the presence of uncleared regulated
4 articles that have not received biosecurity import
5 clearance;

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

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

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

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

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

22 (3) A biosecurity officer may at any time enter
23 and search any store, warehouse, silo, pen or similar
24 premises, or any conveyance, in which regulated
25 articles intended for importation to or exportation

1 from the Federated States of Micronesia are kept.

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

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

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

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

17 (a) is an uncleared regulated article; or

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

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

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

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

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

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

8 Section 35. Title 22 of the Code of the Federated States
9 of Micronesia (Annotated), as amended by Public Law No. 18-86,
10 is hereby further amended by adding a new section 430 of
11 subchapter IV under chapter 4 to read as follows:

12 "Section 430. Inspection of documents.

13 (1) A biosecurity officer may:

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

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

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

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

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

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

9 Section 36. Title 22 of the Code of the Federated States
10 of Micronesia (Annotated), as amended by Public Law No. 18-86,
11 is hereby further amended by adding a new section 431 of
12 subchapter IV under chapter 4 to read as follows:

13 "Section 432. Inspection of articles.

14 (1) A biosecurity officer may at a biosecurity
15 holding area inspect any incoming regulated article,
16 and any conveyance, container or baggage in which the
17 article is carried, in order to assess the
18 biosecurity risk presented by the article,
19 conveyance, container or baggage.

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

24 (3) The powers of inspection in subsection (1)
25 and (2) are in addition to the powers of inspection

1 provided elsewhere in this chapter or the
2 regulations.

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

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

10 (a) the person commits a level two offense;

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

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

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

21 (6) When conducting an inspection under this
22 chapter, a biosecurity officer may seek access to,
23 and take photographic, electronic or other copies of
24 any evidence, information, records and things related
25 to the regulated article or consignment that the

1 officer reasonably requires in order to ensure
2 compliance with this chapter or to investigate a
3 possible offense under it.

4 (7) The regulations may specific procedures for
5 the inspection of articles in transit."

6 Section 37. Title 22 of the Code of the Federated States
7 of Micronesia (Annotated), as amended by Public Law No. 18-86,
8 is hereby further amended by adding a new section 432 of
9 subchapter IV under chapter 4 to read as follows:

10 "Section 432. Detention of articles.

11 (1) If an incoming regulated article requires
12 biosecurity measures to be taken in respect of it
13 before biosecurity import clearance can be granted, a
14 biosecurity officer may detain the article, and any
15 conveyance, container or baggage in which the article
16 is carried, for biosecurity measures to be taken.

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

23 (3) An article detained under this section must
24 be detained in a place specified by the officer,
25 being a biosecurity holding area, biosecurity

1 quarantine station or biosecurity approved premises.

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

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

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

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

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

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

23 Section 38. Title 22 of the Code of the Federated States
24 of Micronesia (Annotated), as amended by Public Law No. 18-86,
25 is hereby further amended by adding a new section 433 of

1 subchapter IV under chapter 4 to read as follows:

2 "Section 433. Taking of samples.

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

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

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

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

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

15 (2) If an importer, owner or custodian refuses
16 consent under subsection (1), the biosecurity officer
17 may require the person to provide appropriate
18 samples.

19 (3) An importer, owner or custodian who refuses
20 either to allow samples to be taken or to provide
21 samples, when required to do so under this section,
22 commits a level three offense.

23 (4) A biosecurity officer may, with the consent
24 of importer, owner or custodian, take samples of any
25 outgoing regulated article if the taking of a sample

1 is necessary for the issue of a sanitary or
2 phytosanitary certificate.

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

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

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

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

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

1 reasonably practicable.

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

4 Section 39. Title 22 of the Code of the Federated States
5 of Micronesia (Annotated), as amended by Public Law No. 18-86,
6 is hereby further amended by adding a new section 434 of
7 subchapter IV under chapter 4 to read as follows:

8 “Section 434. Testing of Articles.

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

14 (2) Following a test of an incoming article, and
15 on payment of the prescribed fee, if any, the article
16 must be either released to the importer, and
17 biosecurity import clearance granted in respect of
18 it, or it must be treated in accordance with section
19 435 or reconsigned or destroyed.

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

25 (4) Following tests on an outgoing article,

1 biosecurity export clearance must either be granted
2 or refused in respect of the article.

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

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

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

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

17 Section 40. Title 22 of the Code of the Federated States
18 of Micronesia (Annotated), as amended by Public Law No. 18-86,
19 is hereby further amended by adding a new section 435 of
20 subchapter IV under chapter 4 to read as follows:

21 "Section 435. Treatment of articles.

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

1 granted in respect of it.

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

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

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

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

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

23 (7) If:

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

1 (b) in the opinion of a biosecurity officer,
2 there would still be a biosecurity risk after
3 treatment; or

4 (c) the importer chooses not to have the
5 article treated, the article must be reconsigned or,
6 if the importer chooses, or if section 438 applies,
7 destroyed.

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

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

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

22 (11) Treatment of an article:

23 (a) should be the minimum required to remove
24 or adequately reduce the biosecurity risk posed by
25 the article;

1 (b) may be administered by an appropriately
2 qualified biosecurity officer, or by any other
3 suitably qualified person at the request of the
4 officer or the importer.

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

7 Section 41. Title 22 of the Code of the Federated States
8 of Micronesia (Annotated), as amended by Public Law No. 18-86,
9 is hereby further amended by adding a new section 436 of
10 subchapter IV under chapter 4 to read as follows:

11 "Section 436. Reconsignment of articles.

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

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

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

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

25 (b) if the biosecurity officer considers

1 that the biosecurity risk of reconsignment is
2 unacceptable, the option is not available.

3 (4) The power to order reconsignment of an
4 article under this section applies also to any
5 container, crate, baggage, package or mail which
6 carries it.

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

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

13 Section 42. Title 22 of the Code of the Federated States
14 of Micronesia (Annotated), as amended by Public Law No. 18-86,
15 is hereby further amended by adding a new section 437 of
16 subchapter IV under chapter 4 to read as follows:

17 "Section 437. Destruction of articles.

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

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

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

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

3 (c) the importer, owner or custodian chooses
4 not to have the article treated,
5 the article must be reconsigned (if it is an imported
6 article) or, if the importer, owner or custodian
7 chooses, or if section 438 applies, destroyed.

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

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

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

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

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

1 destruction.

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

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

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

11 Section 43. Title 22 of the Code of the Federated States
12 of Micronesia (Annotated), as amended by Public Law No. 18-86,
13 is hereby further amended by adding a new section 438 of
14 subchapter IV under chapter 4 to read as follows:

15 "Section 438. Post mortem examination of an animal.

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

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

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

1 and

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

4 (2) If an examination is conducted pursuant to
5 subsection (1), the results of the examination and of
6 any laboratory reports resulting from the examination
7 must be provided in writing to the Secretary and to
8 the owner of the animal, if the owner can be
9 identified and located."

10 Section 44. Title 22 of the Code of the Federated States
11 of Micronesia (Annotated), as amended by Public Law No. 18-86,
12 is hereby further amended by adding a new section 439 of
13 subchapter IV under chapter 4 to read as follows:

14 "Section 439. Powers in relation to people.

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

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

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

22 (c) engaged in importing or exporting
23 regulated articles, is in possession or control of an
24 article that poses a biosecurity threat to the
25 Federated States of Micronesia, the officer may

1 detain and question the person.

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

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

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

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

22 (6) A person who refuses:

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

1 (b) to submit to a search reasonably required
2 under this section, commits a level two offense.

3 (7) In this section, "person" means an
4 individual."

5 Section 45. Title 22 of the Code of the Federated States
6 of Micronesia (Annotated), as amended by Public Law No. 18-86,
7 is hereby further amended by inserting new subchapter V under
8 chapter 4 entitled "Offenses and Penalties".

9 Section 46. Title 22 of the Code of the Federated States
10 of Micronesia (Annotated), as amended by Public Law No. 18-86,
11 is hereby further amended by adding a new section 440 of
12 subchapter IV under chapter 4 to read as follows:

13 "Section 440. Dereliction of duty by officers.

14 A biosecurity officer who:

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

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

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

25 (d) in the course of performing his or her

1 duties molests, intimidates or unlawfully assaults
2 any person;

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

5 (f) knowingly or recklessly makes a false or
6 misleading statement, or issues a false or misleading
7 certificate or other document, while purporting to
8 perform his or her duties,
9 commits a level three offense.”

10 Section 47. Title 22 of the Code of the Federated States
11 of Micronesia (Annotated), as amended by Public Law No. 18-86,
12 is hereby further amended by adding a new section 441 of
13 subchapter IV under chapter 4 to read as follows:

14 “Section 441. Obstruction, false information etc.

15 A person who:

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

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

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

25 (d) bribes a biosecurity officer in relation

1 to the performance of functions under this chapter;

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

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

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

11 (ii) issues any false or misleading
12 certificate;

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

17 Section 48. Title 22 of the Code of the Federated States
18 of Micronesia (Annotated), as amended by Public Law No. 18-86,
19 is hereby further amended by adding a new section 442 of
20 subchapter V under chapter 4 to read as follows:

21 "Section 442. Fraudulent use of official documents.

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

24 (a) forges or unlawfully alters the document;

25 (b) allows any other person to use or attempt

1 to use the document for any purpose of this chapter,
2 commits a level four offense.

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

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

11 Section 49. Title 22 of the Code of the Federated States
12 of Micronesia (Annotated), as amended by Public Law No. 18086,
13 is hereby further amended by adding a new section 443 of
14 subchapter V under chapter 4 to read as follows:

15 "Section 443. Levels of offenses and maximum
16 penalties.

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

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

25 (3) An individual who commits a level three

1 offense under a section of this chapter is liable on
2 summary conviction to a maximum fine of \$20,000 or a
3 six month period of imprisonment, or both.

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

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

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

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

19 Section 50. Title 22 of the Code of the Federated States
20 of Micronesia (Annotated), as amended by Public Law No. 18-86,
21 is hereby further amended by adding a new section 444 of
22 subchapter V under chapter 4 to read as follows:

23 “Section 444. Forfeiture.

24 (1) A court convicting a person of an offense
25 under this chapter or the regulations may, in

1 addition to any other penalty imposed, order that any
2 article used in committing the offense, or, if the
3 article has been sold, the proceeds of the sale, be
4 confiscated.

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

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

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

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

14 (3) For the purposes of subsection (1), "article
15 used in committing the offense" includes equipment, a
16 conveyance and any other movable thing owned by the
17 offender which was used directly in the commission of
18 the offense, but does not include land or buildings
19 and fixtures on land.

20 (4) In deciding whether to order confiscation of
21 any article or proceeds under this section, a court
22 must have regard to the principle of
23 proportionality."

24 Section 51. Title 22 of the Code of the Federated States
25 of Micronesia (Annotated), as amended by Public Law No. 18-86,

1 is hereby further amended by adding a new section 445 of
2 subchapter V under Chapter 4 to read as follows:

3 "Section 445. Fixed penalty system.

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

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

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

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

15 (a) \$100 for a level one offense;

16 (b) \$200 for a level two offense;

17 (c) \$400 for a level three offense;

18 (d) \$800 for a level four offense;

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

20 (f) \$5000 for a level six offense.

21 (3) The fixed penalty for a body corporate is 5
22 times that for an individual.

23 (4) Before imposing a fixed penalty order on a
24 person for an offense, the Secretary must notify the
25 person in writing, giving particulars of the offense,

1 the maximum penalty that a court could impose, the
2 fixed penalty that is proposed, and any item that
3 will be confiscated.

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

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

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

15 (6) A fixed penalty order must:

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

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

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

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

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

14 (b) prosecute the offense.

15 (9) The Secretary's power to make regulations
16 under section 469 includes the power to make
17 regulations to supplement the provisions of this
18 section in relation to fixed penalty notices,
19 including the imposing of stop orders to prevent a
20 person leaving the country until the sum is paid."

21 Section 52. Title 22 of the Code of the Federated States
22 of Micronesia (Annotated), as amended by Public Law No. 18-86,
23 is hereby further amended by adding new section 446 of
24 subchapter V under chapter 4 to read as follows:

25 "Section 446. Offenses by corporate bodies.

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

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

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

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

16 Section 53. Title 22 of the Code of the Federated States
17 of Micronesia (Annotated), as amended by Public Law No. 18-86,
18 is hereby further amended by inserting new subchapter VI, under
19 chapter 4 entitled: "Miscellaneous Provisions".

20 Section 54. Title 22 of the Code of the Federated States
21 of Micronesia (Annotated), as amended by Public Law No. 18-86,
22 is hereby further amended by adding a new section 447 of
23 subchapter VI under chapter 4 to read as follows:

24 "Section 447. Abandoned goods.

25 (1) An article may be treated as abandoned and

1 disposed of under this section if:

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

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

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

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

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

25 Section 55. Title 22 of the Code of the Federated States

1 of Micronesia (Annotated), as amended by Public Law No. 18-86,
2 is hereby further amended by adding a new section 448
3 subchapter VI under chapter 4 to read as follows:

4 "Section 448. Compensation.

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

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

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

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

23 (b) if not agreed, determined by the
24 Secretary in accordance with the procedure prescribed
25 in the regulations and in any event not exceeding the

1 market value of the item plus consequential loss
2 reflecting contemporary costs;

3 (c) paid out of the funds of the Department.

4 (4) Appeals against a determination under
5 subsection (3) may be made to the Supreme Court."

6 Section 56. Title 22 of the Code of the Federated States
7 of Micronesia (Annotated), as amended by Public Law No. 18-86,
8 is hereby further amended by adding a new section 449 of
9 subchapter VI of chapter 4 to read as follows:

10 "Section 449. Appeals from decisions.

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

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

23 (3) The lodging of an appeal in respect of an
24 article does not prevent biosecurity measures being
25 taken in respect of the article to reduce or

1 eliminate the biosecurity risk posed by the article.

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

4 Section 57. Title 22 of the Code of the Federated States
5 of Micronesia (Annotated), as amended by Public Law No. 18-86,
6 is hereby further amended by adding a new section 450 of
7 subchapter VI under chapter 4 to read as follows:

8 "Section 450. Limitation of liability.

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

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

18 Section 58. Title 22 of the Code of the Federated States
19 of Micronesia (Annotated), as amended by Public Law No. 18-86,
20 is hereby further amended by adding a new section 451 of
21 subchapter VI under chapter 4 to read as follows:

22 "Section 451. Evidence.

23 (1) In any proceedings under this chapter:

24 (a) a document purporting to have been issued
25 by the Secretary or by a biosecurity officer or other

1 public officer for the purposes of this chapter is
2 presumed, until the contrary is proved, to have been
3 duly executed or signed by that person;

4 (b) a copy of or extract from a document
5 issued by the Secretary or by a biosecurity officer
6 or other public officer, and certified by the
7 Secretary to be true and correct is, unless the
8 contrary is proved:

9 (i) presumed to be a true and correct copy
10 or extract;

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

13 (2) In any proceedings under this chapter:

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

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

24 (3) Section 419 governs the evidential status of
25 the biosecurity register and records kept under this

1 chapter.”

2 Section 59. Title 22 of the Code of the Federated States
3 of Micronesia (Annotated), as amended by Public Law No. 18-86,
4 is hereby further amended by adding a new section 452 of
5 subchapter VI of chapter 4 to read as follows:

6 “Section 452. Specifications.

7 (1) The Secretary may in writing specify:

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

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

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

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

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

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

23 Section 60. Title 22 of the Code of the Federated States
24 of Micronesia (Annotated), as amended by Public Law No. 18-86,
25 is hereby further amended by adding a new section 453 of

1 subchapter VI under chapter 4 to read as follows:

2 "Section 453. Regulations.

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

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

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

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

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

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

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

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

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

11 (h) prescribe the procedure for claiming
12 compensation, and the rates payable, pursuant to
13 regulation;

14 (i) provide for the de-ratting of vessels,
15 and the form of de-ratting certificate;

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

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

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

25 (m) prescribe the methods of handling,

1 sealing, treating and disposing of containers of
2 regulated articles;

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

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

11 (p) require treatment to be applied in
12 respect of a vessel or aircraft before it arrives in
13 the Federated States of Micronesia;

14 (q) prescribe additional measures, consistent
15 with this chapter, to implement in the Federated
16 States of Micronesia the standards and requirements
17 relating to biosecurity of the IPPC, the OIE and the
18 PPPO;

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

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

1 States of Micronesia.

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

5 Section 61. Title 22 of the Code of the Federated States
6 of Micronesia (Annotated), as amended by Public Law No. 18-86,
7 is hereby further amended by adding a new section 454 of
8 subchapter VI under chapter 4 to read as follows:

9 “Section 454. Transitional provisions.

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

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

23 (3) Subject to subsection (4), any action,
24 arbitration, proceeding or cause of action that
25 relates to a biosecurity function of the National

1 Government and that immediately before the
2 commencement of this chapter is pending or existing
3 by, against, or in favor of the National Government,
4 or to which the National Government is a party, may
5 be continued and enforced under the provisions of
6 this chapter.

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

11 Section 62. Title 22 of the Code of the Federated States
12 of Micronesia (Annotated), as amended by Public Law No. 18-86,
13 is hereby further amended by adding a new section 455 of
14 subchapter VI under chapter 4 to read as follows:

15 "Section 455. Consequential amendments.

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

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

25

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

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April 28 _____, 2017

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/s/ Peter M. Christian
Peter M. Christian
President
Federated States of Micronesia

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