

**PUBLIC LAW NO. 12-34**

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AN ACT

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

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

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3 11-24, 11-26, 11-57 and 12-14, are hereby repealed in their entirety.

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

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

13                   "Section 101. Purpose of this subtitle.

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

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1           stewardship.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (11) 'Buy' includes:

24 (a) barter or attempt to barter;

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1 (b) purchase or attempt to purchase;

2 (c) receive on account or consignment;

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

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

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

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

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

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

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

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

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

1 the purpose of testing the commercial viability of:

2 (a) new fishing methods;

3 (b) developing new stocks of fish; or

4 (c) fishing in previously unexploited areas.

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

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

11 (19) (Reserved)

12 (20) (Reserved)

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

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

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

1 Federated States of Micronesia.

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

7 (25) 'Export' means to:

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (32) 'Fishing' means:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 or in the archipelagic waters of an archipelagic nation.

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

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

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

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

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

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

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

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

1 vessel.

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

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

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

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

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

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

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

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

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

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

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

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

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

11           (a) transshipment;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 "Section 103. Fishing permits required - commercial.

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

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

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

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

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

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

11          "Section 105. Access agreements required.

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

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

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

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

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

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

15           (b) an observer program;

16           (c) a port sampling program;

17           (d) fisheries monitoring and control; and

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

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

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

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

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

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

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

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

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

24 "Section 107. Application for permit - contents.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (4) A permit shall be denied where:

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

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

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

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

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

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

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

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**PUBLIC LAW NO. 12-34**

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

5 "Section 110. Permits - scope.

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

11 (2) No permit shall authorize:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 the Executive Director shall:

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

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

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

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

13 "Section 112. Permits - period of validity.

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

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

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

5 "Section 113. Permits - fees and charges.

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

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

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

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

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

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

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

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

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

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

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

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

9                           (i) the gear type used;

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

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

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

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

24                   (b) report information relating to the position

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

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

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

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

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

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

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

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1 section is true, complete and accurate.

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

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

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

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

24 (1) Every person shall promptly give any information

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

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

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

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

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

1           "Section 117. Permits - related activities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 "Section 203. Compensation of members.

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

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

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

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

14          "Section 204. Authority - adoption of regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           Micronesia is a party;

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

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

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

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

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

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

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

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

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

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

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

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

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

20 "Section 208. Duty of confidentiality.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 "Section 209. Conflict of interest.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 "Section 210. Disclosure requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           management agreement - compliance.

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

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

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

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

24           (3) Flag fishing vessels and citizens are not

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1 permitted to engage in drift net fishing activities.

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

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

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

15 "Section 401. (Reserved)"

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

20 "Section 402. Negotiation of access agreements.

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

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

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- 1           (1) establish fees to be collected for permits issued  
2           under the access agreement;
- 3           (2) establish a minimum or maximum number of vessels  
4           to be granted access under the agreement; and
- 5           (3) permit the rebate of access fees in accordance  
6           with section 403(2) of this subtitle, as the Authority  
7           deems appropriate at the end of the licensing period if  
8           the operator of any applicable vessel participated  
9           substantially in shore-based developments or otherwise  
10          made a substantial contribution to the development of  
11          the fishing industry of the Federated States of  
12          Micronesia."

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

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

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

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

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

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

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

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

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

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

3           (3) the operator shall:

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

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

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

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

12                   (ii) salary; and

13                   (iii) full insurance coverage;

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

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

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

1 the Marking and Identification of Fishing Vessels;

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

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

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

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

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

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

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

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

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

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

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

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

3 "Section 405. Access agreements - effective date.

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

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

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

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

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

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

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

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

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

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

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

1 section 407 of chapter 4 to read as follows:

2 "Section 407. Related activities - transshipment.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (1) The Authority shall adopt management measures

1           which promote the objectives of:

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

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

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

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

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

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

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

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

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

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

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

24           (f) take into account the interests of artisanal

1 and subsistence fishermen;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 16 (1) has historically fished in a particular area;
- 17 (2) is advancing the development of a fishing industry  
18 in the Federated States of Micronesia;
- 19 (3) has historically fished for a particular regulated  
20 species;
- 21 (4) submits information for the conservation,  
22 management and development of stocks of fish;
- 23 (5) has traditional rights to fishing in an area; and  
24 (6) such other factors as the Authority deems

1           appropriate."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (2) the enforcement of this subtitle."

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

15 "Section 602. Appointment of authorized officers.

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

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

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

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

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

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

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

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

1           "Section 603. Powers of authorized officers.

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

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

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

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

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

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

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

1 found therein;

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

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

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

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

18 (k) endorse any permit; and

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

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

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

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

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

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

21           (e) seize:

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

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

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

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

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

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

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

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

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

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

7 (5) An authorized officer may:

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

10 (b) exercise any other lawful authority.

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

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

18 "Section 604. Requirements for seized vessels.

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

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

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

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

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

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

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

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

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

1 section 605 of chapter 6 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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1 authorized observers and port samplers."

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

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

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

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

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

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

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

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

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

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

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

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

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

18                   (f) carry out all duties safely; and

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

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

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

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

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

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

12                   (c) full insurance coverage.

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

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

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

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

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

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

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

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

22 (3) No person shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 "Section 611. Transponders required.

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

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

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

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

1 the designated receiver.

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

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

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

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

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

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

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

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

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

20                 "Section 701. Jurisdiction of the court.

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

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1 (a) within the fishery waters; or

2 (b) outside the fishery waters by any flag  
3 vessel, citizen or person ordinarily resident in the  
4 Federated States of Micronesia; or

5 (c) by any person on board any fishing vessel  
6 registered in the Federated States of Micronesia shall  
7 be subject to the jurisdiction of the Supreme Court of  
8 the Federated States of Micronesia and judicial  
9 proceedings shall be taken as if such act or omission  
10 had taken place in the Federated States of Micronesia  
11 within the jurisdiction of the Supreme Court of the  
12 Federated States of Micronesia.

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

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

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

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

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

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

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

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

3 "Section 703. Citations and administrative penalties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 "Section 706. Presumptions.

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

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

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

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

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

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

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

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

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

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

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

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

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

10           "Section 707. Burden of proof.

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

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

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

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1 Act of 2002".

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

6 "Section 801. Forfeiture of property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9           "Section 806. Release of seized goods.

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

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

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

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

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

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

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

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

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

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

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

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

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

16 "Section 807.  Holding of seized goods.

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

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

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

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

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

1 "Section 808. Application of bond.

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

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

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

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

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

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

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

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

5           "Section 901. Civil Penalties.

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

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

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

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

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1           assessed as a civil penalty.

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

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

12           "Section 902. Criminal penalties.

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

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

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

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

5 (a) uses a dangerous weapon;

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

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

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

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

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

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

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

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

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

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

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1 operator of that fishing vessel."

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

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

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

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

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

24 "Section 906. Prohibited acts - general.

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

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

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

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

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

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

17                   (a) serious misreporting of catch;

18                   (b) fishing in a closed area;

19                   (c) fishing after attaining quota;

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

22                   (e) using prohibited fishing gear; or

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

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

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

7 "Section 907. Fishing without a valid permit.

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

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

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

22 "Section 908. Engaging in drift net activities.

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

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

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

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

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

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

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

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

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

7 "Section 910. Improper stowage of fishing gear.

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

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

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

21 "Section 911. Violation of marine space.

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

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

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

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

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

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

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

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

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

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

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

13                 "Section 914. Destruction of evidence.

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

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

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

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

4 "Section 915. Refusal to give fish samples.

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

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

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

19 "Section 916. Obstruction of justice.

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

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

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

8           "Section 917. Resisting arrest.

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

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

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

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

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

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

3                   (a) non-biodegradable trash or debris;

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

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

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

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

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

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

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

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

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

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

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

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

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Leo A. Falcam  
President  
Federated States of  
Micronesia

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