

A BILL FOR 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; to establish the Marine Resources Act of 2001; 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, 11-
3 24, 11-26 and 11-57, are hereby repealed in their entirety.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 and 11-
6 57, is hereby further amended by enacting a new chapter 1 entitled
7 "General Provisions".

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

12 "Section 101. Purpose of this title.

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

18 (2) This act may be referred to as the 'Marine Resources

1 Act of 2001'."

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

6 "Section 102. Definitions. In this title, except where
7 otherwise specified, the following terms shall have the
8 meanings stated below:

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

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

21 (3) 'Agent' includes a person appointed or designated by a
22 foreign fishing company to act as the legal representative of
23 that company within the Federated States of Micronesia,
24 including acceptance of and response to legal process,
25 pursuant to section 404(4)(a) of chapter 4 of this title.

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

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

11 (6) 'Authority' means the National Oceanic Resource
12 Management Authority established by section 201 of chapter 2
13 of this title.

14 (7) 'Authorized observer' means any person authorized in
15 writing by the Authority to act as an observer on fishing
16 vessels for the purposes of this title, including any
17 observer authorized pursuant to the provisions of an access
18 agreement or a fisheries management agreement.

19 (8) 'Authorized officer' means any person or category of
20 persons designated pursuant to section 602 of chapter 6 of
21 this title as an authorized officer.

22 (9) 'Automatic location communicator' or 'transponder'
23 means a device placed on a fishing vessel that transmits,
24 either in conjunction with another device or devices or
25 independently, information concerning the position, fishing

1 and other activities of the vessel.

2 (10) 'Based in the Federated States of Micronesia' means
3 using land-based facilities in the Federated States of
4 Micronesia to support fishing, including location of the home
5 port of a vessel in the Federated States of Micronesia,
6 landing or transshipping all fish harvested within the
7 exclusive economic zone and/or operating under a joint
8 venture arrangement in the Federated States of Micronesia, or
9 under arrangements where the operator of a vessel is
10 participating in shore-based developments or is otherwise
11 making a substantial contribution to the development of the
12 domestic tuna industry.

13 (11) 'Buy' includes:

14 (a) barter or attempt to barter;

15 (b) purchase or attempt to purchase;

16 (c) receive on account or consignment;

17 (d) purchase or barter for future goods or for any
18 consideration of value; and

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

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

23 (13) 'Closed area' means an area in which fishing is
24 prohibited.

25 (14) 'Closed season' means a period of time during which

1 fishing is prohibited.

2 (15) 'Commercial fishing' means any fishing resulting or
3 intending or appearing to result in the sale or trade of any
4 fish which may be taken during the fishing operation, and
5 does not include subsistence fishing. For the purposes of
6 this act, the following shall be presumed to be commercial
7 fishing:

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

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

13 (16) 'Commercial pilot fishing' means any fishing for the
14 purpose of testing the commercial viability of:

15 (a) new fishing methods;

16 (b) developing new stocks of fish; or

17 (c) fishing in previously unexploited areas.

18 (17) 'Court' means the Supreme Court of the Federated States
19 of Micronesia.

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

23 (19) (Reserved)

24 (20) (Reserved)

25 (21) 'Drift net' means a gillnet or other net or arrangement

1 of nets which is more than 2.5 kilometers (1.56 miles) in
2 length, the purpose of which is to enmesh, entrap or entangle
3 fish.

4 (22) 'Drift net fishing activities' includes fishing with
5 the use of a drift net and any related activities including
6 transporting, transshipping and processing any drift net
7 catch, and provisioning of food, fuel and other supplies for
8 vessels used or outfitted for drift net fishing.

9 (23) 'Exclusive economic zone' means the exclusive economic
10 zone as defined in title 18 of the Code of the Federated
11 States of Micronesia.

12 (24) 'Executive Director' means the individual
13 appointed by the Authority to be in charge of the
14 daily activities and operation of the authority and to
15 perform such other functions as required by this
16 title.

17 (25) 'Export' means to:

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

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

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

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

24 (e) carry or transport anything for purposes of
25 paragraphs (a) through (d) of this subsection, and 'exporter'

1 shall have a corresponding meaning.

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

3 (27) 'Fish aggregating device' means any man-made or partly
4 man-made floating or semi-submerged device, whether anchored
5 or not, intended for the purpose of aggregating fish, and
6 includes any natural floating object on which a device has
7 been placed to facilitate its location.

8 (28) 'Fish processing' means the producing of any substance
9 or article from fish by any method and
10 includes the cutting up, dismembering, cleaning, sorting,
11 loining, freezing, canning, salting, preserving and reduction
12 of fish.

13 (29) 'Fisheries management agreement' means any
14 agreement, arrangement or treaty in force to which the
15 Federated States of Micronesia is a party, not including any
16 access agreement, which has as its primary purpose
17 cooperation in or coordination of fisheries management
18 measures in all or part of the region, or implementation of a
19 multilateral access agreement, including, but not limited to,
20 fisheries monitoring, control and surveillance and
21 establishing criteria or requirements for fishing and
22 fisheries access.

23 (30) 'Fishery' or 'Fisheries' means one or more stock of
24 fish or any fishing operation based on such stocks which can
25 be treated as a unit for purposes of conservation and

1 management, taking into account geographical, scientific,
2 technical, recreational, economic and other relevant
3 characteristics.

4 (31) 'Fishery waters' means the exclusive economic zone, the
5 territorial sea and internal waters as described in title 18
6 of the Code of the Federated States of Micronesia, and any
7 other waters over which the Federated States of Micronesia
8 claims sovereignty or sovereign Rights.

9 (32) 'Fishing' means:

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

12 (b) any activity which can reasonably be expected to
13 result in the locating, catching, taking or harvesting of
14 fish;

15 (c) the placing, searching for or recovering of any
16 fish aggregating device or associated electronic equipment
17 such as radio beacons;

18 (d) any operation at sea directly in support of or in
19 preparation for any activity described in this subsection
20 except for operations defined as related activities in
21 subsection (51) of this section; and

22 (e) the use of an aircraft in relation to any activity
23 described in this subsection except for flights in
24 emergencies involving the health or safety of crew members or
25 the safety of a vessel.

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

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

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

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

17 (37) 'Foreign fishing vessel' means any fishing vessel other
18 than a local fishing vessel.

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

22 (39) 'Foreign recreational fishing' means fishing using a
23 foreign fishing vessel for recreational or sport purposes.

24 (40) 'High seas' means all parts of the sea that are not
25 included in the exclusive economic zone, in the territorial

1 sea, or in the internal water of any nation, or in the
2 archipelagic waters of an archipelagic nation.

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

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

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

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

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

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

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

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

24 (45) 'Multilateral access agreement' means an access
25 agreement between a foreign party and one or more regional

1 parties, to which the Federated States of Micronesia is a
2 party.

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

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

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

21 (49) 'Permit' means any permit issued under this title or
22 under an access agreement entered into pursuant to this
23 title.

24 (50) 'Person' means any natural person or business
25 enterprise and includes, but is not limited to, a

1 corporation, partnership, cooperative, association, the
2 government of any of the four States, or any political
3 subdivision thereof, and any foreign government, subdivision
4 of such government or other entity.

5 (51) 'Port sampler' means a category of authorized observer
6 who performs duties at a point of transshipment or port
7 located either inside or outside the Federated States of
8 Micronesia.

9 (52) 'Recreational fishing' means fishing for sport or
10 leisure.

11 (53) 'Region' means that area of land and ocean which falls
12 within the sovereignty and sovereign rights of the member
13 countries of the South Pacific Forum Fisheries Agency, whose
14 headquarters are located in Honiara, Solomon Islands, and
15 includes high seas within such area, and for the purposes of
16 data collection, includes that area of the Western and
17 Central Pacific Ocean which falls within the jurisdiction and
18 sovereign rights of the member countries of the Secretariat
19 of the Pacific Community located in Noumea, New Caledonia,
20 and 'regional' shall have a corresponding meaning.

21 (54) 'Regional access license' means a regional access
22 license issued to any fishing vessel of a party to a
23 multilateral access agreement or fisheries management
24 agreement, in accordance with such agreement.

25 (55) 'Regulation' or 'Regulations' means any regulation

1 which may be promulgated by the Authority pursuant to this
2 act.

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

4 (a) transshipment;

5 (b) refueling or supplying fishing vessels, selling or
6 supplying fishing equipment, or performing either activity in
7 support of fishing; and

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

10 (57) 'Secretary' means the Secretary of the Department of
11 Justice.

12 (58) 'Sell' includes the exchange of any fish or fish
13 product or other thing for cash or for anything which has
14 value or which can be exchanged for cash, and includes any
15 exchange by barter.

16 (59) 'Stock of fish' means a species, subspecies or other
17 category of fish identified on the basis of geographical,
18 scientific, technical, recreational and economic
19 characteristics which can be treated as a unit for purposes
20 of conservation and management.

21 (60) 'Subsistence fishing' means fishing by a citizen or a
22 resident substantially for personal consumption, and does not
23 include any fishing resulting or intending or appearing to
24 result, directly or indirectly, in the sale or trading of any
25 fish which may be taken during the fishing operations.

1 (61) 'Transponder' or 'automatic location communicator'
2 means a device placed on a fishing vessel that transmits,
3 either in conjunction with another device or devices or
4 independently, information concerning the position, fishing
5 and other activities of the vessel.

6 (62) 'Transshipment' means the transfer of any or all fish
7 or fish products to or from any vessel or aircraft for the
8 purposes of transporting such fish or fish products
9 elsewhere.

10 (63) 'United Nations Agreement' means the agreement for the
11 implementation of the provisions of the United Nations
12 Convention on the Law of the Sea of 10 December 1992 relating
13 to the conservation and management of straddling fish stocks
14 and highly migratory fish stocks.

15 (64) 'United Nations Convention' means the United Nations
16 Convention on the Law of the Sea, 1982.

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

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

21 Section 5. Title 24 of the Code of the Federated States of
22 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
23 57, is hereby further amended by enacting a new section 103 of chapter
24 1 to read as follows:

25 "Section 103. Fishing permits required - commercial.

1 No domestic fishing, commercial pilot fishing, foreign
2 fishing or such other fishing or related activity as may be
3 prescribed shall be allowed in the exclusive economic zone
4 unless it is in accordance with:

5 (1) a valid and applicable permit issued under authority
6 conferred by this title; or

7 (2) a valid and applicable license issued by an
8 administrator pursuant to a multilateral access agreement
9 entered into pursuant to section 106 of chapter 1 of this
10 title."

11 Section 6. Title 24 of the Code of the Federated States of
12 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
13 57, is hereby further amended by enacting a new section 104 of chapter
14 1 to read as follows:

15 "Section 104. Fishing permits required - non-commercial. No
16 marine scientific research, training or foreign recreational
17 fishing shall be allowed in the exclusive economic zone
18 unless it is in accordance with a valid and applicable permit
19 issued by the Authority on such terms and conditions as it
20 shall require."

21 Section 7. Title 24 of the Code of the Federated States of
22 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
23 57, is hereby further amended by enacting a new section 105 of chapter
24 1 to read as follows:

25 "Section 105. Access agreements required."

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

4 (2) The Authority is authorized to negotiate and enter into
5 access agreements on behalf of the Government of the
6 Federated States of Micronesia pursuant to chapter 2 and in
7 accordance with chapter 4 of this title."

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

12 "Section 106. Fisheries management agreements; multilateral
13 access agreements.

14 (1) Notwithstanding any other provision of this title, the
15 Authority is authorized to enter into fisheries management
16 agreements for cooperation in or coordination of fisheries
17 management measures in all or part of the region or for the
18 implementation of a multilateral access agreement. Such
19 agreements may, among other things, at the Authority's
20 discretion, include provisions for the following:

21 (a) authorization of a person, body or organization to
22 perform functions required by a multilateral access
23 agreement, including, but not limited to, the allocation,
24 issuance and denial of fishing licenses valid in the region
25 or part thereof, including the exclusive economic zone;

-
-
- 1 (b) an observer program;
2 (c) a port sampling program;
3 (d) fisheries monitoring and control; and
4 (e) any other matter relating to fisheries management.

5 (2) For the purpose of giving effect to a multilateral
6 access agreement or fisheries management agreement, the
7 Authority may, in writing:

8 (a) exempt any foreign fishing vessel, holding a valid
9 fishing license issued pursuant to a multilateral access
10 agreement, from any requirement of this title which is
11 inconsistent with the terms of such agreement;

12 (b) implement the establishment of closed areas,
13 closed seasons and such other management measures as may be
14 agreed upon pursuant to a fisheries management agreement;

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

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

22 (e) prescribe or otherwise require the conditions to
23 be observed by flag vessels and citizens for fishing outside
24 the exclusive economic zone, in accordance with any access
25 agreement or fisheries management agreement to which the

1 Federated States of Micronesia may be party."

2 Section 9. Title 24 of the Code of the Federated States of
3 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
4 57, is hereby further amended by enacting a new section 107 of chapter
5 1 to read as follows:

6 "Section 107. Application for permit - contents.

7 (1) Each person entitled to apply for a permit under this
8 title shall make application on such forms as may be required
9 by the Authority specifying, at a minimum:

10 (a) the name, call sign, country of registration,
11 country of registration number, regional register number,
12 name and address of the operator, name of the vessel master
13 and bank reference number;

14 (b) the tonnage, capacity, gear type, processing
15 equipment and such other pertinent information with respect
16 to the characteristics of each vessel as the Authority may
17 require; and

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

20 (2) The Authority may require such additional information
21 for permit applications as may be necessary to implement and
22 enforce the provisions of this title."

23 Section 10. Title 24 of the Code of the Federated States of
24 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
25 57, is hereby further amended by enacting a new section 108 of chapter

1 1 to read as follows:

2 "Section 108. Application for permit - review. The
3 Executive Director, or his designee, shall review each
4 application submitted pursuant to section 107 of this title,
5 and may, at his discretion, solicit views from appropriate
6 persons in the States and hold public hearings when and where
7 necessary."

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

12 "Section 109. Application for permit - issuance and denial.

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

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

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

21 (a) the application is not in accordance with the
22 requirements of this title;

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

1 (c) the owner or charterer is the subject of
2 proceedings under the bankruptcy laws of any jurisdiction or
3 on reasonable grounds appears unable to meet any financial
4 obligations which could arise from fishing activities and
5 reasonable financial assurances sought by the Authority have
6 not been provided;

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

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

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

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

18 (4) A permit shall be denied where:

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

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

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

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

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

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

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

23 Section 12. Title 24 of the Code of the Federated States of
24 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
25 57, is hereby further amended by enacting a new section 110 of chapter

1 1 to read as follows:

2 "Section 110. Permits - scope.

3 (1) A permit issued or renewed under this title shall only
4 be valid for the species of fish, the type of fishing gear or
5 method of fishing, or such other activity in accordance with
6 this title, as may be specified in the permit.

7 (2) No permit shall authorize:

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

12 (b) fishing by foreign fishing vessels within a two
13 nautical mile radius of any fish aggregating device of the
14 Government, a citizen or any other body established under the
15 laws of the Federated States of Micronesia;

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

18 (d) drift net fishing activities, including the
19 transporting, transshipping and processing of any driftnet
20 catch, and the provisioning of food, fuel and other supplies
21 for vessels used or outfitted for drift net fishing.

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

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

4 (i) with respect to commercial pilot fishing, the
5 Authority has determined that commercial pilot fishing at the
6 levels proposed in the permit application will not damage the
7 sustainability of the fishery resources; or

8 (ii) with respect to marine scientific research,
9 the Authority has determined that the research methodology
10 proposed in the permit application will not damage the
11 sustainability of the fishery resources; or

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

14 (c) the Executive Director has submitted a copy of the
15 application to the FSM State whose customary inhabitants have
16 been traditionally ascribed the authority to control the
17 fishing over such reef; and

18 (d) within thirty (30) days of such submission, the
19 Governor of the concerned FSM State, on behalf of either the
20 State government or the State's customary or traditional
21 leadership, has communicated in writing to the Executive
22 Director its consent to the issuance of the permit with
23 respect to the reef or reefs traditionally ascribed to its
24 customary inhabitants."

25 Section 13. Title 24 of the Code of the Federated States of

1 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
2 57, is hereby further amended by enacting a new section 111 of chapter
3 1 to read as follows:

4 "Section 111. Permits - suspension, revocation or imposition
5 of conditions or restrictions. If any fishing vessel for
6 which a permit has been issued pursuant to section 109 of
7 this title has been used in the commission of any act
8 prohibited by this title, other applicable law, an applicable
9 access agreement, or any permit issued in accordance with
10 this title, or if any fee or civil penalty, criminal fine or
11 other determination imposed under this title has not been
12 paid within thirty (30) days of the due date, the Executive
13 Director shall:

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

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

19 (3) impose additional conditions or restrictions on any
20 such permit."

21 Section 14. Title 24 of the Code of the Federated States of
22 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
23 57, is hereby further amended by enacting a new section 112 of chapter
24 1 to read as follows:

25 "Section 112. Permits - period of validity.

1 (1) Subject to subsection (2) of this section, every permit
2 issued or renewed under this title shall, unless earlier
3 canceled or suspended in accordance with this title, be valid
4 for a period of one year, or such lesser period as may be
5 specified, and shall not extend beyond the period of validity
6 of an applicable charter agreement or access agreement.

7 (2) Where a fishing vessel which is issued a permit as a
8 local fishing vessel subsequently becomes a foreign fishing
9 vessel, the permit issued to that vessel as a local fishing
10 vessel shall automatically terminate."

11 Section 15. Title 24 of the Code of the Federated States of
12 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
13 57, is hereby further amended by enacting a new section 113 of chapter
14 1 to read as follows:

15 "Section 113. Permits - fees and charges.

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

18 (2) The Authority shall determine the fees, royalties or
19 other forms of compensation for permits, and other charges it
20 may require in relation to fishing or related activities,
21 including fees and charges related to authorized observers
22 and authorized observer placements.

23 (3) In determining the fees for marine scientific research,
24 the Authority shall take into account a research plan
25 submitted by the applicant, and the long term value of such

1 research to the management and development of any fishery in
2 the exclusive economic zone.

3 (4) No permit shall be issued pursuant to this title until
4 the requisite fees, royalties, charges and other forms of
5 compensation have been paid in accordance with this title and
6 in accordance with the terms of any applicable access
7 agreement."

8 Section 16. Title 24 of the Code of the Federated States of
9 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
10 57, is hereby further amended by enacting a new section 114 of chapter
11 1 to read as follows:

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

24 Section 17. Title 24 of the Code of the Federated States of
25 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-

1 57, is hereby further amended by enacting a new section 115 of chapter
2 1 to read as follows:

3 "Section 115. Vessel record keeping and reporting
4 requirements.

5 (1) The operator of each domestic and foreign fishing
6 vessel issued a permit or which is permitted to fish pursuant
7 to an access agreement referred to in section 105 and chapter
8 4 of this title shall:

9 (a) at all times while the vessel is in the exclusive
10 economic zone, cause to be maintained in the English
11 language, in ink, a fishing log in a form supplied or
12 approved by the Authority, and shall enter the following
13 information relating to the activities of the vessel on a
14 daily basis:

15 (i) the gear type used;

16 (ii) the noon position of the vessel and, where
17 applicable, the set position and time or the number of hooks
18 and sea surface temperature;

19 (iii) the species of fish taken and the size and
20 quantity of each species by weight or number as may be
21 specified in the form;

22 (iv) the species of fish returned from the vessel
23 to the sea, the reason for discard, the quantity of each
24 species by weight or number as may be specified in the form;
25 and

1 (v) such other information as the Authority may
2 require or prescribe by regulation, or as may be required by
3 an applicable access agreement or fisheries management
4 agreement;

5 (b) report information relating to the position of,
6 and catch on board, the vessel at the following times, in a
7 format approved or supplied by the Authority, by telex,
8 facsimile or by other such means as may be approved by the
9 Authority by regulation:

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

13 (ii) each Wednesday while in the exclusive
14 economic zone;

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

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

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

25 (d) certify that information provided pursuant to

1 paragraphs (a) through (c) of subsection (1) of this section
2 is true, complete and accurate.

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

12 (3)The Authority may require, by written notice or
13 regulation, such other reports as may be necessary for the
14 conservation and management of marine resources, including
15 for related activities, and to implement or enforce the
16 provisions of this title and any access agreement or
17 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 and 11-
20 57, is hereby further amended by enacting a new section 116 of chapter
21 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
25 required under this title, including records of any kind and

1 information requested by an authorized officer or other
2 officer or official carrying out duties under this title.

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

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

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

16 Section 19. Title 24 of the Code of the Federated States of
17 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
18 57, is hereby further amended by enacting a new section 117 of chapter
19 1 to read as follows:

20 "Section 117. Permits - related activities.

21 (1) The Authority may, by regulation, require permits for,
22 or otherwise regulate, related activities which take place in
23 the exclusive economic zone and, with respect to related
24 activities by foreign fishing vessels which occur in the
25 territorial sea or internal waters, may authorize in writing,

1 FSM States to issue the relevant permits.

2 (2) For purposes of this title, 'related activities' shall
3 have the meaning set forth in section 102 of chapter 1 of
4 this title.

5 (3) No related activities are permitted in the exclusive
6 economic zone unless any such activity is in accordance with
7 this title, and such conditions as may be required in writing
8 by the Authority or prescribed by regulation."

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

13 "Section 118. Authority may issue State permits. Upon
14 delegation by an FSM State of its authority to issue any
15 permit or permits for fishing in the territorial sea or
16 internal waters, the Authority may issue such permit or
17 permits and collect fees for fishing in such waters, and
18 shall transfer any such fees collected to that State."

19 Section 21. Title 24 of the Code of the Federated States of
20 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
21 57, is hereby further amended by enacting a new section 119 of chapter
22 1 to read as follows:

23 "Section 119. Application of other laws. No permit
24 issued under this title shall relieve any fishing vessel or
25 its operator or crew of any obligation or requirement imposed

1 by other laws, including those concerning navigation,
2 customs, immigration or health, unless so indicated in those
3 laws."

4 Section 22. Title 24 of the Code of the Federated States of
5 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
6 57, is hereby further amended by enacting a new section 120 of chapter
7 1 to read as follows:

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

9 (1) It shall be unlawful for any person to import, export,
10 transport, sell, receive, acquire or purchase any fish or
11 fish product taken, possessed, transported or sold in
12 violation of any law or regulation of a foreign state upon
13 implementation, on a reciprocal basis, of a fisheries
14 management agreement between the Government of the Federated
15 States of Micronesia and such other foreign state or states,
16 in which such activities are agreed to be unlawful.

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

22 Section 23. Title 24 of the Code of the Federated States of
23 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
24 57, is hereby further amended by enacting a new section 121 of chapter
25 1 to read as follows:

1 "Section 121. Severability. If any provision of this title
2 or amendments or additions thereto, or the application
3 thereof to any person, thing or circumstance is held invalid,
4 the invalidity does not affect the provisions, application,
5 amendments or additions that can be given effect without the
6 invalid provisions or application, and to this end the
7 provisions of this title and the amendments or additions
8 thereto are severable."

9 Section 24. Title 24 of the Code of the Federated States of
10 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
11 57, is hereby further amended by enacting a new section 122 of chapter
12 1 to read as follows:

13 "Section 122. Gender references. Whenever any provision of
14 this title refers to the masculine gender, using the pronoun
15 'he' or the possessive term 'his', such references shall
16 include the feminine pronoun and possessive terms 'she' and
17 'her'."

18 Section 25. Title 24 of the Code of the Federated States of
19 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
20 57, is hereby further amended by enacting a new chapter 2 entitled
21 "Management Authority".

22 Section 26. Title 24 of the Code of the Federated States of
23 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
24 57, is hereby further amended by enacting a new section 201 of chapter
25 2 to read as follows:

1 "Section 201. National Oceanic Resource Management Authority
2 - established.

3 (1) There is hereby established a National Oceanic Resource
4 Management Authority ('Authority') composed of five members,
5 each discharging a national duty and charged with
6 responsibility for overseeing the FSM exclusive economic
7 zone, and appointed as follows:

8 (a) one member from each FSM State appointed by the
9 President of the Federated States of Micronesia, in
10 consultation with the Governor and with the advice and
11 consent of the Congress; and

12 (b) one at-large member appointed by the President of
13 the Federated States of Micronesia with the advice and
14 consent of the Congress.

15 (2) No member shall also serve as a member of the Board of
16 Directors of the National Fisheries Corporation of the
17 Federated States of Micronesia or any subsidiary or affiliate
18 thereof during the term of his membership on the Authority.

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

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

24 (5) The Authority shall adopt its own bylaws governing the
25 conduct of its business and performance of the powers and

1 duties granted to or imposed upon it by law.

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

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

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

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

1 of that member's successor.

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

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

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

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

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

20 (d) failure of a member to comply with the provisions
21 in sections 208 or 209 of this title;

22 (e) bankruptcy of a member, application by a member to
23 take advantage of benefits available by law to bankrupt or
24 insolvent debtors, assignment by a member of his remuneration
25 for the benefit of his creditors, or a member's entry into an

1 agreement with creditors not to take legal action against
2 him; or

3 (f) conviction of a member of an offense under this
4 title or of an offense under any other law punishable by a
5 term of imprisonment for one year or longer.

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

12 Section 28. Title 24 of the Code of the Federated States of
13 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
14 57, is hereby further amended by enacting a new section 203 of chapter
15 2 to read as follows:

16 "Section 203. Compensation of members.

17 (1) Members of the Authority who are not employees or
18 officials of the Government of the Federated States of
19 Micronesia or of any FSM State government shall be
20 compensated at such rate as may be set in the rules of the
21 Authority when in fact performing the official business of
22 the Authority.

23 (2) All members of the Authority, including members who are
24 employees or officials of the Government of the Federated
25 States of Micronesia or of any FSM State government, shall

1 receive per diem and travel expenses at established Federated
2 States of Micronesia rates while on the business of the
3 Authority."

4 Section 29. Title 24 of the Code of the Federated States of
5 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
6 57, is hereby further amended by enacting a new section 204 of chapter
7 2 to read as follows:

8 "Section 204. Authority - adoption of regulations.

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

10 (a) adopt regulations for the management, development
11 and sustainable use of fisheries resources in the exclusive
12 economic zone;

13 (b) adopt regulations applicable to related activities
14 as defined in section 102 of this title;

15 (c) adopt regulations in relation to fisheries
16 monitoring and control;

17 (d) adopt regulations to implement access agreements
18 and fisheries management agreements;

19 (e) adopt regulations relating to the confidentiality
20 of information consistent with section 208 of this title;

21 (f) adopt regulations for the issuance of citations
22 and assessment of administrative penalties consistent with
23 chapter 7 of this title;

24 (g) adopt regulations relating to compliance by
25 citizens and fishing vessels of the Federated States of

1 Micronesia which engage in fishing outside the internal
2 waters, the territorial sea or exclusive economic zone of the
3 Federated States of Micronesia with applicable laws of
4 foreign states and with applicable access agreements or
5 fisheries management agreements;

6 (h) adopt regulations relating to marine scientific
7 research and training;

8 (i) adopt regulations relating to observer programs
9 and port sampling programs; and

10 (j) adopt any other regulations deemed necessary for
11 the implementation of this title.

12 (2) Regulations adopted by the Authority shall have the
13 full force and effect of law, and shall be considered an
14 integral part of this title."

15 Section 30. Title 24 of the Code of the Federated States of
16 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
17 57, is hereby further amended by enacting a new section 205 of chapter
18 2 to read as follows:

19 "Section 205. Authority - duties and functions. In addition
20 to the regulatory authority granted in the preceding section,
21 the Authority shall have the following duties and functions:

22 (1) to provide technical assistance in the delimitation of
23 the exclusive economic zone in accordance with section 107 of
24 title 18 of the Code of the Federated States of Micronesia;

25 (2) to negotiate, conclude and implement access agreements

1 and fisheries management agreements in accordance with
2 sections 105 and 106 of chapter 1 of this title and chapters
3 4 and 5 of this title;

4 (3) to issue fishing permits in accordance with this title;

5 (4) to issue permits for fishing in the territorial sea or
6 internal waters of an FSM State as authorized pursuant to
7 section 118 of chapter 1 of this title;

8 (5) to regulate related activities in accordance with this
9 title;

10 (6) to coordinate and implement fisheries monitoring and
11 control as required under this title and under international
12 treaties to which the Federated States of Micronesia is a
13 party;

14 (7) to cooperate as appropriate with other nations or
15 territories in the region and with foreign states fishing in
16 the region and adjacent high seas area for the conservation
17 and management of highly migratory fish stocks;

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

21 (9) to convene and chair a Fisheries Management and
22 Surveillance Working Group as set forth in section 207 of
23 this chapter;

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

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

4 (12) to contribute to the planning of programs relating to
5 fisheries, or fishing in the exclusive economic zone, in
6 which an FSM State government or the Government of the
7 Federated States of Micronesia, or any agency or subdivision
8 thereof, has a proprietary interest, direct or indirect, by
9 way of stock ownership, partnership, joint venture or
10 otherwise; and

11 (13) to perform such other duties and functions as may be
12 necessary to carry out the purpose of this title."

13 Section 31. Title 24 of the Code of the Federated States of
14 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
15 57, is hereby further amended by enacting a new section 206 of chapter
16 2 to read as follows:

17 "Section 206. Executive Director. The Authority shall
18 employ a full-time Executive Director possessing such
19 qualifications as may be established by the Authority. The
20 Executive Director shall receive a remuneration for his
21 services, the amount of which shall be fixed by the Authority
22 in accordance with the pertinent provisions of the current
23 annual budget of the Government of the Federated States of
24 Micronesia. The Executive Director shall serve at the
25 pleasure of the Authority and shall be exempt from the

1 provisions of the National Public Service System Act, section
2 111 et seq. of title 52 of the Code of the Federated States
3 of Micronesia."

4 Section 32. Title 24 of the Code of the Federated States of
5 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
6 57, is hereby further amended by enacting a new section 207 of chapter
7 2 to read as follows:

8 "Section 207. Fisheries Management and Surveillance Working
9 Group. The Authority shall establish a Fisheries Management
10 and Surveillance Working Group to formulate and implement a
11 national fisheries management and surveillance strategy. The
12 working group shall consist of appropriate representatives of
13 the Authority and the Department of Justice. In addition,
14 representatives from other divisions and departments of the
15 National and State governments engaged in activities related
16 to surveillance may be invited to participate. The
17 recommendations of the working group regarding surveillance
18 planning and strategy shall be consistent with the objectives
19 and general principles of conservation, management, and
20 sustainable use of fishery resources set forth in section 502
21 of this title, and with the provisions of any national tuna
22 management plan adopted pursuant to this title."

23 Section 33. Title 24 of the Code of the Federated States of
24 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
25 57, is hereby further amended by enacting a new section 208 of chapter

1 2 to read as follows:

2 "Section 208. Duty of confidentiality.

3 (1) Any person carrying out duties or responsibilities of
4 or on behalf of the Authority under this title, including any
5 member, shall not, unless authorized in accordance with this
6 title, reveal information or other data of a confidential
7 nature acquired by virtue of his authority, duties or
8 responsibilities to any person not having such authority or
9 carrying out such duties and responsibilities.

10 (2) The Executive Director may designate any information as
11 confidential, and in doing so may also exempt general
12 summaries of aggregated information from confidentiality
13 requirements.

14 (3) The Executive Director may authorize in writing any
15 person to:

16 (a) receive access to confidential information; or

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

19 (4) Notwithstanding subsection (2) above, the following
20 information shall be confidential:

21 (a) any information or data of a commercial nature
22 provided in records, returns, or other documents required
23 under this title; or

24 (b) any information or other data supplied by a vessel
25 monitoring system in accordance with this title.

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

3 (a) that disclosure is authorized or required under
4 this title or any other law;

5 (b) that the person providing the information
6 authorized its disclosure;

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

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

12 (6) The Executive Director may authorize the release of any
13 information:

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

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

23 (c) for such purposes as may be prescribed by law or
24 regulation.

25 (7) Any information designated as confidential shall

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

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

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

15 "Section 209. Conflict of interest.

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

25 (a) a business or property he directly or indirectly

1 owns or controls; or

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

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

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

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

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

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

22 (d) 'Interest' shall mean either direct ownership of,
23 indirect ownership of, shares in, financial benefit from, or
24 complete or partial control of, such property or business.

25 (e) 'Property' shall mean real or personal property of

1 every description whether situated in the Federated States of
2 Micronesia or elsewhere.

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

7 Section 35. Title 24 of the Code of the Federated States of
8 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
9 57, is hereby further amended by enacting a new section 210 of chapter
10 2 to read as follows:

11 "Section 210. Disclosure requirements.

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

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

22 (b) any organization, business or governmental body in
23 which he serves as an officer, director, partner, trustee or
24 employee engaged in any harvesting, processing, marketing or
25 regulatory activity related to fish that is being, or will be

1 undertaken, within the Federated States of Micronesia or its
2 fishery waters.

3 (2) All disclosures required by this section shall be
4 updated whenever an event occurs that makes the current
5 disclosure incorrect.

6 (3) Current members of the Authority, officers and
7 employees shall make the disclosures required by this section
8 within sixty (60) days of the effective date of this title."

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

13 "Section 211. Annual report. The Chairman of the Authority
14 shall present a written report annually on its activities to
15 the President of the Federated States of Micronesia, the
16 Speaker of the Congress of the Federated States of
17 Micronesia, and each FSM State Governor by December 1st of
18 each year, which report shall contain a detailed accounting
19 of the expenditure of funds of the Authority, the number of
20 permits and licenses issued, the fees, forfeitures and fines
21 collected, estimates of the effect of the current level of
22 fishing on the stock of fish in the exclusive economic zone,
23 and such other information regarding the implementation of
24 this title in the preceding fiscal year as the Authority may
25 determine. All departments and offices of the FSM National

1 Government shall be provided copies of the Authority's annual
2 report."

3 Section 37. Title 24 of the Code of the Federated States of
4 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
5 57, is hereby further amended by enacting a new chapter 3 entitled
6 "Permits for Fishing on the High Seas or in an Area Designated by a
7 Fisheries Management Agreement by Flag Vessels".

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

12 "Section 301. Permits for flag fishing vessels. The
13 Authority may require each flag fishing vessel to hold a
14 valid and applicable permit for the following activities,
15 under such terms and conditions as may be prescribed by
16 regulation or otherwise required by the Authority:

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

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

21 Section 39. Title 24 of the Code of the Federated States of
22 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
23 57, is hereby further amended by enacting a new section 302 of chapter
24 3 to read as follows:

25 "Section 302. Registration fee for flag fishing vessels.

1 The Executive Director may issue a permit to each flag
2 fishing vessel in accordance with this section, after:

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

5 (2) such registration fee as the Authority shall require is
6 paid."

7 Section 40. Title 24 of the Code of the Federated States of
8 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
9 57, is hereby further amended by enacting a new section 303 of chapter
10 3 to read as follows:

11 "Section 303. Fishing by flag fishing vessels on the high
12 seas or in an area designated by a fisheries management
13 agreement - compliance.

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

17 (a) comply at all times with any applicable law or
18 agreement and the terms of any applicable permit, and shall
19 carry such permit on board at all times and produce it on
20 demand for inspection by an authorized officer or
21 investigating authority appointed pursuant to a fisheries
22 management agreement; and

23 (b) give information to an authorized officer or
24 investigating authority appointed pursuant to a fisheries
25 management agreement which may be required, including vessel

1 position, catches, fishing gear, fishing operations and
2 related activities in the area of an alleged violation of
3 such agreement.

4 (2) The Authority shall establish a national record of
5 fishing vessels authorized to fish on the high seas and
6 provide access to the information contained in that record on
7 request by directly interested foreign states, taking into
8 account any applicable laws of the Federated States of
9 Micronesia regarding the release of such information.

10 (3) Flag fishing vessels and citizens are not permitted to
11 engage in drift net fishing activities.

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

15 Section 41. Title 24 of the Code of the Federated States of
16 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
17 57, is hereby further amended by enacting a new chapter 4 entitled
18 "Access Agreements for Foreign Fishing and Related Activities."

19 Section 42. Title 24 of the Code of the Federated States of
20 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
21 57, is hereby further amended by enacting a new section 401 of chapter
22 4 to read as follows:

23 "Section 401. (Reserved)"

24 Section 43. Title 24 of the Code of the Federated States of
25 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-

1 57, is hereby further amended by enacting a new section 402 of chapter
2 4 to read as follows:

3 "Section 402. Negotiation of access agreements.

4 The Authority shall negotiate and enter into access
5 agreements on behalf of the Government of the Federated
6 States of Micronesia in accordance with this title. Such
7 agreements may, at the Authority's discretion:

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

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

12 (3) permit the rebate of access fees in accordance with
13 section 403(2) of this title, as the Authority deems
14 appropriate at the end of the licensing period if the
15 operator of any applicable vessel participated substantially
16 in shore-based developments or otherwise made a substantial
17 contribution to the development of the fishing industry of
18 the Federated States of Micronesia."

19 Section 44. Title 24 of the Code of the Federated States of
20 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
21 57, is hereby further amended by enacting a new section 403 of chapter
22 4 to read as follows:

23 "Section 403. Fees for permits for foreign fishing
24 vessels.

25 (1) Fees and other forms of compensation for the right to

1 engage in fishing within the exclusive economic zone by
2 foreign fishing vessels shall be established in access
3 agreements entered into pursuant to this chapter.

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

15 Section 45. Title 24 of the Code of the Federated States of
16 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
17 57, is hereby further amended by enacting a new section 404 of chapter
18 4 to read as follows:

19 "Section 404. Access agreements - minimum terms. All access
20 agreements shall include the following minimum terms:

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

24 (2) the operator and each member of the crew shall comply
25 with the applicable access agreement, applicable permit

1 conditions, this title, all regulations issued pursuant to
2 this title and all other applicable laws and regulations;

3 (3) the operator shall:

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

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

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

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

11 (ii) salary; and

12 (iii) full insurance coverage;

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

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

20 (f) ensure that the vessel is marked and identified in
21 accordance with the Food and Agricultural Organization (FAO)
22 approved Standard Specifications for the Marking and
23 Identification of Fishing Vessels;

24 (g) ensure the continuous monitoring of the
25 international distress and call frequency 2182 kHz (HF) or

1 the international safety and call frequency 156.8 MHz
2 (channel 16, VHF-FM) to facilitate communication with the
3 fisheries management, surveillance and enforcement
4 authorities;

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

8 (i) ensure that the vessel is seaworthy and contains
9 adequate life safety equipment and survival gear for each
10 passenger and member of the crew;

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

18 (4) the party to the access agreement shall, for the
19 duration of the access agreement:

20 (a) appoint and maintain a resident agent in the
21 Federated States of Micronesia that is approved by the
22 Authority, or establish and maintain a company registered in
23 accordance with the laws of the Federated States of
24 Micronesia, authorized to receive and respond to any legal
25 process issued in the Federated States of Micronesia with

1 respect to the owner or operator of the vessel, and shall
2 notify the Federated States of Micronesia of the name and
3 address of such agent or company, and any communication,
4 information, document, direction, request or response to, or
5 from that agent or company, shall be deemed to have been sent
6 to, or received from such owner or operator;

7 (b) not exceed any allocation which may be established
8 in any given licensing period in accordance with this title;

9 (c) ensure compliance by each fishing vessel, its
10 operator and crew members, with the access agreement, all
11 laws of the Federated States of Micronesia and the terms of
12 the permit; and

13 (d) ensure compliance by each fishing vessel, its
14 operator and crew members, with subregional and regional
15 conservation and management measures for highly migratory
16 fish stocks."

17 Section 46. Title 24 of the Code of the Federated States of
18 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
19 57, is hereby further amended by enacting a new section 405 of chapter
20 4 to read as follows:

21 "Section 405. Access agreements - effective date.

22 To take effect within the exclusive economic zone, an access
23 agreement involving ten or more vessels shall be submitted to
24 the Congress of the Federated States of Micronesia for
25 approval by resolution while in session, and to the Committee

1 on Resources and Development and the Committee on Ways and
2 Means for approval between sessions. If the Congress or the
3 Committee on Resources and Development and the Committee on
4 Ways and Means does not approve or reject an access agreement
5 within sixty (60) days of its submission by the Authority,
6 the access agreement shall be deemed approved."

7 Section 47. Title 24 of the Code of the Federated States of
8 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
9 57, is hereby further amended by enacting a new section 406 of chapter
10 4 to read as follows:

11 "Section 406. Access agreements - term of validity;
12 termination; suspension.

13 (1) The term of validity of an access agreement shall not
14 exceed ten (10) years, and may be renewable with the approval
15 of the Authority according to the following criteria, taking
16 into account performance of the other party during the
17 previous term:

18 (a) likely compliance with the access agreement and
19 this title; and

20 (b) potential economic benefits for the Federated
21 States of Micronesia.

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

24 (3) Any access agreement may be terminated by the
25 Authority, according to its terms or upon substantial non-

1 compliance by the other party with any requirement of the
2 access agreement or this title.

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

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

13 Section 48. Title 24 of the Code of the Federated States of
14 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
15 57, is hereby further amended by enacting a new section 407 of chapter
16 4 to read as follows:

17 "Section 407. Related activities - transshipment.

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

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

20 (b) provide seventy-two (72) hours notice to the
21 Authority of a request to transship any or all of the fish on
22 board and shall provide the name of the vessel, its
23 international radio call sign, its position, the catch on
24 board by species, the time and port where such transshipment
25 is requested to occur and an undertaking to pay all fees

1 required under the laws of the Federated States of
2 Micronesia;

3 (c) only transship at the time and port authorized for
4 transshipment; and

5 (d) submit full reports on transshipping on such forms
6 as may be required by the Authority or prescribed by
7 regulation.

8 (2) During transshipment in the Federated States of
9 Micronesia the foreign party and operator of each vessel
10 shall comply with all applicable National and State laws and
11 regulations in the Federated States of Micronesia relating to
12 protection of the environment, including without limitation,
13 sewage holding tank requirements.

14 (3) Any person who violates subsection (1)(a), (1)(c),
15 (1)(d) or (2) of this section shall be subject to a civil
16 penalty of not less than \$75,000 and not more than \$275,000."

17 Section 49. Title 24 of the Code of the Federated States of
18 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
19 57, is hereby further amended by enacting a new chapter 5 entitled
20 "Conservation, Management and Sustainable Use of Fishery Resources".

21 Section 50. Title 24 of the Code of the Federated States of
22 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
23 57, is hereby further amended by enacting a new section 501 of chapter
24 5 to read as follows:

25 "Section 501. Definitions. In this chapter, the terms

1 'foreign party', 'United Nations Agreement' and 'United
2 Nations Convention' shall have the meanings set forth in
3 section 102 of chapter 1."

4 Section 51. Title 24 of the Code of the Federated States of
5 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
6 57, is hereby further amended by enacting a new section 502 of chapter
7 5 to read as follows:

8 "Section 502. Conservation, management and sustainable use
9 of the fishery resources.

10 (1) The Authority shall adopt management measures which
11 promote the objectives of:

12 (a) utilizing the fishery resources of the Federated
13 States of Micronesia in a sustainable way;

14 (b) obtaining maximum, sustainable economic benefits
15 from these resources; and

16 (c) promoting national economic security through
17 optimum utilization of resources.

18 (2) The Authority shall ensure that such management
19 measures are based on the best scientific evidence available
20 and designed to maintain or restore stocks at levels capable
21 of producing maximum sustainable yield, as qualified by
22 relevant environmental and economic factors, and taking into
23 account fishing patterns, the interdependence of stocks and
24 generally recommended international minimum standards.

25 (3) The Authority shall apply a precautionary approach in

1 the adoption of such management measures that is consistent
2 with and no less stringent than the criteria set forth in the
3 United Nations Agreement or any other relevant access
4 agreement or fisheries management agreement to which the
5 Federated States of Micronesia is a party.

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

8 (a) assess the impact of fishing, other human
9 activities and environmental factors on target stocks and
10 species belonging to the same ecosystem or associated with or
11 dependent upon the target stocks;

12 (b) adopt, where necessary, conservation and
13 management measures for species belonging to the same
14 ecosystem or associated with or dependent upon the target
15 stocks, with a view to maintaining or restoring population of
16 such species above the level at which their reproduction may
17 become seriously threatened;

18 (c) minimize pollution, waste, discards, catch by lost
19 or abandoned gear, and impact on associated or dependent
20 species, in particular endangered species, through measures
21 including, to the extent practical, the development and use
22 of selective, environmentally safe and cost effective fishing
23 gear and techniques;

24 (d) protect biodiversity in the marine environment;

25 (e) take measures to prevent or eliminate over fishing

1 and excess fishing capacity and to ensure that levels of
2 fishing effort do not exceed those commensurate with the
3 sustainable use of fishery resources;

4 (f) take into account the interests of artisanal and
5 subsistence fishermen;

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

13 (h) promote and conduct scientific research and
14 develop appropriate technologies in support of fishery
15 conservation and management;

16 (i) implement and enforce conservation and management
17 measures through effective monitoring and control and through
18 support for and collaboration with the FSM maritime
19 surveillance program.

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

1 this section.

2 (6) The Authority may determine participatory rights in the
3 fishery, such as allocations of allowable catch or levels of
4 fishing effort. Allocations of such participatory rights:

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

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

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

23 (a) the conservation and management measures adopted
24 and applied in the exclusive economic zone, and ensure that
25 measures established in respect of such stocks for the high

1 seas do not undermine the effectiveness of such measures;

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

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

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

17 (e) the respective dependence of the Federated States
18 of Micronesia's and the foreign states' fishing on the high
19 seas on the stocks concerned;

20 (f) that such measures do not result in harmful impact
21 on the living marine resources as a whole."

22 Section 52. Title 24 of the Code of the Federated States of
23 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
24 57, is hereby further amended by enacting a new section 503 of chapter
25 5 to read as follows:

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

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

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

13 (3) has historically fished for a particular regulated
14 species;

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

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

18 (6) such other factors as the Authority deems appropriate."

19 Section 53. Title 24 of the Code of the Federated States of
20 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
21 57, is hereby further amended by enacting a new section 504 of chapter
22 5 to read as follows:

23 "Section 504. Allocation of allowable fishing among foreign
24 fishing vessels.

25 (1) The Authority may determine the allocation among

1 foreign parties of the total allowable level of foreign
2 fishing which is permitted with respect to any stock of fish
3 subject to the provisions of this title.

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

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

9 (b) whether such parties or their national governments
10 have cooperated with the Federated States of Micronesia in,
11 and made substantial contributions to, the conservation,
12 management and development of fisheries, fishery research and
13 the identification of marine resources;

14 (c) whether such parties or their national governments
15 undertake to invest in the fisheries sector in such a manner
16 as to bring significant benefit to the Federated States of
17 Micronesia;

18 (d) whether such parties or their national governments
19 have cooperated with the Federated States of Micronesia in
20 the enforcement of the provisions of this title and the
21 regulations issued under its authority, including flag State
22 enforcement and the provision of information required for the
23 conservation and management of fish;

24 (e) whether such parties or their national
25 governments, while in the waters under national jurisdiction

1 of any foreign state in the region, have complied with the
2 terms of any fisheries management agreement to which the
3 Federated States of Micronesia is a party and which is
4 implemented in such other foreign state; and
5 (f) such other matters as it may deem appropriate."

6 Section 54. Title 24 of the Code of the Federated States of
7 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
8 57, is hereby further amended by enacting a new chapter 6 entitled
9 "Enforcement".

10 Section 55. Title 24 of the Code of the Federated States of
11 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
12 57, is hereby further amended by enacting a new section 601 of chapter
13 6 to read as follows:

14 "Section 601. Enforcement responsibility. The Department of
15 Justice shall have primary responsibility for fisheries
16 enforcement, including:

17 (1) collaboration with the Authority in the monitoring and
18 control of all fishing operations within the fishery waters;
19 and

20 (2) the enforcement of this title."

21 Section 56. Title 24 of the Code of the Federated States of
22 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
23 57, is hereby further amended by enacting a new section 602 of chapter
24 6 to read as follows:

25 "Section 602. Appointment of authorized officers.

1 (1) The Secretary of the Department of Justice may, in
2 writing, appoint any person as an authorized officer or class
3 of persons as authorized officers for the purposes of this
4 title and such person or persons shall exercise all powers
5 and privileges accorded to authorized officers by this title.

6 (2) In addition, any person or class of persons may be
7 appointed by the Secretary as an authorized officer, in
8 accordance with subsection (1) of this section, pursuant to a
9 fisheries management agreement or similar cooperative
10 arrangement for purposes which include:

11 (a) for an authorized officer of the Federated States
12 of Micronesia, the performance of fisheries monitoring,
13 control and surveillance functions on behalf of the Federated
14 States of Micronesia while on board a vessel or aircraft of
15 another party; and

16 (b) for an authorized officer of another party to such
17 agreement, the performance of fisheries monitoring, control
18 and surveillance functions on behalf of the Federated States
19 of Micronesia while on board the vessel or aircraft of that
20 other party.

21 (3) Any officer of the Maritime Surveillance Wing of the
22 National Police of the Government of the Federated States of
23 Micronesia shall be deemed to be an authorized officer for
24 the purposes of this title.

25 (4) Any authorized officer is deemed to be an authorized

1 inspector for purposes of the United Nations Agreement or any
2 other access agreement which also has authority over high
3 seas fishing."

4 Section 57. Title 24 of the Code of the Federated States of
5 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
6 57, is hereby further amended by enacting a new section 603 of chapter
7 6 to read as follows:

8 "Section 603. Powers of authorized officers.

9 (1) For the purposes of enforcing this title, any
10 authorized officer may:

11 (a) stop, board, remain on board and search any vessel
12 in the fishery waters that he reasonably believes is a
13 fishing vessel;

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

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

19 (d) require the master or any crew member or other
20 person aboard to inform him of the name, call sign and
21 country of registration of the vessel and the name of the
22 master, owner, charterer and crew members;

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

1 (f) make such examination and inquiry as may appear
2 necessary concerning any vessel, vehicle or aircraft in
3 relation to which any of the powers conferred by this
4 subsection have been or may be exercised and take samples of
5 any fish or fish product found therein;

6 (g) require to be produced, examine and take copies of
7 any permit, logbook, record or other documents required under
8 this title or concerning the operation of any vessel or
9 aircraft;

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

12 (i) require to be produced and examine any fish,
13 fishing gear or appliance, explosive, poison or other noxious
14 substance;

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

21 (k) endorse any permit; and

22 (l) arrest any person who assaults him or any other
23 authorized officer in the exercise of his duties under this
24 title.

25 (2) Where an authorized officer has reasonable grounds to

1 believe an offense against this title is being or has been
2 committed, he may without a warrant:

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

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

11 (c) take samples of any fish found in any vessel or
12 vehicle inspected or within any premises searched under this
13 title;

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

22 (e) seize:

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

1 grounds to believe has been or is being used in the
2 commission of an offense or in respect of which the offense
3 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 contravention of
7 this title;

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

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

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

19 (g) issue citations as authorized by regulations
20 promulgated under section 703 of chapter 7 of this title.

21 (3) An authorized officer may, while arresting any person
22 or fishing vessel that he has reasonable grounds to believe
23 has done any act in contravention of this title, use such
24 force as is reasonably necessary in the circumstances to
25 effect the arrest.

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

4 (5) An authorized officer may:

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

7 (b) exercise any other lawful authority.

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

11 Section 58. Title 24 of the Code of the Federated States of
12 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
13 57, is hereby further amended by enacting a new section 604 of chapter
14 6 to read as follows:

15 "Section 604. Requirements for seized vessels.

16 (1) Where any vessel is seized under this title:

17 (a) the master and crew shall take the vessel to such
18 port as the authorized officer shall designate as being the
19 nearest or most convenient port;

20 (b) the master shall be responsible for the safety of
21 the vessel and each person on board the vessel, including the
22 crew, himself and any authorized officer until the vessel
23 arrives at the designated port.

24 (2) If the master fails or refuses to take the seized
25 vessel to the designated port, then an authorized officer or

1 person called upon to assist him may do so.

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

9 (4) The provisions relating to vessels and masters
10 described in subsections (1) to (3) of this section apply
11 equally to vehicles and aircraft seized in accordance with
12 this title, and their drivers and pilots respectively.

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

16 Section 59. Title 24 of the Code of the Federated States of
17 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
18 57, is hereby further amended by enacting a new section 605 of chapter
19 6 to read as follows:

20 "Section 605. Removal of parts from seized vessels by
21 authorized officers.

22 (1) An authorized officer may remove any part or parts from
23 any seized vessel, vehicle or aircraft held in the custody of
24 the Government of the Federated States of Micronesia for the
25 purpose of immobilizing that vessel, vehicle or aircraft.

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

4 (3) No person other than an authorized officer shall
5 knowingly possess, or arrange to obtain, any part or parts
6 removed under section 605(1) of this title or knowingly
7 possess, or arrange to obtain, or make any replacement or
8 substitute part or parts for those removed under section
9 605(1) of this title or fit or attempt to fit any part or
10 parts or any replacement or substitute part or parts to a
11 vessel, vehicle or aircraft held in the custody of the
12 Government of the Federated States of Micronesia.

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

16 Section 60. Title 24 of the Code of the Federated States of
17 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
18 57, is hereby further amended by enacting a new section 606 of chapter
19 6 to read as follows:

20 "Section 606. Appointment of authorized observers; port
21 samplers.

22 (1) The Executive Director may appoint, in writing, any
23 person to be an authorized observer or class of persons to be
24 authorized observers for the purposes of this title, any
25 access agreement or any fisheries management agreement.

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

6 (3) Authorized observers and port samplers shall not be
7 appointed as authorized officers and shall not be authorized
8 to take enforcement action under this title.

9 (4) The requirements of sections 607(1), 607(2), 607(6),
10 607(7), 608, 609 and 610 shall apply equally to authorized
11 observers and port samplers."

12 Section 61. Title 24 of the Code of the Federated States of
13 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
14 57, is hereby further amended by enacting a new section 607 of chapter
15 6 to read as follows:

16 "Section 607. Access granted to authorized observers;
17 conditions; expenses.

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

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

24 (a) board such vessel for scientific, compliance
25 monitoring and other functions, at such time and place as the

1 Executive Director may require;

2 (b) have full access to and the use of facilities and
3 equipment on board the vessel which the authorized observer
4 may determine is necessary to carry out his duties,
5 including:

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

9 (ii) full access to the vessel's records,
10 including its logbooks and documentation for the purposes of
11 records inspection and copying;

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

13 (iv) reasonable access to navigation equipment and
14 radios;

15 (c) take and remove from the vessel reasonable samples
16 for the purposes of scientific investigation, and other
17 relevant information;

18 (d) take photographs of the fishing operations,
19 including fish, fishing gear, equipment, charts and records,
20 and remove from the vessel such photographs or film as he or
21 she may have taken or used on board the vessel;

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

24 (f) carry out all duties safely; and

25 (g) disembark at such time and place as the Executive

1 Director may reasonably request or as required in accordance
2 with an applicable access arrangement.

3 (3) The operator shall provide the authorized observer, and
4 any authorized officer forced by circumstances to stay on
5 board the vessel for a prolonged period of time, while on
6 board the vessel with food, accommodation and medical
7 facilities at no expense, equivalent to that accorded to
8 officers.

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

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

14 (b) such salary as may be notified by the Executive
15 Director; and

16 (c) full insurance coverage.

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

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

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

4 Section 62. Title 24 of the Code of the Federated States of
5 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
6 57, is hereby further amended by enacting a new section 608 of chapter
7 6 to read as follows:

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

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

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

22 (3) No person shall:

23 (a) assault, obstruct, resist, delay, refuse boarding
24 to, intimidate or fail to take all reasonable measures to
25 ensure the safety of, or otherwise interfere with an

1 authorized officer or authorized observer in the performance
2 of his duties;

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

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

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

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

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

23 (g) resist lawful arrest for any act prohibited by
24 this title; or

25 (h) breach of any other duty to an authorized officer

1 or authorized observer required under this title.

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

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

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

1 Section 63. Title 24 of the Code of the Federated States of
2 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
3 57, is hereby further amended by enacting a new section 609 of chapter
4 6 to read as follows:

5 "Section 609. Identification of authorized officers and
6 authorized observers. An authorized officer or authorized
7 observer, when exercising any of the powers conferred by this
8 title, shall on request, produce identification to show that
9 he is an authorized officer or authorized observer under this
10 title."

11 Section 64. Title 24 of the Code of the Federated States of
12 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
13 57, is hereby further amended by enacting a new section 610 of chapter
14 6 to read as follows:

15 "Section 610. Protection against liability. The Authority
16 or any person who does, partly does, or omits to do any act
17 in pursuance or intended pursuance of any functions, powers
18 or duties conferred by or under this title shall not be
19 subject to any legal action, or civil or criminal liability
20 with respect to such act, whether on the grounds of want of
21 jurisdiction, mistake of law or fact, or on any other
22 grounds, unless the act, or omission to act, was done in bad
23 faith without reasonable cause."

24 Section 65. Title 24 of the Code of the Federated States of
25 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-

1 57, is hereby further amended by enacting a new section 611 of chapter
2 6 to read as follows:

3 "Section 611. Transponders required.

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

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

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

11 (c) ensure that any information or data required by
12 the Authority to be transmitted by the transponder is
13 transmitted continuously, accurately and effectively to the
14 designated receiver.

15 (2) For the purposes of this title, a transponder, which
16 may also be referred to as an automatic location communicator
17 or ALC, means any device or machine placed on a fishing
18 vessel as a condition of its permit or access agreement,
19 which transmits, whether in conjunction with another machine
20 or other machines, elsewhere or not, information or data
21 concerning the position, fishing and such other activities of
22 the vessel as may be required.

23 (3) The Authority may establish by regulation a list of
24 approved transponders. An approved transponder shall be
25 presumed to be accurate; a transponder that is not approved

1 shall not be presumed to be accurate. All information or
2 data obtained or ascertained by the use of a transponder,
3 shall be presumed to:

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

5 (b) be given by the master, owner and charterer of the
6 fishing vessel. This presumption shall apply whether or not
7 the information was stored before or after any transmission
8 or transfer.

9 (4) No person shall intentionally, recklessly or
10 unintentionally destroy, damage, render inoperative or
11 otherwise interfere with a machine aboard a vessel which
12 automatically feeds or inputs information or data into a
13 transponder, or intentionally feed or input information or
14 data into a transponder which is not officially required or
15 is meaningless.

16 (5) Any person who violates subsection (1) or subsection
17 (4) of this section, by failing to install, maintain, or
18 ensure the transmission of information from a transponder as
19 required, is subject to a civil penalty of not less than
20 \$100,000 and not more than \$500,000."

21 Section 66. Title 24 of the Code of the Federated States of
22 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
23 57, is hereby further amended by enacting a new chapter 7 entitled
24 "Jurisdiction and Evidence; Administrative Proceedings".

25 Section 67. Title 24 of the Code of the Federated States of

1 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
2 57, is hereby further amended by enacting a new section 701 of chapter
3 7 to read as follows:

4 "Section 701. Jurisdiction of the court.

5 (1) Any case or controversy arising under this title or out
6 of any act or omission committed in contravention of any
7 provision of this title by any person:

8 (a) within the fishery waters; or

9 (b) outside the fishery waters by any flag vessel,
10 citizen or person ordinarily resident in the Federated States
11 of Micronesia; or

12 (c) by any person on board any fishing vessel
13 registered in the Federated States of Micronesia shall be
14 subject to the jurisdiction of the Supreme Court of the
15 Federated States of Micronesia and judicial proceedings shall
16 be taken as if such act or omission had taken place in the
17 Federated States of Micronesia within the jurisdiction of the
18 Supreme Court of the Federated States of Micronesia.

19 (2) Where an authorized officer is exercising any powers
20 conferred on him outside the fishery waters in accordance
21 with this title, any act or omission of any person in
22 contravention of any of the provisions of this title shall be
23 deemed to have been committed within the fishery waters.

24 (3) Notwithstanding any provision of any other law of the
25 Federated States of Micronesia, any information or complaint

1 with respect to any violation of this title must be filed
2 within two years of the discovery of the violation.

3 (4) The Court may at any time enter restraining orders or
4 prohibitions, issue warrants, issue process in rem or other
5 processes, prescribe and accept satisfactory bonds or other
6 security, and take such other actions as are in the interests
7 of justice."

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

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

25 Section 69. Title 24 of the Code of the Federated States of

1 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
2 57, is hereby further amended by enacting a new section 703 of chapter
3 7 to read as follows:

4 "Section 703. Citations and administrative penalties.

5 (1) For any violation of this title or its regulations
6 which would fall within the penalty provisions of section 920
7 of this title, the Authority may, by regulation promulgated
8 in consultation with the Secretary, provide for an
9 administrative 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 a
13 violation, in such manner as shall be prescribed by
14 regulation. Each citation shall plainly set forth the act or
15 acts constituting the violation, the provisions of the law
16 and/or regulations violated and the administrative penalty
17 assessed for such violation.

18 (3) Administrative penalties shall be satisfied upon the
19 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 citation
23 within ten (10) days of receipt. All citation challenges
24 shall be in writing, shall be filed with the Executive
25 Director or his designee, and shall provide facts and

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

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

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

19 "Section 704. Prohibitions pending payment of administrative
20 penalties.

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

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

25 (b) a bond for the full amount of the administrative

1 penalty assessed has been deposited with the Executive
2 Director, pending the conclusion of legal proceedings under
3 section 703(4) of this title.

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

6 (a) a successful citation penalty challenge under
7 section 703(4) of this title; or

8 (b) a finding of no violation by the FSM Supreme
9 Court, pursuant to a proceeding instituted under section
10 703(5) of this title.

11 (3) Any person who violates subsection (1) of this section
12 shall be subject to the penalties set forth in section 907 of
13 this title for fishing without a valid permit."

14 Section 71. Title 24 of the Code of the Federated States of
15 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
16 57, is hereby further amended by enacting a new section 705 of chapter
17 7 to read as follows:

18 "Section 705. Liability for non-payment of penalties.
19 The Secretary shall have the authority to enforce and recover
20 all financial penalties and all forfeitures, damages,
21 expenses and other liabilities incurred or
22 imposed pursuant to this title, and to enforce the liability
23 to forfeiture of any article seized under the authority
24 thereof, and all rents, charges, expenses and duties and all
25 other sums of money payable under this title may be sued for,

1 determined, enforced and recovered in the name of the
2 Executive Director as plaintiff, and all such proceedings
3 shall be deemed to be civil proceedings. The fact that a
4 bond or other security has been paid shall not be pleaded or
5 made use of in answer to or in stay of any such proceedings."

6 Section 72. Title 24 of the Code of the Federated States of
7 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
8 57, is hereby further amended by enacting a new section 706 of chapter
9 7 to read as follows:

10 "Section 706. Presumptions.

11 (1) Where, in any legal proceedings under this title, the
12 place in which an event is alleged to have taken place is in
13 issue:

14 (a) there shall be a refutable presumption that the
15 place stated in the relevant entry in the logbook or other
16 official record of any enforcement vessel or aircraft as
17 being the place in which the event took place was the place
18 in which the event took place; and

19 (b) prima facie evidence of an entry in a logbook or
20 other official record of an enforcement vessel or aircraft
21 may be given by the production of a written copy or extract
22 of the entry certified by an authorized officer as a true
23 copy or accurate extract.

24 (2) There shall be a refutable presumption that all fish
25 found on board any fishing vessel which has been used in the

1 commission of any violation of this title have been caught
2 during the commission of that violation.

3 (3) Where, in any legal proceedings relating to a violation
4 of this title, an authorized officer gives evidence of
5 reasonable grounds to believe any fish to which the charge
6 relates were taken in a specified area of the fishery waters,
7 there shall be a refutable presumption that all the fish
8 shall be presumed to have been so taken.

9 (4) Where, in any legal proceedings for a violation of this
10 title, an authorized officer gives evidence of reasonable
11 grounds to believe that any fish to which the charge relates
12 were taken by the use of drift nets, there shall be a
13 refutable presumption that all the fish have been so taken.

14 (5) Where any information is given regarding a fishing
15 vessel pursuant to this title or an access agreement in
16 relation to any fishing activity of a foreign fishing vessel,
17 including any entry in writing or other mark in or on any
18 log, chart or other document required to be maintained under
19 this title or used to record the activities of a foreign
20 fishing vessel it shall be presumed to have been given by the
21 master, owner and charterer of the vessel concerned, unless
22 it is proved it was not given or authorized to be given by
23 any of them.

24 (6) Any position fixing instrument on board a vessel or
25 aircraft used for the enforcement of this title shall be

1 presumed to be accurate. For the purposes of this section, a
2 position fixing instrument shall mean any device which
3 indicates the location of a vessel, including, but not
4 limited to, any satellite navigation system or global
5 positioning system.

6 (7) Where a photograph taken by an authorized officer or
7 authorized observer, is taken of any fishing or related
8 activity and simultaneously the date, time or position from
9 which the photograph is taken are superimposed upon the
10 photograph then it shall be presumed that the photograph was
11 taken on the date, at the time or in the position so
12 appearing, if:

13 (a) the camera taking the photograph is connected
14 directly to the instruments which provide the date, time and
15 position concerned; and

16 (b) the photograph was taken by an authorized officer
17 or an authorized observer."

18 Section 73. Title 24 of the Code of the Federated States of
19 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
20 57, is hereby further amended by enacting a new section 707 of chapter
21 7 to read as follows:

22 "Section 707. Burden of proof.

23 (1) Where, in any proceedings under this title, a person is
24 alleged to have committed an act for which a permit or other
25 permission is required, the burden shall be on the person

1 charged to prove that at the relevant time the requisite
2 permit or permission was held.

3 (2) Where a person is alleged to have violated marine
4 space, in contravention of section 911 of this title, the
5 burden shall be on that person to prove that the information
6 given was true, complete and correct."

7 Section 74. Title 24 of the Code of the Federated States of
8 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
9 57, is hereby further amended by enacting a new chapter 8 entitled
10 "Forfeiture and Disposition of Seized or Confiscated Property".

11 Section 75. Title 24 of the Code of the Federated States of
12 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
13 57, is hereby further amended by enacting a new section 801 of chapter
14 8 to read as follows:

15 "Section 801. Forfeiture of property.

16 (1) Any fishing vessel, including its fishing gear,
17 furniture, appurtenances, stores and cargo used in or
18 connected with the commission of any act prohibited by this
19 title, within the territorial sea or internal waters of the
20 Federated States of Micronesia, shall be subject to
21 forfeiture to the Government of the Federated States of
22 Micronesia pursuant to a civil proceeding under this section.

23 (2) Any fishing vessel, including its fishing gear,
24 furniture, appurtenances or stores used in or connected with
25 the commission of any act prohibited by this title, within

1 the exclusive economic zone outside the territorial seas of
2 the Federated States of Micronesia, shall be released upon
3 the posting of a bond or other surety.

4 (3) Any vehicle or aircraft, all or any part of any fish or
5 fish product and the proceeds of the sale of any fish seized
6 in connection with a violation of this title, shall be
7 subject to forfeiture to the Government of the Federated
8 States of Micronesia pursuant to a civil proceeding under
9 this section.

10 (4) The Supreme Court of the Federated States of Micronesia
11 shall have jurisdiction, upon application by the Secretary of
12 the Department of Justice on behalf of the Federated States
13 of Micronesia, to order any forfeiture authorized under
14 subsection (1) of this section.

15 (5) If a judgment is entered for the Government of the
16 Federated States of Micronesia in a civil forfeiture
17 proceeding under this section, the Secretary of the
18 Department of Justice shall seize any property or other
19 interest declared forfeited to the Government of the
20 Federated States of Micronesia, which has not previously been
21 seized pursuant to this title.

22 (6) The forfeited item or items shall be sold and the
23 proceeds deposited into the General Fund of the Federated
24 States of Micronesia and distributed in accordance with
25 subsection (6) of this section.

1 (7) Fifty percent of the revenues from fines and
2 forfeitures shall be distributed to an FSM State if the
3 offense was committed within the territorial jurisdiction of
4 that State.

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

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

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 and 11-
3 57, is hereby further amended by enacting a new section 802 of chapter
4 8 to read as follows:

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

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

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

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

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

23 (1) Notwithstanding any other provision of this title, any
24 vessel, vehicle, aircraft or other item ordered to be
25 forfeited pursuant to this title may be disposed of in such

1 manner as prescribed by law after the expiration of the time
2 provided for the filing of a notice of appeal.

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

13 (3) The proceeds of sale of all forfeited items shall be
14 deposited into the General Fund of the Federated States of
15 Micronesia."

16 Section 78. Title 24 of the Code of the Federated States of
17 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
18 57, is hereby further amended by enacting a new section 804 of chapter
19 8 to read as follows:

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

21 (1) When any vessel, vehicle, aircraft or other item held
22 or forfeited under this title has been unlawfully removed
23 from the custody of the Federated States of Micronesia, it
24 shall be liable to seizure at any time within the
25 jurisdiction of the Federated States of Micronesia.

1 (2) No person shall remove any vessel, vehicle, aircraft or
2 other item held in custody under this title whether or not he
3 knew that the vessel, vehicle, aircraft or other item was
4 held in custody.

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

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

12 "Section 805. Liability of the Government for property in
13 custody. The Government of the Federated States of
14 Micronesia shall not be liable to any person for any loss,
15 damage or deterioration in the condition of any vessel,
16 vehicle, aircraft, fishing gear or other property which is in
17 its custody pursuant to this title, and all costs of
18 maintaining such property while in custody shall, unless
19 otherwise provided, be borne by the operator upon a finding
20 by the FSM Supreme Court that such property was used in or
21 connected with a violation of this title."

22 Section 80. Title 24 of the Code of the Federated States of
23 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
24 57, is hereby further amended by enacting a new section 806 of chapter
25 8 to read as follows:

1 "Section 806. Release of seized goods.

2 (1) The Court may, on application, order the release of any
3 fishing vessel, vehicle, aircraft or other items seized
4 pursuant to this title on receipt of such bond or other form
5 of security as it may determine.

6 (2) In determining the value of the bond or other form of
7 security, the Court shall have regard to the aggregate amount
8 of the value of the property to be released, an estimated
9 total fine or other penalty provided for the offenses charged
10 or likely to be charged and the costs the prosecution would
11 be likely to recover if a conviction were entered, and may
12 set the value at such aggregate amount. In no case should
13 the bond exceed the value of the property to be released.

14 (3) Notwithstanding the provisions of subsection (2) of
15 this section, the amount determined by the Court under this
16 section shall not be less than the fair market value of the
17 property to be released or the aggregate minimum fine or
18 penalty for each offense charged, whichever is greater.

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

25 (5) The release of any bond or other form of security under

1 this section shall be conditional upon:

2 (a) a finding by the Court that the vessel, vehicle,
3 aircraft or other item has not been used in or connected with
4 the commission of an offense against this title; or

5 (b) where the Court finds that the vessel, vehicle,
6 aircraft or other item has been used in or connected with the
7 commission of an offense under this title:

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

11 (ii) where the Court so orders, delivery to the
12 Court of the vessel, including its fishing gear, furniture,
13 appurtenances, stores and cargo, and of any fish ordered to
14 be forfeited without any impairment of their value, or
15 payment of the monetary value thereof as determined by the
16 Court.

17 (6) Nothing in subsection (1) of this section shall require
18 a Court to release any vessel, vehicle, aircraft or other
19 item if it might be required as an exhibit in court
20 proceedings or is reasonably required for any further
21 investigations of offenses against this title."

22 Section 81. Title 24 of the Code of the Federated States of
23 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
24 57, is hereby further amended by enacting a new section 807 of chapter
25 8 to read as follows:

1 "Section 807. Holding of seized goods.

2 (1) Any vessel, vehicle, aircraft or other item seized
3 pursuant to this title or any bond or other security or net
4 proceeds of any sale in respect thereof shall be held by the
5 Government pending the outcome of any legal proceedings under
6 this title or until it is decided not to file an information
7 or a complaint, and any penalties imposed under this title
8 have been fully paid.

9 (2) Where any vessel, vehicle, aircraft or other items
10 seized under this title, or any bond, security or net
11 proceeds of sale in respect thereof is not forfeited or
12 applied in the discharge of any fine, order for costs or
13 penalty imposed pursuant to this title, it shall be made
14 available for collection by the registered owner or his
15 nominee or, in the absence of such persons, the person who
16 appears entitled to it.

17 (3) Where any vessel, vehicle, aircraft or other item has
18 been released upon the lodging of a bond or security, an
19 order for forfeiture shall operate as an order for forfeiture
20 of the bond or security.

21 (4) Where any vessel, vehicle, aircraft or other item has
22 been released upon the lodging of a bond or security, the
23 Court may order any convicted defendant and the owner of the
24 vessel, vehicle, aircraft or other item concerned, whether or
25 not he is a defendant, to pay the difference between the bond

1 or amount lodged in respect of the forfeited property and the
2 aggregate value of the forfeited property."

3 Section 82. Title 24 of the Code of the Federated States of
4 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
5 57, is hereby further amended by enacting a new section 808 of chapter
6 8 to read as follows:

7 "Section 808. Application of bond.

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

11 (a) the discharge of any forfeiture ordered pursuant
12 to this title;

13 (b) the payment of all fines or penalties for offenses
14 against this title or penalties imposed pursuant to this
15 title arising out of the use of or in connection with the
16 vessel, vehicle, aircraft or other item;

17 (c) the full satisfaction of all costs involved in
18 maintaining and keeping secure the vessel and its equipment
19 during legal proceedings;

20 (d) the discharge of all orders for costs in
21 proceedings pursuant to this title arising out of the use of
22 or in connection with the vessel, vehicle, aircraft or other
23 item; and

24 (e) return as provided in this title."

25 Section 83. Title 24 of the Code of the Federated States of

1 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
2 57, is hereby further amended by enacting a new chapter 9 entitled
3 "Violations and Penalties for Prohibited Acts".

4 Section 84. Title 24 of the Code of the Federated States of
5 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
6 57, is hereby further amended by enacting a new section 901 of chapter
7 9 to read as follows:

8 "Section 901. Civil Penalties.

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

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

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

24 (4) The Secretary is authorized to initiate all proceedings
25 under this section and to recover the amount assessed as a

1 civil penalty.

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

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

11 "Section 902. Criminal penalties.

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

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

20 (3) Unless otherwise provided, all maximum penalties
21 described in this title shall be applicable in both civil and
22 criminal proceedings in respect to the same prohibited acts.
23 In addition to any fine, any criminal violation shall also be
24 punishable by imprisonment for not more than ten (10) years,
25 if in the commission of any such offense the person:

1 (a) uses a dangerous weapon;

2 (b) engages in conduct that causes bodily injury to
3 any authorized officer or authorized observer or other
4 officer authorized to enforce the provisions of this title;
5 or

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

7 (4) Each day of a continuing violation shall be considered
8 a separate offense, for which a separate penalty shall be
9 assessed.

10 (5) Fines shall be deposited into the General Fund of the
11 Federated States of Micronesia. Fifty percent of the
12 proceeds from criminal fines shall be distributed to any FSM
13 State within whose territorial jurisdiction the offense was
14 committed.

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

20 (7) Nothing in this title shall be interpreted to allow the
21 abatement of a criminal prosecution upon the late
22 satisfaction of a civil judgment or payment of a fine or
23 other determination pursuant to administrative proceedings
24 under this title."

25 Section 86. Title 24 of the Code of the Federated States of

1 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
2 57, is hereby further amended by enacting a new section 903 of chapter
3 9 to read as follows:

4 "Section 903. Liability for loss or damage. A person found
5 to have committed a violation of this title may be
6 additionally found liable for any loss or damage caused by
7 the violation. The amount of compensation for such loss or
8 damage may be awarded by the Court as restitution in addition
9 to, and recovered in the same manner as, a fine."

10 Section 87. Title 24 of the Code of the Federated States of
11 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
12 57, is hereby further amended by enacting a new section 904 of chapter
13 9 to read as follows:

14 "Section 904. Liability of operators. In any proceeding
15 under this title, the act or omission of any crew member of a
16 fishing vessel or in association with a fishing vessel, shall
17 be deemed to be that of the operator of that fishing vessel."

18 Section 88. Title 24 of the Code of the Federated States of
19 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
20 57, is hereby further amended by enacting a new section 905 of chapter
21 9 to read as follows:

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

23 (1) Except as further provided in this section, each member
24 of a partnership, officer of a corporation, firm, company or
25 any other business enterprise engaged in activities governed

1 by this title shall be personally liable for any violation
2 of, or offense committed under this title, by any member or
3 employee.

4 (2) It shall be an affirmative defense to liability under
5 this section for the officer to prove by a preponderance of
6 the evidence, that he used due diligence to secure compliance
7 with the title or that the violation or offense was committed
8 without that officer's knowledge, consent, collusion or
9 collaboration."

10 Section 89. Title 24 of the Code of the Federated States of
11 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
12 57, is hereby further amended by enacting a new section 906 of chapter
13 9 to read as follows:

14 "Section 906. Prohibited acts - general.

15 (1) It is a violation of this title for any person to:

16 (a) violate any provision, condition or requirement of
17 a permit or license issued pursuant to this title;

18 (b) violate any provision of a regulation promulgated
19 pursuant to this title;

20 (c) violate any provision, condition or requirement of
21 an access agreement, including the minimum terms required in
22 section 404 of chapter 4 of this title and any agreement or
23 arrangement implementing a multilateral access agreement; or

24 (d) pursuant to section 115 of chapter 1 and section
25 407(1)(b) of chapter 4 of this title.

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

3 (a) serious misreporting of catch;

4 (b) fishing in a closed area;

5 (c) fishing after attaining quota;

6 (d) directed fishing for a stock for which fishing is
7 prohibited;

8 (e) using prohibited fishing gear; or

9 (f) falsifying or concealing the markings, identity or
10 registration of a fishing vessel shall be subject to a civil
11 penalty of not less than \$100,000 and not more than
12 \$500,000."

13 Section 90. Title 24 of the Code of the Federated States of
14 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
15 57, is hereby further amended by enacting a new section 907 of chapter
16 9 to read as follows:

17 "Section 907. Fishing without a valid permit.

18 (1) No person shall use any fishing vessel for, and the
19 crew and operator of any fishing vessel shall not engage in,
20 commercial or non-commercial fishing or related activities in
21 the exclusive economic zone without a valid and applicable
22 permit as required pursuant to sections 103, 104 or 117 of
23 chapter 1 of this title.

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

1 \$100,000 and not more than \$1,000,000."

2 Section 91. Title 24 of the Code of the Federated States of
3 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
4 57, is hereby further amended by enacting a new section 908 of chapter
5 9 to read as follows:

6 "Section 908. Engaging in drift net activities.

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

9 (2) No operator of a fishing vessel entitled to fly the
10 flag of the Federated States of Micronesia shall fail to
11 require and ensure that such vessel does not engage in drift
12 net fishing activities in waters under the national
13 jurisdiction of a foreign state, in the high seas, or in
14 enclosed or semi-enclosed seas as defined in the United
15 Nations Convention.

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

19 Section 92. Title 24 of the Code of the Federated States of
20 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
21 57, is hereby further amended by enacting a new section 909 of chapter
22 9 to read as follows:

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

25 (1) No operator of a fishing vessel entitled to fly the

1 flag of the Federated States of Micronesia shall fail to
2 require and ensure that such vessel does not fish in waters
3 under the national jurisdiction of a foreign state unless
4 duly authorized by the competent authorities of the foreign
5 state or states concerned.

6 (2) Any person who commits an act in violation of this
7 section shall be subject to a civil penalty of not less than
8 \$50,000 or less than \$1,000,000."

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

13 "Section 910. Improper stowage of fishing gear.

14 (1) No operator of a fishing vessel in the exclusive
15 economic zone shall refuse or otherwise fail to stow all
16 fishing gear in such a manner that it is not readily
17 available for use in fishing except when such fishing vessel
18 is in an area in which it is authorized to fish in accordance
19 with this title.

20 (2) Any person who commits an act in violation of this
21 section shall be subject to a civil penalty of not less than
22 \$50,000 and not more than \$500,000."

23 Section 94. Title 24 of the Code of the Federated States of
24 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
25 57, is hereby further amended by enacting a new section 911 of chapter

1 9 to read as follows:

2 "Section 911. Violation of marine space.

3 (1) No person shall use a vessel for entering or remaining
4 within the exclusive economic zone in violation of any
5 provision of this title.

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

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

13 "Section 912. Fishing on or near submerged reefs or fish
14 aggregating devices.

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

21 (2) Any person who commits an act in violation of this
22 section shall be subject to a civil penalty of not less than
23 \$50,000 and not more than \$250,000."

24 Section 96. Title 24 of the Code of the Federated States of
25 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-

1 57, is hereby further amended by enacting a new section 913 of chapter
2 9 to read as follows:

3 "Section 913. Possession, handling and sale of fish
4 unlawfully taken.

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

10 (2) Any person who commits an act in violation of this
11 section shall be subject to a civil penalty of not less than
12 \$50,000 and not more than \$250,000."

13 Section 97. Title 24 of the Code of the Federated States of
14 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
15 57, is hereby further amended by enacting a new section 914 of chapter
16 9 to read as follows:

17 "Section 914. Destruction of evidence.

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

24 (2) Any person who commits an act in violation of this
25 section is subject to a civil penalty of not less than

1 \$100,000 and not more than \$500,000."

2 Section 98. Title 24 of the Code of the Federated States of
3 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
4 57, is hereby further amended by enacting a new section 915 of chapter
5 9 to read as follows:

6 "Section 915. Refusal to give fish samples.

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

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

16 Section 99. Title 24 of the Code of the Federated States of
17 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
18 57, is hereby further amended by enacting a new section 916 of chapter
19 9 to read as follows:

20 "Section 916. Obstruction of justice.

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

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

1 section shall be subject to a civil penalty of not less than
2 \$40,000 and not more than \$100,000."

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

7 "Section 917. Resisting arrest.

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

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

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

17 "Section 918. Contamination of the exclusive economic zone.

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

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

25 (a) non-biodegradable trash or debris;

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

4 (3) Any person who violates this section shall be subject
5 to a civil penalty of not less than \$50,000 and not more than
6 \$500,000."

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

11 "Section 919. Damage to fishing vessel or gear belonging to
12 another.

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

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

20 Section 103. Title 24 of the Code of the Federated States of
21 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
22 57, is hereby further amended by enacting a new section 920 of chapter
23 9 to read as follows:

24 "Section 920. Penalties for other violations of this title.

25 (1) Any person who commits an act in violation of any

1 provision of this title, for which no civil penalty is
2 otherwise specified in this chapter or the preceding
3 chapters, shall be subject to a civil penalty of not less
4 than \$40,000 and not more than \$100,000."

5 Section 104. Title 24 of the Code of the Federated States of
6 Micronesia, as amended by Public Laws Nos. 10-75, 11-24, 11-26 and 11-
7 57, is hereby further amended by renumbering chapter 6 and chapter 7,
8 as amended by Public Law No. 11-26, as chapters 10 and 11 respectively.

9 Section 105. This act shall become law upon approval by the
10 President of the Federated States of Micronesia or upon its becoming
11 law without such approval.

12
13 Date: _____ Introduced by: _____
14 Joseph J. Urusemal
(by request)