

AN ACT

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

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

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

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

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

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

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

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

1 terms shall have the meanings stated below:

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

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

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

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

1 subtitle;

2 "The Area" – means the seabed and ocean floor and
3 subsoil thereof beyond the limits of national
4 jurisdiction as defined under Article 1(1) of the
5 UN Convention on the Law of the Sea;

6 "Continental Shelf" – means the seabed and subsoil
7 of the Federated States of Micronesia as defined
8 under Article 76 of the UN Convention on the Law of
9 the Sea;

10 "Contract Area" – means any part of the Area in
11 respect of which there is in force a contract
12 between NSRA or a Sponsored Party and the ISA for
13 the conduct of Seabed Mineral Activities;

14 "Department" – means the Department of Resources
15 and Development of the National Government of the
16 Federated States of Micronesia;

17 "Environment Law" – means Title 25 of the Code of
18 the Federated States of Micronesia, as amended by
19 the FSM Environmental Protection Act 2012 or any
20 Act replacing that Act, and any regulations made
21 under it;

22 "Environment" – means all natural, physical and
23 social resources and ecosystems, including land,
24 rock, seabed, soil, minerals, water, air, climate,
25 material assets, cultural heritage, landscape,

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

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

12 “Executive Director” – means the executive director
13 of the NSRA;

14 “Exploration” – means

15 (a) the search for Seabed Mineral deposits,
16 including by drilling, with exclusive rights,
17 (b) the sampling and analysis of such deposits,
18 (c) the testing of systems and equipment, and
19 (d) the carrying out of studies, for the purpose
20 of investigating whether those minerals can be
21 commercially exploited;

22 An “Incident” occurs when

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

1 incurs significant damage;

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

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

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

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

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

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

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

1 conduct of Seabed Mineral Activities;

2 "Marine Scientific Research" – means any study, research

3 or other related scientific activity, whether

4 fundamental or applied, intended to increase knowledge

5 about the Marine Environment for the benefit of all

6 mankind, and not undertaken directly for industrial or

7 economic purposes, that falls within the permitting

8 provisions of subtitle I;

9 "Mining" – means the recovery for commercial purposes of

10 Seabed Minerals and the extraction of minerals

11 therefrom, including the construction and operation of

12 mining, processing and transportation systems, for the

13 production and marketing of metals;

14 "NSRA" – means the National Seabed Resources Authority

15 established under section 201 of this subtitle;

16 "Person" – means any natural person or group of natural

17 persons, or legal person or business enterprise and

18 includes, but is not limited to a company, corporation,

19 partnership, cooperative, or association;

20 "The Precautionary Approach" – the precautionary

21 approach means that where there is a threat of serious

22 harm or irreversible damage to the Environment, or

23 threat to human health in the Federated States of

24 Micronesia, precautionary measures should be taken even

25 if a lack of scientific knowledge means that some cause

1 and effect relationships are not fully understood.

2 "Prescribed" – means Prescribed by Regulations

3 promulgated under this subtitle or other applicable Act;

4 "Prospecting" – means the search for Seabed Mineral

5 deposits, including estimation of the composition, size

6 and distribution of deposits and their economic values,

7 using low impact activities and without any exclusive

8 rights;

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

10 granted under chapter 6 of this subtitle for the purpose

11 of allowing the conduct of Prospecting within the

12 Exclusive Economic Zone of the Federated States of

13 Micronesia pursuant to this subtitle;

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

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

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

17 whom the Title conferred by the Prospecting Permit may

18 lawfully have been assigned;

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

20 Federated States of Micronesia established as a

21 protected area within the meaning of the Convention on

22 Biological Diversity (opened for signature at the Earth

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

24 force on 29 December 1993, signed by the Federated

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

1 June 1994);

2 "Public Official" – means a person in the permanent or

3 temporary employment of the Government of the Federated

4 States of Micronesia whether exempted or not exempted by

5 section 117 of title 52 of the Code of the Federated

6 States of Micronesia;

7 "Qualification", "Qualification Criteria", "Qualify" and

8 "Qualified" refers to criteria that a License Applicant

9 must, in the NSRA's determination, meet under section

10 605 of this subtitle in order for that Applicant's

11 License Application to be evaluated by the NSRA;

12 "Regulations" – means all regulations promulgated under

13 this subtitle;

14 "Rules of the ISA" – means any rules, regulations, or

15 procedures adopted by the ISA pursuant to its powers

16 conferred by the UN Convention on the Law of the Sea

17 that are from time to time in force, and any contractual

18 terms contained in a contract between the ISA and a

19 Sponsored Party relating to Seabed Mineral Activities in

20 the Area;

21 "Seabed Minerals" – means the hard mineral resources

22 deposited in any part of the deep seabed, including

23 those in crust, nodule, or hydrothermal deposit form,

24 which contain (in quantities greater than trace)

25 metalliferous or non-metalliferous elements;

1 "Seabed Mineral Activities" – means

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

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

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

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

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

1 or officers;

2 "Sponsorship Certificate" – means a written

3 document issued to another person under Chapter 7

4 of this subtitle by the Federated States of

5 Micronesia that validates the Federated States of

6 Micronesia's sponsorship of that person pursuant to

7 this subtitle;

8 "Sponsorship Qualification Criteria" – refers to

9 criteria which a Sponsorship Certificate Applicant

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

11 section 704 of this subtitle, in order for that

12 Applicant to be considered for a Sponsorship

13 Certificate;

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

15 Convention on the Law of the Sea, sponsoring a

16 person to carry out Seabed Mineral Activities in

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

18 the UN Convention on the Law of the Sea;

19 "Territorial Sea and internal waters" – means the

20 territorial sea and internal waters of the

21 Federated States of Micronesia as described under

22 section 102 of Title 18 of the Code of the

23 Federated States of Micronesia;

24 "Title" – means the rights conferred and

25 obligations imposed by a Prospecting Permit,

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

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

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

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

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

3 (c) prevent trans boundary harm;

4 (d) conserve biodiversity;

5 (e) apply the Precautionary Approach;

6 employ best environmental practice;

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

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

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

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

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

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

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

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

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

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

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

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

1 "Section 104. Operation of this subtitle.

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

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

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

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

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

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

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

24 (g) provides for the Federated States of
25 Micronesia to receive payments for its sponsorship of

1 Seabed Mineral Activities in the Area;

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

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

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

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

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

1 responsibility pertaining to such State resources.”

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

5 “Section 106. Application of this subtitle.

6 This subtitle applies to –

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

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

12 This subtitle does not apply to the exploration for or
13 recovery of petroleum.”

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

17 “Section 107. Jurisdiction.

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

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

25 (b) recognizes:

1 (i) the seabed resources of the Area to be
2 the common heritage of mankind,

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

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

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

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

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

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

- 22 1. protection and preservation of the natural
23 resources of the Area and the prevention of damage to
24 the flora and fauna of the Marine Environment, and
- 25 2. prevention, reduction and control of pollution and

1 other hazards to the Marine Environment,

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

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

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

24 Section 10. Title 24 of the Code of the Federated
25 States of Micronesia, as amended, is hereby further amended

1 by creating a new chapter 2 under subtitle II entitled:

2 "National Seabed Resources Authority".

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

7 "Section 201. Establishment of the National Seabed
8 Resources Authority:

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

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

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

18 (b) the Secretary, who shall serve as the
19 Chairperson of the NSRA Board.

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

24 (4) The NSRA shall meet at such time and place as may
25 be designated by the Chairperson or by vote of the

1 members pursuant to any method set out in the NSRA
2 regulation.

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

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

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

15 "Section 202. Objectives of the NSRA.

16 The NSRA has the following objectives:

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

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

25 (c) The environmental protection objective: to

1 seek to ensure that Seabed Mineral Activities under the
2 control or sponsorship of the Federated States of
3 Micronesia are undertaken with due regard to:

4 (i) the duty to protect and preserve the
5 Marine Environment; and

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

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

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

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

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

1 Activities and associated matters;

2 (b) maintain a cadastral survey map and
3 registry, manage the designation and allocation of
4 Titles, and maintain records of Titles granted and the
5 blocks or cells of seabed to which they relate;

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

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

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

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

23 (g) enforce compliance with this subtitle,
24 Regulations, or a Title;

25 (h) share information and hold consultation with

1 stakeholders and general public on Seabed Mineral
2 Activities as appropriate; and

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

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

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

14 (a) the duties contained in section 102(2) of
15 this subtitle;

16 (b) meeting its objectives contained in section
17 202 of this subtitle;

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

23 (d) such generally accepted principles of good
24 corporate governance as it is reasonable to regard as
25 applicable to it.”

1 Section 15. Title 24 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by inserting a
3 new section 205 under chapter 2 of subtitle II, to read as follows:

4 "Section 205. Powers of the NSRA.

5 The following powers are vested in the NSRA:

6 (a) Promotion

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

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

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

21 (b) Regulatory

22 1. To establish reasonable standards of regulation
23 governing Prospecting, Exploration, and Mining.

24 (a) The standards of regulation are those set in
25 this subtitle and such other standards as are

1 reasonably set by administrative regulation.

2 (b) The NSRA shall consult relevant stakeholders and
3 give due consideration to their views prior to the
4 effective date of any regulation.

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

8 (c) Monitoring and Compliance

9 1. To require and receive information relevant to
10 its regulatory function from Title Holders, and to
11 exercise powers of inspection as defined in sections
12 214.

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

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

21 (e) Related powers

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

1 2. To seek expert advice or assistance on economic,
2 legal, scientific, and technical issues affecting or
3 relating to the management, administration, or
4 regulation of Seabed Mineral Activities.

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

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

13 "Section 206. Information Gathering.

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

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

1 (b) the estimation of the grade and quantity of
2 commercially exploitable deposits, when such deposits
3 have been identified, and the anticipated mining
4 conditions;

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

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

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

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

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

24 (5) Any person guilty of an offense under this
25 section shall be liable for a fine not exceeding fifty

1 thousand dollars (\$50,000)."

2 Section 17. Title 24 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by inserting a
4 new section 207 under chapter 2 of subtitle II, to read as follows:

5 "Section 207. Information-handling.

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

10 (a) the relevant Title Holder or Applicant
11 consents;

12 (b) it is generally known or publicly available
13 from other sources;

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

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

22 (2) Nothing in this section shall permit disclosure
23 without prior consent by the NSRA of information that is
24 confidential under applicable law, including but not
25 limited to, personnel matters, confidential technical or

1 proprietary information and intellectual property
2 relating to the Seabed Mineral Activities, or privileged
3 legal material.

4 (3) Any employee or member of the NSRA or any other
5 Public Official who discloses information in breach of
6 this section, commits an offense, punishable upon
7 conviction to a fine not exceeding ten thousand dollars
8 (\$10,000), a term of imprisonment of not more than two
9 years, or both."

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

13 "Section 208. Supply of false or misleading information
14 to the NSRA.

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

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

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

1 under this subtitle.

2 (2) Any person who willfully alters, suppresses,
3 conceals or destroys any document which he is or she is
4 liable to be required, by or under this subtitle, to
5 produce to the NSRA shall be guilty of an offense.

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

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

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

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

25 "Section 210. Record of decisions.

1 (1) The NSRA will keep written records of decisions
2 (and the grounds for them) taken under the following
3 sections of this subtitle:

4 (a) 206(2) (Information Order);

5 (b) 215 (Enforcement Order);

6 (c) 502 (Grant of a Prospecting Permit);

7 (d) 505 (Denial of Prospecting Permit);

8 (e) 602 (Grant and Issue of License);

9 (f) 626 (Renewal of License);

10 (g) 628 (Variation, Suspension or Revocation of
11 a License);

12 (h) 702 (Entry into Sponsorship of Seabed
13 Mineral Activities in the Area); and

14 (i) 710 (Revocation of a Sponsorship
15 Certificate).

16 (2) A record kept under this section, and that is
17 signed by the Secretary or on behalf of the NSRA by the
18 Executive Director, is prima facie evidence that the
19 decision was duly made as recorded."

20 Section 21. Title 24 of the Code of the Federated
21 States of Micronesia, as amended, is hereby further amended
22 by inserting a new section 211 under chapter 2 of subtitle
23 II, to read as follows:

24 "Section 211. Monitoring - The NSRA will monitor and
25 verify Title Holders' performance and adherence to this

1 subtitle, Regulations, Title, and any conditions arising
2 from an Environmental and Social Impact Assessment where
3 required under this subtitle or any other laws of the
4 Federated States of Micronesia, with particular regard
5 to progress with Seabed Mineral Activities, and the
6 impacts of Seabed Mineral Activities on the
7 Environment, other sea users, bordering States, national
8 industries, or the people of the Federated States of
9 Micronesia.”

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

13 “Section 212. Incidents and Inquiries.

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

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

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

1 (b) the description of the action being taken by
2 the Title Holder to monitor, prevent, contain, minimize,
3 and rehabilitate the harm or threat of harm to the
4 Environment or to human health and safety; and

5 (c) any such supplementary information as is
6 required by the NSRA.

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

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

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

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

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

25 "Section 214. Inspectors' Powers

1 (1) Any person appointed by the NSRA as an Inspector
2 under section 213 of this subtitle, shall, if reasonably
3 necessary for the purpose of determining compliance with
4 this subtitle, be entitled at all reasonable times and
5 with reasonable notice to a Title Holder to—

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

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

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

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

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

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

25 (g) upon written authorization from the NSRA,

1 perform any other functions of the NSRA as its
2 representative, including the issue of Orders under
3 sections 206 (2) (Information Order) and 215
4 (Enforcement Order) of this subtitle; and

5 (h) undertake any additional actions as may be
6 Prescribed.

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

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

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

24 (5) The willful obstruction or intimidation or abuse
25 by any person of an Inspector, or the failure by a Title

1 Holder or its officer or agent to comply with subsection
2 (4), shall be an offense.

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

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

9 "Section 215. Enforcement Order

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

18 (2) An Enforcement Order made under this section may
19 in reasonable terms:

20 (a) require a person to:

21 (i) take corrective action, or

22 (ii) stop taking harmful action; and

23 (b) include a mandatory timeframe for the
24 required action or inaction.

25 (3) Where the subject of an Enforcement Order objects

1 to its requirements, a hearing or review of the Order
2 may be conducted in accordance with title 17 of the Code
3 of the Federated States of Micronesia.

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

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

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

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

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

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

23 (a) the time of compliance specified in the
24 Enforcement Order has ended; and

25 (b) the person to whom the Enforcement Order was

1 given or to whom it extended has not complied with the
2 Order.”

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

6 “Section 217. Costs incurred by the NSRA in taking
7 corrective action.

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

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

18 “Section 218. Administrative Action.

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

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

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

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

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

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

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

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

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

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

23 (3) Action taken under subsection (2) of this
24 subtitle shall be commensurate with the gravity,
25 frequency and other circumstances of the breach,

1 including the Title Holder's previous conduct under the
2 Title.

3 (4) Where a Title Holder objects to a decision by the
4 NSRA to take administrative action, a hearing or review
5 of that decision may be conducted in accordance with
6 title 17 of the Code of the Federated States of
7 Micronesia."

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

11 "Section 219. NSRA – term of office of members;
12 vacancies.

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

22 (2) The Executive Director shall notify the President
23 of the Federated States of Micronesia in writing of an
24 impending vacancy on the NSRA not less than ninety (90)
25 days prior to the expiration of the term of a member and

1 immediately upon receipt of a member's notice of intent
2 to resign.

3 (3) Notwithstanding any other provision of this
4 subtitle, an appointment to the NSRA shall be declared
5 vacated or terminated by the President of the Federated
6 States of Micronesia in the event of any of the
7 following:

8 (a) submission of a written resignation, signed
9 by the member and delivered to the President of the
10 Federated States of Micronesia;

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

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

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

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

1 departing member.”

2 Section 30. Title 24 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by inserting a
4 new section 220 under chapter 2 of subtitle II, to read as follows:

5 “Section 220. Compensation of members.

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

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

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

20 “Section 221. NSRA – adoption of regulations.

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

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

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

7 "Section 222. Executive Director.

8 (1) The NSRA shall employ a full-time Executive
9 Director possessing such qualifications as may be
10 established by the NSRA.

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

21 (3) The Executive Director shall receive remuneration
22 for his services, the amount of which shall be fixed by
23 the NSRA.

24 (4) The Executive Director shall serve at the
25 pleasure of the NSRA Board and shall be exempt from the

1 National Public Service System established in title 52.

2 (5) The Executive Director shall have the following
3 powers and duties:

4 (a) To issue Titles, as approved by the NSRA
5 Board.

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

10 (c) To manage and implement the NSRA's
11 monitoring and compliance function.

12 (d) To perform other duties and responsibilities
13 as may be assigned to him by the NSRA Board from time to
14 time.

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

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

20 "Section 223. Annual report.

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

25 (a) a detailed accounting of the expenditure of

1 funds of the NSRA,

2 (b) the number of Titles issued,

3 (c) the fees, taxes, royalties, and fines
4 collected,

5 (d) Seabed Mineral Activities undertaken,

6 (e) estimates from current data of the quality,
7 quantity, and location of Seabed Minerals within the
8 national jurisdiction of the Federated States of
9 Micronesia, and within any Contract Area, and

10 (f) such other information regarding the
11 implementation of this subtitle in the preceding fiscal
12 year as the NSRA may determine.

13 (2) The NSRA shall ensure that all departments and
14 offices of the National Government and the governors of
15 the States are furnished copies of the NSRA's annual
16 report, and shall make the annual report publicly
17 available."

18 Section 34. Title 24 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by creating a
20 new chapter 3 under subtitle II entitled: "Areas Available for
21 Seabed Mining Activities in the Federated States of Micronesia".

22 Section 35. Title 24 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by inserting a new
24 section 301 under chapter 3 of subtitle II, to read as follows:

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

1 For the purpose of this subtitle, the surface of the
2 earth is deemed to be divided into graticular sections:

3 (a) by the meridian of Greenwich and by the
4 meridians that are at a distance from that meridian of 5
5 minutes or a multiple of 5 minutes of longitude;

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

9 (c) each of which is bounded by:

10 (i) portions of two of those meridians that
11 are at a distance from each other of 5 minutes of
12 longitude; and

13 (ii) portions of two of those parallels of
14 latitude that are at a distance from each other of 5
15 minutes of latitude.”

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

19 “Section 302. Constitution of blocks/cells

20 For the purpose of this subtitle:

21 (a) The seabed and subsoil of any such
22 graticular section is a block.

23 (b) The position on the surface of the Earth of
24 a block or any other position identified for the purpose
25 of this subtitle or Regulations is to be determined by

1 reference to the World Geodetic System (WGS 84); a
2 boundary between points on the surface of the Earth must
3 be a geodesic; and grid coordinates must be described in
4 accordance with the Universal Transverse Mercator Grid
5 System.

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

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

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

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

25 "Section 304. Reserved areas.

1 (1) If there is no Title over a particular area of
2 the Federated States of Micronesia's Exclusive Economic
3 Zone or Continental Shelf, the NSRA may declare the area
4 to be a reserved area.

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

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

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

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

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

24 "Section 306. Cadastral Survey Map and Register of
25 Titles.

1 (1) The NSRA shall, within six months of the
2 effective date of this subtitle, complete an inventory
3 of its geological data and Seabed Mineral records,
4 and acquire the technical capabilities to implement a
5 cadastral survey map, and to delineate on maps of
6 appropriate scale, which blocks or cells are at any
7 time:

8 (a) subject to License Applications, or Licenses
9 issued under this subtitle;

10 (b) open to License Applications; and

11 (c) areas reserved under section 304 of this
12 subtitle.

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

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

20 (a) the name and registered address of the Title
21 Holder;

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

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

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

1 (e) the Seabed Minerals in respect of which the
2 Title is granted; and

3 (f) a description of the Seabed Mineral
4 Activities in respect of which the Title is granted.

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

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

12 "Section 307. Cadastral survey map and register open to
13 public inspection.

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

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

25 (3) For the purpose of subsection (2), the NSRA shall

1 take into account any representations received from
2 Applicants and Title Holders in determining the
3 information that may be withheld from publication.

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

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

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

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

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

24 "Section 401. Prohibited Activities.

25 (1) No person may engage in any Seabed Mineral

1 Activities unless, and only insofar as, authorized to do
2 so under a Title issued under this subtitle.

3 (2) Any person who contravenes subsection (1) shall
4 be guilty of an offense and liable on conviction to a
5 fine not exceeding five hundred thousand dollars
6 (\$500,000) or imprisonment for a period not exceeding
7 five years or both.

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

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

15 "Section 402. Adherence to laws and rules.

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

20 (a) the laws of the Federated States of
21 Micronesia including the Environment Law, this subtitle,
22 and any Regulations;

23 (b) the terms and conditions of the Title
24 permitting the Seabed Mineral Activities;

25 (c) any environmental conditions arising from

1 the Environmental and Social Impact Assessment; and

2 (d) such rules, regulations, and procedures as
3 may be adopted in the Federated States of Micronesia
4 relating to employment (including protection against
5 discrimination in employment), occupational health and
6 safety and public health, labor relations, social
7 security, safety at sea, and living conditions of
8 workers on-site.

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

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

18 "Section 403. Title Holders' Duties

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

21 *Social and Environmental Management*

22 (a) apply the Precautionary Approach, and employ
23 best environmental practice in accordance with
24 prevailing international standards in order to avoid,
25 remedy, or mitigate the adverse effects of Seabed

1 Mineral Activities on the Environment;

2 (b) take necessary steps to prevent, reduce and
3 control pollution and other hazards to the Marine
4 Environment, including waste material, arising from
5 Seabed Mineral Activities and Ancillary Operations;

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

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

1 prior to commencing the Seabed Mineral Activities;

2 (e) not proceed or continue with the Seabed
3 Mineral Activities without obtaining prior written
4 consent from the NSRA to proceed, if evidence arises
5 that to proceed is likely to cause Serious Harm to:

6 (i) the Environment that was not
7 anticipated in any Environmental and Social Impact
8 Assessment previously conducted,

9 (ii) the safety, health or welfare of any
10 person, or

11 (iii) to other existing or planned legitimate
12 sea uses including but not limited to Marine Scientific
13 Research;

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

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

1 *Training*

2 (h) cooperate in the capacity-building of
3 personnel of the Federated States of Micronesia in
4 connection with Marine Scientific Research, Seabed
5 Mineral Activities, and any related transfer of
6 technology as may be agreed in the Title, including
7 providing opportunities in consultation with the NSRA
8 for the participation of representatives of the
9 Federated States of Micronesia in the Seabed Mineral
10 Activities;

11 (i) provide sufficient training, supervision,
12 and resources to employees, agents, or officers, to
13 ensure compliance with the Title and this subtitle.

14 *Financial*

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

25 (k) at all material times, maintain appropriate

1 insurance policies that provide adequate coverage for
2 risks and costs of damages associated with Seabed
3 Mineral Activities, or otherwise satisfy the NSRA of the
4 Title Holder's financial and technical capability to
5 respond to potential Incidents;

6 *Legal*

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

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

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

17 (m) obtain any other permits, approval,
18 certification or other documentation required under the
19 laws of the Federated States of Micronesia for the
20 lawful performance by the Title Holder of the Seabed
21 Mineral Activities;

22 (n) carry out the Seabed Mineral Activities
23 lawfully, with due diligence and efficiency, and within
24 reasonable time limits;

25 (o) not amend, alter or vary the work plan

1 contained in the Title without the prior and informed
2 written consent of the NSRA, following a review in
3 accordance with section 627 of this subtitle;

4 (p) not engage in, and to take all reasonable
5 steps to ensure that its employees, agents, contractors
6 and subcontractors do not engage in, any activity
7 related to the Title in exchange for any improper
8 benefit to the Licensee, employee, agent, contractor or
9 subcontractor, or to associated persons including a
10 friend or family member;

11 (q) notify the NSRA in writing immediately upon
12 becoming aware that any requirement imposed on it is
13 inconsistent with any other requirement, or that any
14 requirement is incompatible with the performance of the
15 Seabed Mineral Activities;

16 *Reporting*

17 (r) advise the NSRA in writing 30 days in
18 advance of the date of departure from port of the
19 schedule of each cruise planned for the purpose of
20 performing the Seabed Mineral Activities under its
21 Title;

22 (s) submit to the NSRA immediately in writing
23 notice of any new information arising or data collected
24 that materially affects the work plan or the Title
25 Holder's ability to adhere to the terms of the Title;

1 (t) submit to the NSRA immediately by telephone
2 and in writing notice of any Incident, and provide
3 regular reports throughout the occurrence of any
4 Incident;

5 (u) permit access to the Title Holder's books
6 and records, machinery and equipment, samples, office
7 premises or operation sites (including vessels and
8 installations) used in connection with the Seabed
9 Mineral Activities for any Inspector or other NSRA
10 nominated representative, for the purposes of reasonable
11 on-site inspection.

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

18 (w) submit to the NSRA within 30 days of the end
19 of each calendar year a written annual report in a
20 format to be Prescribed or described in the Title, which
21 shall include:

22 (i) information on: the results of Seabed
23 Mineral Activities, health and safety record, volume of
24 work, quantity, and quality of Seabed identified (and
25 where relevant, extracted), waste and waste disposal,

1 rehabilitation activities,
2 (ii) a statement of expenditures, costs, and
3 persons employed;
4 and in the case of a Mining License
5 (iii) estimate of remaining Seabed Mineral
6 deposit within the Title Area, and
7 (iv) a statement showing the amount of
8 royalty determined to be payable for each reporting
9 period together with all related information and
10 calculations, and receipt showing that the royalties
11 have been paid in accordance with the provisions of this
12 subtitle or any other applicable laws;
13 (x) provide the NSRA with all reasonable
14 information and assistance to enable the NSRA's
15 verification of the Title Holder's adherence to its
16 obligations in performing the Seabed Mineral Activities
17 and Ancillary Operations."

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

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

25 "Section 501. Prospecting within national jurisdiction.

1 Prospecting may be carried out within an area of the
2 Exclusive Economic Zone or upon the Continental Shelf
3 (or Territorial Sea and internal waters where such
4 responsibility has been delegated to NSRA by a State
5 under this subtitle) by any person holding a valid
6 Prospecting Permit pertaining to that area.”

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

10 “Section 502. Grant of a Prospecting Permit.
11 A Prospecting Permit may be granted by the NSRA upon
12 satisfactory receipt of a properly made application for
13 a Prospecting Permit in the required form and
14 accompanied by the Prescribed fees.”

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

18 “Section 503. Prospecting Permit Application.
19 For an application for a Prospecting Permit to have been
20 properly made, for the purposes of section 502 of this
21 subtitle, the application shall be made to the NSRA in
22 writing at least six months before the proposed
23 commencement date of the Prospecting, and shall contain:
24 (a) the cruise name(s) and number(s);
25 (b) the name, nationality, address and contact

1 details, address and incorporation or registration
2 papers of the Applicant and its collaborators and
3 participants;

4 (c) the name, nationality, address, contact
5 details and certificate of the requisite skills of the
6 officer in charge of the proposed Prospecting;

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

11 (e) the proposed date of commencement and
12 approximate duration of the activities; and the proposed
13 dates and ports of the embarkation and disembarkation of
14 cruises;

15 (f) a general description of the nature and
16 objectives of the proposed Prospecting, including any
17 plans to make the research results internationally
18 available;

19 (g) details of the methods, technology,
20 equipment, scientific instruments and any installations
21 to be used, including as far as practicable:

22 (i) the locations and depths of any
23 sampling stations or installations or equipment and the
24 tracks of any survey lines, and their removal methods
25 and proposed dates of removal,

1 (ii) the dates of planned entries and
2 departures from the research area,

3 (iii) particulars of the vessel(s) and any
4 underwater craft to be used, including type/class,
5 details of owner and operator, nationality (flag State),
6 identification number, particulars of the crew and
7 evidence as to their certification against international
8 standards (e.g. SOLAS 74);

9 (h) insofar as possible at the time of the
10 Application, a preliminary assessment of likely impact
11 on the Environment of the proposed Prospecting,
12 including indication of:

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

15 (ii) whether drilling will be carried out –
16 and if so provide details,

17 (iii) whether explosives will be used – and
18 if so provide details;

19 (i) the details of any intended ports of call,
20 any special logistical requirements and the details of
21 the relevant shipping agent (if available) at ports of
22 call within the Federated States of Micronesia;

23 (j) modalities of the participation of a
24 representative of the Federated States of Micronesia in
25 the Prospecting;

1 (k) the expected dates and method of submission
2 to the Federated States of Micronesia of a preliminary
3 report, a final report, and assessment of data, samples
4 and research results;

5 (l) the proposed means for the NSRA to access
6 data, samples and research results, and any proposed
7 means to provide assistance in their assessment or
8 interpretation;

9 (m) details of any other permits required
10 (whether received or pending) for the proposed
11 Prospecting;

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

15 (o) any such other matters as may be Prescribed,
16 or that will assist NSRA take a decision whether or not
17 to grant a Prospecting Permit.”

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

21 “Section 504. Prospecting Permit decision. The NSRA
22 will provide the Applicant Prospector with:

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

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

25 (c) a request for further information, within 60

1 days of satisfactory receipt of an Application or of
2 additional information sought by the NSRA during the
3 Application process.”

4 Section 52. Title 24 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by inserting a
6 new section 505 under chapter 5 of subtitle II, to read as follows:

7 “Section 505. Denial of a Prospecting Permit.

8 The NSRA will not provide a Prospecting Permit where:

9 (a) information required under section 503 has
10 not been supplied to the NSRA’s satisfaction;

11 (b) the past performance of the Applicant as a
12 Title Holder, or equivalent in other jurisdictions, has
13 been materially unsatisfactory to the NSRA’s knowledge;

14 (c) the area of the seabed Applied for is within
15 the scope of a pre-existing and current Exploration or
16 Mining License;

17 (d) the terms of the Permit would in the NSRA’s
18 opinion likely to lead to the contravention by any
19 person of conditions or restrictions placed on any
20 Marine Reserve or a Protected Area or cause Serious Harm
21 to the Environment, or human health or safety; or

22 (e) the NSRA is aware of other grounds that
23 reasonably indicate that the grant of the Prospecting
24 Permit would be contrary to public interest or contrary
25 to the principles contained in section 204 of this

1 subtitle.”

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

5 “Section 506. Written statement of reasons for and
6 appeal from denial.

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

10 (2) An Applicant Prospector who is dissatisfied with
11 the NSRA’s denial decision may apply for a hearing or
12 review of the decision pursuant to title 17 of the Code
13 of the Federated States of Micronesia.”

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

17 “Section 507. Conditions of Prospecting Permit.
18 Subject to the provisions of this subtitle, the NSRA may
19 grant a Prospecting Permit subject to whatever terms and
20 conditions the NSRA deems appropriate or as may be
21 Prescribed.”

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

25 “Section 508. Rights and Obligations of Prospecting

1 Permit.

2 Prospecting:

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

5 (b) does not permit extraction of Seabed
6 Minerals except in small-scale samples as detailed in
7 the Application or Title, or as may otherwise be agreed
8 by NSRA in writing prior to any such extraction;

9 (c) does not constitute the legal basis for any
10 claim to any part of the Marine Environment or its
11 resources;

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

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

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

20 (ii) the Prospector breaches any material
21 undertaking or requirement pertaining to the Prospecting
22 Permit and fails to remedy the breach within one
23 calendar month of being required to do so by an
24 Enforcement Order,

25 (iii) the NSRA reasonably believes that the

1 Prospector has caused, is causing, or poses a threat of,
2 Serious Harm to the Environment or human life;

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

6 (g) does not give ownership or property rights
7 to the Prospector over any Seabed Minerals acquired in
8 the course of Prospecting, such Seabed Minerals
9 remaining the property of the National Government of the
10 Federated States of Micronesia."

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

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

19 "Section 601. Exploration and Mining within national
20 jurisdiction.

21 Exploration and Mining may be carried out in an area of
22 the Exclusive Economic Zone or upon the Micronesia's
23 Continental Shelf (or Territorial Sea and internal
24 waters where such responsibility has been delegated to
25 the NSRA under this subtitle) by any eligible person

1 holding a valid License pertaining to that area, granted
2 in accordance with this subtitle.”

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

6 “Section 602. Grant and Issue of Licenses.

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

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

16 (a) The Title Holder of a valid Exploration
17 License, where the Application relates to the grant of a
18 Mining License within that Exploration License Area,

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

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

25 (3) Upon Application to conduct Exploration or Mining

1 in an area of the Exclusive Economic Zone or upon the
2 Continental Shelf (or within Territorial Sea and
3 internal waters where such responsibility has been
4 delegated to NSRA by State under this subtitle), subject
5 to the provisions of this subtitle, and following such
6 format, processes, criteria and payments as may further
7 be Prescribed, the NSRA may take a decision:

8 (a) to grant to an Applicant:

9 (i) an Exploration License, or

10 (ii) a Mining License;

11 (b) or not to grant any License, with respect to
12 the whole or any part of the blocks or cells that are
13 the subject of the Application.

14 (4) A License will give the Licensee rights to
15 conduct the specified Exploration or Mining activities
16 within the License area, and the Ancillary Operations
17 necessary for the performance of those Seabed Mineral
18 Activities."

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

22 "Section 603. Eligibility to Hold a License.

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

25 Section 60. Title 24 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by inserting a
2 new section 604 of chapter 6, to read as follows:

3 "Section 604. Content of an Application for a License.
4 Applications for a License shall contain:

5 (1) Information about the Applicant:

6 (a) Name of Applicant

7 (b) Evidence of registration as a body corporate
8 in the Federated States of Micronesia

9 (c) Registered address, and street and postal
10 (if different) address of the principal place of
11 business

12 (d) Telephone number, facsimile number, and
13 email address

14 (e) Nature of business

15 (f) Details of directors and ownership

16 (g) The key positions in charge of the proposed
17 Seabed Mineral Activities, and the name, nationality,
18 contact details and brief curriculum vitae details of
19 the personnel who will fill each key position, where
20 known

21 (h) Brief particulars of the previous experience
22 of the Applicant in Seabed Mineral Activities

23 (i) The credit rating of the Applicant

24 (j) Evidence as to whether the Applicant is a
25 'fit and proper person' subtitle to hold a License

1 within the meaning given by section 605 of this;

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

3 (a) adheres to any Prescribed requirements or
4 guidance issued by the NSRA with regards to size,
5 location and shape,

6 (b) includes the coordinates of the proposed
7 Exploration area (in accordance with the World Geodetic
8 System WGS 84),

9 (c) includes a graticulated explanation and
10 appropriate-scale chart of the location and boundaries
11 of the proposed Permit Area with reference to the NSRA's
12 cadastral map and system of blocks, and

13 (d) specifies the total size of the proposed
14 License Area;

15 (3) A description of the type or types of minerals
16 sought;

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

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

20 (b) particulars of the vessel(s) and any
21 underwater craft to be used, including type/class,
22 details of owner and operator, nationality (flag State),
23 identification number, particulars of the crew, and
24 evidence as to their certification against international
25 standards (e.g. SOLAS 74),

1 (c) Scope of the proposed Seabed Mineral
2 Activities, including
3 (i) the locations, size, and depths of any
4 sampling or extraction sites, stations or installations
5 or equipment, and the tracks of any survey lines,
6 (ii) a time schedule for the Proposed Seabed
7 Mineral Activities, and the dates of planned entries and
8 departures from the License Area,
9 (iii) the proposed date of commencement and
10 approximate duration of the Seabed Mineral Activities;
11 and the proposed dates and ports of embarkation and
12 disembarkation, and
13 (iv) estimated annual expenditures;
14 (d) a description of the proposed Seabed Mineral
15 Activities, including details of any proposed:
16 (i) sampling of Seabed Mineral Deposits or
17 ore, and estimated volumes to be extracted,
18 (ii) testing or operation of shipboard
19 processing systems,
20 (iii) testing or use of mining systems, and
21 estimated volumes to be mined,
22 (iv) release of substances into the Marine
23 Environment,
24 (v) drilling into the seafloor or
25 substrate,

1 (vi) use of explosives,
2 (vii) methods, technology, equipment,
3 scientific instruments, processes and installations to
4 be used, and

5 (viii) details of any intended ports of call
6 within the Federated States of Micronesia, any special
7 logistical requirements at those ports of call and the
8 details of the relevant shipping agent, if available;

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

11 (a) a forecast of: capital investment, operating
12 costs, sale revenues,

13 (b) the anticipated type and source of
14 financing, and

15 (c) copies of the Applicant's financial
16 statements for the preceding three financial years,
17 audited in conformity with internationally accepted
18 accounting principles and certified by a duly qualified
19 firm of public accountants; or if the Applicant is a
20 newly organized entity, a pro forma balance sheet
21 certified by the Chair of the Board of the Applicant;

22 (6) A summary of any feasibility or other studies
23 previously conducted by the Applicant, or other party,
24 upon which the Applicant is relying in relation to the
25 potential of the proposed Permit area;

1 (7) A preliminary assessment of the possible impact
2 on the Environment of the proposed Seabed Mineral
3 Activities, insofar as possible on data held at the time
4 of Application;

5 (8) A proposal for oceanographic and environmental
6 baseline studies, in accordance with any Prescribed
7 rules, to be used to measure the impact of the proposed
8 Seabed Mineral Activities, and any future Seabed Mineral
9 Activities taking place under a future License in the
10 same area;

11 (9) An environmental management plan, covering:

12 (a) risk assessment and mitigation strategies
13 for the protection of the Environment and prevention of
14 pollution,

15 (b) measures for the protection and conservation
16 of biological diversity,

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

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

21 (e) any decommissioning or site rehabilitation
22 plans;

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

25 (11) The expected dates and method of submission to

1 the NSRA of annual and other reports required under the,
2 and the proposed means for the Federated States of
3 Micronesia to access data, samples and research results,
4 and any proposed means to provide assistance in its
5 assessment or interpretation;

6 (12) A list of employees required to operate the
7 Seabed Mineral Activities and an employment strategy for
8 local workers;

9 (13) A capacity-building program providing for the
10 training of personnel of the Federated States of
11 Micronesia and their participation in matters pertaining
12 to the proposed Seabed Mineral Activities;

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

18 (15) A public engagement and information plan;

19 (16) Details as to the Applicant's technical and
20 financial capacity, any relevant insurance, and any
21 emergency response plan, for responding to any
22 Incidents;

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

25 (18) In the case of an Application for Exploration,

1 that the Applicant is aware of, and commits to adhere
2 to, prescribed requirements for minimum expenditure, and
3 License Area relinquishment;

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

5 (a) whether the Applicant can recover Seabed
6 Minerals in sufficient quantities to satisfy the
7 Applicant's estimated production requirements over the
8 License term in an efficient and economical manner (with
9 due regard for conservation and protection of the Marine
10 Environment),

11 (b) financial analyses, with comments on the
12 financial viability of seabed mining, including expected
13 capital investments, market analysis for the target
14 Seabed Minerals, estimated rate of return on investment
15 and cash flow for the Seabed Mineral Activities,
16 operational (including staffing) costs, and compliance
17 costs,

18 (c) the Applicant's proposals concerning the
19 disposal of tailings, waste rock and water, and any
20 other waste arising from the Seabed Mineral Activities
21 and Ancillary Operations, including any toxic
22 substances,

23 (d) analysis of best available technology and
24 best industry and environmental practice for the
25 proposed Seabed Mineral Activities and the alternative

1 technologies and methods considered, the Applicant's
2 regime for the testing and evaluation of such technology
3 and methods, and justification of the technology and
4 methods selected, including a discussion of the relative
5 costs and benefits of the technologies and methods
6 considered, and

7 (e) brief particulars of interest in and access
8 to refining and marketing facilities for the Seabed
9 Minerals recovered under the License;

10 (20) Details of any other permits required (whether
11 received or pending) for the proposed Seabed Mineral
12 Activities;

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

14 (22) The Application fee required by section 901 of
15 this subtitle (or proof of payment of the Application
16 fee);

17 (23) A statement as to any incompatibility or
18 substantial impracticality between the Applicant's
19 proposed Seabed Mineral Activities and the requirements
20 of the laws of the Federated States of Micronesia, or
21 the terms that would apply to the Applicant under the
22 proposed License;

23 (24) An undertaking that:

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

1 (b) the License and the laws of the Federated
2 States of Micronesia will be adhered to in conducting
3 the Seabed Mineral Activities,

4 (c) the Applicant has, or will have at the
5 commencement of the proposed Seabed Mineral Activities
6 if the License is issued, sufficient financial and
7 technical resources and capability to-

8 (i) properly perform the Seabed Mineral
9 Activities that are the subject of the Application; and

10 (ii) respond to any incident or activity
11 that causes Serious Harm to the Marine Environment,
12 including having sufficient funding or insurance to
13 cover the costs of any potential liability arising from
14 accidents or pollution occurring as a result of the
15 Seabed Mineral Activities and Ancillary Operations;

16 (25) Any further matters that are Prescribed by
17 Regulations; and

18 (26) Any additional information:

19 (a) to demonstrate that the Applicant is
20 technically capable of carrying out the proposed Seabed
21 Mineral Activities in compliance with License
22 operational obligations and standards,

23 (b) to demonstrate that the Applicant is capable
24 of committing or raising sufficient resources to cover
25 the estimated costs of the Seabed Mineral Activities,

1 and of fulfilling its financial obligations under a
2 License, or

3 (c) that will otherwise assist NSRA take a
4 decision whether or not to grant a License.”

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

8 “Section 605. Fit and Proper Person.

9 (1) For the purpose of determining whether the
10 Applicant is a fit and proper person under this section,
11 the NSRA must take into account (but is not limited to
12 only considering) whether the Applicant (including each
13 director, trustee, executive officer, secretary,
14 Affiliate or any other person associated or connected
15 with the ownership, administration or management of the
16 Applicant’s business) has previously:

17 (a) been found on reasonable evidence to have
18 breached a term or condition of an approval (however
19 labeled) to conduct Seabed Mineral Activities or similar
20 sea or land based activities, which related to the
21 protection or rehabilitation of the environment or the
22 safeguarding of the interests of the local community;

23 (b) been convicted of an offense pertaining to
24 the conduct of Seabed Mineral Activities or similar sea
25 or land based activities; or

1 (c) been convicted of an offense involving fraud
2 or dishonesty.

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

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

9 "Section 606. Evaluation of License Applications

10 (1) In evaluating a License Application the NSRA may
11 take into account

12 (a) the information in the Application;

13 (b) any additional information requested by the
14 NSRA in order to assist consideration of the
15 Application;

16 (c) any relevant information in the public
17 domain or otherwise in the records of the National
18 Government of the Federated States of Micronesia; and

19 (d) any advice obtained from government
20 departments.

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

23 (a) that the Applicant has a registered office
24 in the Federated States of Micronesia, and has met the
25 'fit and proper person' test

1 (b) The Applicant's financial capabilities to
2 cover the costs of

3 (i) the Seabed Mineral Activities, and
4 (ii) responding to any Incident, and any
5 clean-up, damages or other liability that may arise;

6 (c) The Applicant's operational and technical
7 capacity;

8 (d) In the case of an Application for an
9 Exploration License, whether the Applicant's proposed
10 work plan is reasonably likely to enable the Applicant
11 by the end of the License period, to apply for a Mining
12 License;

13 (e) Size and location of License Area, and the
14 Applicant's environmental management plan, and
15 capabilities to carry out that plan;

16 (f) The legality of the proposed Seabed Mineral
17 Activities and Ancillary Operations, and whether safety
18 at sea, legitimate other sea uses, and international
19 peace and security are likely to be appropriately
20 safeguarded;

21 (g) Public interest and overall benefit and risk
22 assessment; and

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

24 (3) In considering the subsection (2)(g) criterion,
25 NSRA will take into account the extent to which the

1 proposed Seabed Mineral Activities are likely to:

2 (a) Create opportunities for employment,
3 training and capacity building of the citizens of the
4 Federated States of Micronesia,

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

7 (c) Have an adverse impact on existing economic
8 activity, and the well-being of individuals and
9 communities, of the Federated States of Micronesia; and

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

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

14 "Section 607. Restrictions on issue of Licenses.

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

16 (a) would give Exploration or Mining rights over
17 an area already included within the scope of any
18 existing License valid for any of the same time period –
19 save for the situation where an Exploration Licensee
20 applies for a Mining License for an area within the
21 Licensee's existing Exploration License Area, or that
22 has been retained by the NSRA under section 617 of this
23 subtitle;

24 (b) would be likely to lead to any person
25 contravening a declaration of a Marine Area or Protected

1 Area; or

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

5 (i) the Mining Applicant is the same person
6 who held the Exploration License pertaining to that
7 area; or

8 (ii) the Mining Application is accompanied
9 by the consent of the person who held that preceding
10 Exploration License.”

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

14 “Section 608. Issue of more than one License.
15 Nothing in this subtitle shall prevent more than one
16 License being issued to the same person.”

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

20 “Section 609. License Decision-Making: neighboring
21 nations

22 The NSRA, upon satisfactory receipt of an Application
23 for an Exploration or Mining License, shall before
24 taking a decision under section 602 of this subtitle
25 provide:

1 (a) timely and appropriately comprehensive
2 information about the Application to any neighboring
3 nation who may be adversely affected by the proposed
4 Seabed Mineral Activities contained within that
5 Application; and

6 (b) an opportunity for that nation to provide
7 information that will be taken into account by the NSRA
8 in making a decision under section 602 of this subtitle
9 in relation to that Application.”

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

13 “Section 610. License Decision-Making: Public
14 Consultation.

15 The NSRA, upon satisfactory receipt of an Application
16 for a Mining License (or any Application proposing
17 Seabed Mineral Activities within the Territorial Sea or
18 internal waters where such responsibility has been
19 delegated to NSRA by State under this subtitle), shall
20 before making a decision under section 602 of this
21 subtitle provide:

22 (a) timely and appropriately comprehensive
23 information about the Application during consultations
24 with the public and the relevant stakeholders; and

25 (b) an opportunity for the members of the public

1 or interest groups representing the public to provide
2 information that will be taken into account by the NSRA
3 in making a decision under section 602 of this subtitle
4 in relation to the Application."

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

8 "Section 611. License Decision-Making: General
9 The NSRA -

10 (1) shall deal with License Applications promptly, in
11 accordance with Prescribed procedures and within
12 Prescribed time limits;

13 (2) may request further information from a License
14 Applicant, or require the Applicant to perform a test or
15 demonstration, before making a decision under section
16 602 or any other section of this subtitle and may return
17 a License Application without a decision if the
18 Applicant fails properly to comply with a request under
19 this subsection; and

20 (3) in making any decision under section 602 of this
21 subtitle shall:

22 (i) adhere to its objective, functions, and
23 duties as provided for in sections 202, 203 and 204,
24 respectively; and

25 (ii) take into account the Qualification

1 Criteria in relation to the Applicant.”

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

5 “Section 612. License Decision-Making: Written
6 statement of reasons

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

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

12 (2) where the decision is not to grant a License, a
13 written statement of reasons will be provided to the
14 Applicant by the NSRA.”

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

18 “Section 613. Appeal against License decision.

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

23 (2) Any other interested party with legal standing
24 who is dissatisfied with a decision by the NSRA on a
25 License Application may appeal the decision as provided

1 in subsection (1) above.”

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

5 “Section 614. Duration of License Term. A License may
6 be issued for such period as may be agreed between the
7 NSRA and the Applicant provided the duration is no more
8 than fifteen years, which term may be renewed upon
9 expiry in accordance with this subtitle.”

10 Section 70. Title 24 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by inserting a
12 new section 615 of chapter 6, to read as follows:

13 “Section 615. Terms of License
14 When a decision has been made under section 602 of this
15 subtitle to issue a License:

16 (a) the NSRA will in pursuance with Prescribed
17 procedures provide the Licensee with a draft License
18 based on:

19 (i) the requirements of this subtitle and
20 the Regulations,

21 (ii) the Prescribed format, and

22 (iii) the content of the Application, for the
23 Licensee to check and confirm its ability and
24 willingness to be bound by its terms, before it is
25 formally issued by the NSRA;

1 (b) the License shall be signed by the Secretary
2 and granted on the terms and conditions Prescribed and
3 any additional terms as may be agreed between the NSRA
4 and the Applicant provided these do not conflict with
5 this subtitle and the Prescribed terms;

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

8 (d) each License will include a detailed
9 approved Exploration or Mining work plan in the
10 Prescribed format, including time schedules, and
11 specified annual expenditure requirements; and

12 (e) where not already required by this subtitle
13 or other laws of the Federated States of Micronesia, the
14 License may also require an Environmental and Social
15 Impact Assessment or other studies to be conducted and
16 reported upon by the Licensee before particular Seabed
17 Mineral Activities can commence."

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

21 "Section 616. Exclusivity of License and Security of
22 Tenure

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

24 (a) payments required by this subtitle,
25 Regulations and the License; and

1 (b) the performance and observance by the
2 Licensee of all the terms and conditions provided by
3 this subtitle, Regulations, and the License, grant to
4 the Licensee during the validity period of the License,
5 exclusive rights to conduct Seabed Mineral Activities
6 with regards to the specified Seabed Minerals of the
7 License Area and to conduct Ancillary Operations, in
8 accordance with the agreed work plan contained in the
9 License.

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

12 (3) A License may be renewed for successive periods
13 by the NSRA in accordance with this subtitle.”

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

17 “Section 617. Right of Retention arising from
18 Exploration License

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

20 (a) the NSRA will not issue a Mining License in
21 respect of any part of the License Area within three
22 years of the end of the term of the Exploration License,
23 except in accordance with section 607(c) of this
24 subtitle; and

25 (b) within three years of the end of the term of

1 the Exploration License, the Licensee may request that
2 the NSRA retain nominated blocks from the Exploration
3 License Area for future exclusive Mining by the
4 Licensee.

5 (2) The NSRA may determine to retain an area
6 nominated by a Licensee under subsection (1)(b) for
7 future exclusive Mining by the Licensee for a renewable
8 period of not more than five years, subject to the
9 Licensee continuing to demonstrate to the NSRA's
10 satisfaction that:

11 (a) the Licensee is taking diligent steps
12 towards making an Application for a Mining License in
13 respect of the retained area; or

14 (b) there are good grounds for the Licensee not
15 presently applying for a Mining License in respect of
16 the area, including (without limitation) on the basis of
17 the state of technology for the relevant Mining
18 activities and the market for the Seabed Minerals in the
19 retained area.

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

24 (4) there is no limit to the number of times that the
25 NSRA may make such a determination to retain an area,

1 subject to the NSRA holding the requisite satisfaction.

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

5 (a) not consider an Application from any other
6 person to conduct Seabed Mineral Activities in the
7 retained area during the time period determined under
8 subsection (3);

9 (b) notify the Licensee of such terms and
10 conditions of the determination, not inconsistent with
11 this subtitle and Regulations, as the NSRA considers
12 fit, which may include the payment of a retention fee in
13 accordance with section 901 of this subtitle; and

14 (c) within thirty days of the determination
15 publish the retention by notice.

16 (5) If the NSRA is not satisfied for the purpose of
17 subsection (2)(a) or (b) in respect of some or all of a
18 retained area, the NSRA may determine that the area is
19 no longer retained, any so such area may form the
20 subject of a new Application."

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

24 "Section 618. Exploration License may require
25 relinquishment of License Area

1 The NSRA may require the Exploration Licensee to
2 relinquish a percentage or portions of the License area
3 over a set time period in accordance with a requirement
4 and schedule to be Prescribed or set by the NSRA in the
5 License."

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

9 "Section 619. Seabed Minerals recovered under
10 Exploration License.

11 (1) Any core or sample or other quantity of Seabed
12 Minerals acquired by the Licensee in the course of
13 undertaking Seabed Mineral Activities and Ancillary
14 Operations under an Exploration License shall remain the
15 property of the National Government of the Federated
16 States of Micronesia (or in the case of Seabed Minerals
17 extracted from within the Territorial Sea or internal
18 waters, the relevant State Government) and shall not be
19 disposed of or removed from the Federated States of
20 Micronesia, except:

21 (a) for the purposes of assay, identification,
22 analysis, or storage, or

23 (b) with the consent of the NSRA, who may grant
24 consent subject to such conditions as the NSRA may deem
25 fit to impose.

1 (2) Where cores or other samples of Seabed Minerals
2 are acquired by the Licensee, a record sufficient for
3 the identification of the core or sample and the
4 location of its origin shall be maintained by the
5 Licensee, and the samples shall be made accessible to
6 the NSRA, upon request.

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

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

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

15 "Section 620. Conditions for commencing Licensed Seabed
16 Mineral Activities.

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

20 (a) Written notice from Department of
21 Environment, Climate Change and Emergency Management of
22 its endorsement of the environmental management and
23 impact mitigation plan, and approval to commencement of
24 the Seabed Mineral Activities under section 623(3) of
25 this subtitle; and

1 (b) A bank statement indicating that the Title
2 Holder has appropriate financial resources, security
3 deposit or monetary guarantee, in accordance with the
4 provisions of this subtitle.

5 (2) A Mining Licensee may also be required as a term
6 of the License to provide financial security under
7 section 903 of this subtitle to guarantee its compliance
8 with its environmental management and mitigation plan
9 and other environmental and social obligations under
10 this subtitle, as a condition for commencing Mining.”

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

14 “Section 621. Mining License gives Licensee rights to
15 the Seabed Minerals recovered
16 When Seabed Minerals are recovered by a Mining Licensee
17 from the License area in accordance with the terms of
18 the License:

19 (a) the Licensee shall acquire title to, and
20 property rights over, those Seabed Minerals at the point
21 of extraction;

22 (b) this includes the right to market, process,
23 sell and export the Seabed Minerals and subject to this
24 subtitle to freely expend the sale proceeds; and

25 (c) those Seabed Minerals are not subject to the

1 rights of any other person.”

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

5 “Section 622. Diligent Mining

6 (1) Once mining of Seabed Minerals has commenced
7 under a Mining License, the Licensee shall, within
8 reasonable limits and taking into consideration all
9 relevant factors, continue mining throughout the period
10 of the License.

11 (2) Notwithstanding subsection (1), the NSRA may at
12 the Licensee’s request under section 628 of this
13 subtitle, and upon demonstration to the NSRA’s
14 satisfaction that there is good cause to do so,
15 authorize temporary suspension of Mining.”

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

19 “Section 623. Environmental and Social Impact
20 Assessment

21 (1) An Environmental and Social Impact Assessment:

22 (a) shall not be required under this subtitle
23 prior to a Prospector or Licensee commencing the
24 following activities, unless the NSRA advises otherwise
25 in accordance with subsection (1)(c):

1 (i) Gravity and magnetometric observations
2 and measurements;

3 (ii) Bottom and sub-bottom acoustic or
4 electromagnetic profiling of resistivity, multi-beam
5 bathymetric mapping, self-potential or induced
6 polarization, or imaging without the use of explosives
7 or frequencies known to significantly affect marine
8 life;

9 (iii) Water, biotic, sediment, and rock
10 sampling for environmental baseline study including:

11 (A) Sampling of small quantities of
12 water, sediment and biota (e.g. from remotely-operated
13 vehicles);

14 (B) Mineral and rock sampling of a
15 small-scale and limited nature. For the purposes of this
16 subsection (B) 'small-scale and limited' means:

17 (a) core samples of up to 10 meters,

18 (b) for Seabed Mineral deposits that are
19 seafloor massive sulphides, grab, or bucket samples of
20 up to 2 square meters, or

21 (c) for other Seabed Mineral deposits, grab,
22 dredge or bucket samples covering, in total, no more
23 than 10,000 square meters of the seabed.

24 (C) Sediment sampling by box corer and
25 small diameter corer;

- 1 (iv) Meteorological observations and
2 measurements;
- 3 (v) Oceanographic and hydrographic
4 observations and measurements;
- 5 (vi) Video/film and still photographic
6 observations and measurements;
- 7 (vii) Shipboard mineral assaying and
8 analysis;
- 9 (viii) Positioning systems;
- 10 (ix) Towed plume-sensor measurements;
- 11 (x) In situ faunal metabolic measurements;
- 12 (xi) DNA screening of biological samples;
- 13 and
- 14 (xii) Dye release or tracer studies unless
15 required under national or international laws governing
16 the activities of flagged vessels.
- 17 (b) shall be required under this subtitle for
18 any Mining licensed under this subtitle;
- 19 (c) shall be required for any aspect of Seabed
20 Mineral Activities or Ancillary Operations, including
21 bulk-sampling or test-mining and equipment-testing,
22 where it appears to the Licensee, NSRA or the Office of
23 Environment and Emergency Management that the nature or
24 degree of that activity, and/or particular sensitivity
25 of the site, is such that it is likely to result in

1 Serious Harm to the Environment; and

2 (d) shall not be required for any activity not
3 covered by subsections 1 (a), (b) or (c) upon the
4 Licensee obtaining written notice from the Office of
5 Environment and Emergency Management that is satisfied
6 on the information before it that the activity may
7 proceed without prior Environmental and Social Impact
8 Assessment.

9 (2) Where an Environmental and Social Impact
10 Assessment is required for Seabed Mineral Activities
11 under this subtitle or any other law of the Federated
12 States of Micronesia, this must at a minimum contain the
13 matters described in Schedule 1 to this subtitle.

14 (3) No Seabed Mineral Activities requiring an
15 Environmental and Social Impact Assessment under this
16 section may be commenced until the Environmental and
17 Social Impact Assessment and any subsequent amendments
18 to the environmental management and impact mitigation
19 plan, work plan, or License terms have been completed to
20 the satisfaction of the Department of Environment,
21 Climate Change and Emergency Management, as shall be
22 evidenced by written notice from the Department of
23 Environment, Climate Change and Emergency Management,
24 specifying prior approval to the commencement of the
25 activities in question.

1 (4) Further procedures and requirement for an
2 Environmental and Social Impact Assessment for Seabed
3 Mineral Activities as may be Prescribed.”

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

7 “Section 624. Liability of Licensee.

8 (1) The Licensee is responsible for the Seabed
9 Mineral Activities and Ancillary Operations carried out
10 within its License area, and their compliance with this
11 subtitle, Regulations, and the License.

12 (2) The Licensee shall at all times keep the
13 Federated States of Micronesia indemnified against all
14 actions, proceedings, costs, charges, claims and demands
15 which may be made or brought by any third party in
16 relation to its Seabed Mineral Activities, and will be
17 liable for the actual amount of any compensation or
18 damage arising out of its failure to comply with this
19 subtitle, Regulations, or the License, and any wrongful
20 acts or omissions and those of its employees, officers,
21 subcontractors, and agents in the conduct of the Seabed
22 Mineral Activities or Ancillary Operations under
23 License, including but not limited to that arising from
24 injury to coastal or marine users, damage to the
25 Environment, and any related economic loss or

1 compensation.

2 (3) Any obligations which are to be observed and
3 performed by the Licensee shall at any time at which the
4 Licensee is more than one person be joint and several
5 obligations.

6 (4) The Licensee shall remain liable for damage
7 resulting from its Seabed Minerals Activities
8 notwithstanding that its Title may have been terminated
9 or suspended."

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

13 "Section 625. Part of License Area outside of national
14 jurisdiction.

15 If part of the License area includes or purports to
16 include an area that is outside of the national
17 jurisdiction of the Federated States of Micronesia, or
18 an area that comprises or is within a Protected Area or
19 a Marine Reserve, (or an area within the Territorial Sea
20 where such responsibility has not been delegated to NSRA
21 by State under this subtitle), then the License remains
22 valid, but does not authorize Seabed Mineral Activities
23 to be carried out within that part until further
24 consultations and conditions are met."

25 Section 81. Title 24 of the Code of the Federated States

1 of Micronesia, as amended, is hereby further amended by inserting
2 a new section 626 under chapter 6 of subtitle, to read as follows:

3 "Section 626. Renewal of License.

4 (1) A Licensee can apply to the NSRA for that License
5 to be renewed for successive periods of up to five years
6 each.

7 (2) The NSRA will grant such a renewal provided the
8 application to renew is received at least ninety days
9 before the expiry date of the initial term of the Title,
10 and the Title Holder continues to meet the Qualification
11 Criteria and has met its obligations under the
12 subsisting Title.

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

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

20 (5) If the renewal relates to a Mining License, prior
21 written approval from the Department of Environment,
22 Climate Change and Emergency Management must be obtained
23 for any renewal to be valid."

24 Section 82. Title 24 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by inserting a

1 new section 627 under chapter 6 of subtitle II, to read as follows:

2 "Section 627. Review of Licenses.

3 (1) A joint review of each License work plan,
4 anticipated annual expenditure, and time schedule by the
5 NSRA:

6 (a) will be performed after completion of any
7 Environmental and Social Impact Assessment conducted
8 after the date of issue of the License; and

9 (b) may be performed periodically at the request
10 of the Licensee or the NSRA upon material new
11 information coming to the attention of the Licensee or
12 the NSRA.

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

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

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

21 (5) The NSRA may consult with the Office of
22 Environment and Emergency Management, before giving
23 consent to the variation of a term of a Mining License
24 in a material particular."

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

1 Micronesia, as amended, is hereby further amended by inserting a
2 new section 628 under chapter 6 of subtitle II, to read as follows:

3 "Section 628. Variation, suspension, or revocation of a
4 License

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

7 (a) where any of the Qualification Criteria
8 ceases to be met by the Licensee in a material
9 particular;

10 (b) if a security deposit required under section
11 903 of this subtitle is not deposited in accordance with
12 this subtitle;

13 (c) where the variation or revocation is in the
14 opinion of the NSRA necessary to

15 (i) prevent serious risk to:

16 (a) the safety, health or welfare of any person,
17 or

18 (b) the Environment;

19 (i) avoid a conflict with any obligation of
20 the Federated States of Micronesia arising out of any
21 international agreement or instrument in force for the
22 Federated States of Micronesia; or

23 (ii) avoid any situation which may
24 reasonably be expected to lead to a breach of
25 international or domestic peace and security;

1 (d) in any case, with the consent of the
2 Licensee;

3 (e) in order to secure compliance by the
4 Licensee with the Licensee's obligations and
5 undertakings under this subtitle, the Regulations, and
6 the License;

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

10 (g) upon the bankruptcy, insolvency, or
11 receivership of the Licensee, or upon the Licensee
12 ceasing to exist as a legal entity;

13 (h) upon consultation with the Licensee, where
14 the Licensee is prevented for a continuous period
15 exceeding two years from undertaking the Licensed Seabed
16 Mineral Activities under the License despite taking all
17 reasonable measures to do so, because of an event
18 outside of the Licensee's control;

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

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

24 (i) a material undertaking or term or
25 condition of the License,

1 (ii) the provisions of this subtitle or
2 Regulations or other laws of the Federated States of
3 Micronesia,

4 (iii) conditions imposed under the
5 Environment Law, or

6 (iv) requirement of an Order made under this
7 subtitle;

8 and such breach either cannot be remedied or has not
9 been remedied upon the giving of reasonable notice by
10 the NSRA;

11 (k) where the relevant Seabed Mineral Activities
12 in the reasonable view of the NSRA constitute an
13 unacceptable risk to the Federated States of Micronesia
14 or are clearly no longer in the public interest.

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

19 (m) upon transfer, mortgage, lease of a Title,
20 or significant change in the constitution, ownership or
21 control of the Title Holder, without the NSRA's prior
22 approval.

23 (2) Before making a decision under this section the
24 NSRA, shall unless the decision is made on the exact
25 terms of a request by the Licensee, give to the Licensee

1 at least ninety days written notice of the NSRA's
2 intention to make the decision, setting out details of
3 that proposed decision and the reasons for it, and
4 inviting a person to whom the notice or a copy of the
5 notice has been given, and who objects to it, to make a
6 written submission to the NSRA about the proposal within
7 a specified timeframe.

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

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

18 (5) In lieu of variation, suspension or revocation
19 under subsections (1)(a), (b), (c), (e), (f), (i), (j),
20 and (l), the NSRA may take any of the administrative
21 actions provided for in section 218 of this subtitle, or
22 impose upon the Licensee monetary penalties
23 proportionate to the seriousness of the violation and in
24 any case not exceeding ten thousand dollars (\$10,000),
25 which amount excludes any compensation payable for

1 damage or harm.

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

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

13 (8) Upon effecting a variation of a term of the
14 License, the NSRA shall:

15 (a) prepare an instrument of variation signed by
16 the Secretary and the designated representative of the
17 Licensee;

18 (b) register the variation to that License in
19 the register of Titles, maintained by the NSRA under
20 section 306 of this subtitle;

21 (c) issue to the Licensee a copy of that
22 instrument of variation; and

23 (d) publish notice of the variation."

24 Section 84. Title 24 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by inserting a

1 new section 629 under chapter 6 of subtitle II, to read as follows:

2 "Section 629. Surrender of a License.

3 Subject to payment of outstanding sums payable in
4 accordance with section 901 of this subtitle and without
5 prejudice to any obligation or liability imposed by this
6 subtitle or Regulations, or incurred under any term or
7 condition contained in the License, the Licensee may at
8 any time surrender the License without penalty by giving
9 to the NSRA not less than six months' prior notice in
10 writing to that effect."

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

14 "Section 630. Ongoing liability of a Licensee
15 Upon a revocation of a License by the NSRA, or surrender
16 of the License by the Licensee, all rights granted shall
17 cease and determine, but the Licensee will remain
18 subject to any ongoing obligation or liability incurred
19 by the Licensee as a result of Seabed Mineral Activities
20 or Ancillary Operations already conducted, or otherwise
21 by reason of having entered into the License, including
22 requirements to submit reports and to make payments to
23 the NSRA for the period during which Seabed Mineral
24 Activities were conducted."

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

1 Micronesia, as amended, is hereby further amended by inserting a
2 new section 631 under chapter 6 of subtitle II, to read as follows:

3 "Section 631. Extension of Exploration License while
4 Mining License Application under consideration
5 If an Application for a Mining License is made by an
6 Exploration Licensee for the same License area, the
7 Exploration License is deemed to have continued in force
8 until the time at which the Applicant receives a final
9 decision on the Mining License Application."

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

13 "Section 632. Mineral development agreements.

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

18 (a) the circumstances or the manner in which the
19 NSRA shall exercise any discretion conferred by this
20 subtitle;

21 (b) the settlement of disputes arising out of or
22 relating to the License or the administration of this
23 subtitle, including provisions relating to the
24 settlement of any such dispute by international
25 arbitration; and

1 (c) the acquisition by the National Government
2 of the Federated States of Micronesia either directly or
3 indirectly of a participating interest in the project
4 subject to the Mining development agreement, provided,
5 that, the terms of such an agreement are not
6 inconsistent with this subtitle or Regulations, and do
7 not or are not likely to lead to a contravention by the
8 Federated States of Micronesia of the Licensee of the
9 laws of the Federated States of Micronesia or the
10 international law obligations of the Federated States of
11 Micronesia; and

12 (2) Nothing in subsection (1) shall be read or
13 construed as authorizing the NSRA to enter in a special
14 agreement relating to the payment of any applicable tax,
15 duty, fee or other fiscal impost, or to grant in respect
16 thereof any exemption, moratorium, tax holiday, or other
17 indulgence howsoever described."

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

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

25 "Section 701. The NSRA may contract for Seabed Mineral

1 Activities in the Area.

2 The NSRA may, upon consultation with the relevant
3 stakeholders:

4 (a) On behalf of the Federated States of
5 Micronesia, submit applications to the ISA for the
6 approval of plans of work for Seabed Mineral Activities
7 in the Area and enter into contracts with the ISA to
8 conduct those plans of work;

9 (b) Enter into sub-contracts with third party
10 sub-contractors for the delivery of services pertaining
11 to the performance of Seabed Mineral Activities in the
12 Area, provided:

13 (i) the sub-contractor meets such of the
14 Sponsorship Qualification Criteria as are relevant in
15 the circumstances;

16 (ii) the sub-contract follows any Prescribed
17 terms and otherwise or additionally contains terms to
18 ensure the sub-contractor will, insofar as is relevant
19 in the circumstances, be held to duties, undertakings,
20 guarantees, indemnities, and other requirements that are
21 no less comprehensive and stringent than those required
22 of a Sponsored Party under this subtitle and any
23 Regulations;

24 (iii) the Secretary of Finance and
25 Administration endorses that he or she is satisfied that

1 the terms of the sub-contract are sufficiently likely to
2 lead to sufficient benefit to the Federated States of
3 Micronesia, to outweigh the likelihood and quantum of
4 any associated costs or risks;

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

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

13 Section 90. Title 24 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 702 under chapter 7 of subtitle II, to read as follows:

16 "Section 702. Entry into Sponsorship of Seabed Mineral
17 Activities in the Area.

18 (1) The NSRA may on behalf of the Federated States of
19 Micronesia sponsor another party, by way of a
20 Sponsorship Certificate issued under this subtitle, to
21 conduct Seabed Mineral Activities in the Area under
22 contract with the ISA.

23 (2) The NSRA may in any manner it sees fit invite
24 sponsorship Applications, or entertain discussions, with
25 sponsorship Applicants or potential sponsorship

1 Applicants.

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

5 (a) obtain a valid Sponsorship Certificate from
6 the NSRA, and

7 (b) enter into a valid contract with the ISA,
8 pertaining to those Seabed Mineral Activities in the
9 Area.

10 (4) Upon Application to conduct Seabed Mineral
11 Activities within the Area under the sponsorship of the
12 Federated States of Micronesia, and following such
13 format and processes as may be Prescribed, the NSRA may
14 take a decision:

15 (a) to issue to an Applicant:

16 (i) a Sponsorship Certificate for
17 Exploration, or

18 (ii) a Sponsorship Certificate for Mining,
19 committing to sponsor the Applicant to conduct specified
20 Seabed Mineral Activities within the Area under contract
21 with the ISA; or

22 (b) not to issue any Sponsorship Certificate.

23 (5) The NSRA may provide opportunity for members of
24 the public or interest groups representing the public,
25 to provide information be taken into account by the NSRA

1 in taking a decision under subsection (4)."

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

5 "Section 703. Conditions to issue of Sponsorship
6 Certificate.

7 (1) A Sponsorship Certificate shall only be issued to
8 an Applicant who meets the Sponsorship Qualification
9 Criteria.

10 (2) The NSRA shall not issue a Sponsorship
11 Certificate where in the NSRA's reasonable opinion the
12 sponsorship would not be in the public interest of the
13 Federated States of Micronesia."

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

17 "Section 704. Sponsorship Application and Sponsorship
18 Qualification Criteria.

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

21 (a) provide evidence that the Sponsorship
22 Applicant meets the Sponsorship Qualification Criteria,
23 and

24 (b) include:

25 (i) the same content that is required by

1 the Rules of the ISA for an application to the ISA for
2 approval of a plan of work to obtain a contract for the
3 proposed Seabed Mineral Activities

4 (ii) written undertakings that the
5 Applicant:

6 (A) will fully comply with its
7 obligations under the Rules of the ISA and relevant
8 parts of this subtitle,

9 (B) warranties that the content of the
10 Application is true and accurate to the best of its
11 belief, and

12 (C) intends to apply for a contract
13 with the ISA to conduct Seabed Mineral Activities in the
14 Area under the sponsorship of the Federated States of
15 Micronesia;

16 (iii) Copies or summaries of any studies
17 conducted by the Sponsorship Applicant or other data in
18 relation to: the Seabed Mineral potential of the
19 proposed Contract Area, and the potential impact of the
20 Seabed Mineral Activities on the Environment;

21 (iv) An indication insofar as known of the
22 Applicant's proposed:

23 (A) methods for financing the Seabed
24 Mineral Activities,

25 (B) ownership, lease or other

1 arrangement to use vessels and equipment required for
2 the operation of the Seabed Mineral Activities, and

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

6 (v) A list of employees required to operate
7 the Seabed Mineral Activities, and an indication if any
8 of these will be recruited from the Federated States of
9 Micronesia;

10 (vi) A capacity-building program providing
11 for the training of personnel of the Federated States of
12 Micronesia;

13 (vii) The Application fee required by section
14 901 of this subtitle;

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

18 (A) breached a material term or
19 condition of the Rules of the ISA;

20 (B) been convicted of an offense or
21 incurred a civil penalty pertaining to the conduct of
22 Seabed Mineral Activities or similar sea or land based
23 activities in another jurisdiction; or

24 (C) been convicted of an offense
25 involving fraud or dishonesty;

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

2 (2) The Sponsorship Qualification Criteria are that:

3 (a) the Sponsorship Applicant:

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

6 (ii) has, or will have at the commencement
7 of the proposed Seabed Mineral Activities, sufficient
8 financial and technical resources and capability:

9 (A) properly to perform the Seabed
10 Mineral Activities in compliance with the Rules of the
11 ISA; and

12 (B) to cover damage that may be caused
13 by the Seabed Mineral Activities or the costs of
14 responding to an Incident;

15 (iii) has submitted a valid Application in
16 accordance with this subtitle and these Regulations,
17 including the Sponsorship Application fee;

18 (b) the proposed Seabed Mineral Activities are
19 consistent with the Rules of the ISA in relation to
20 environmental management;

21 (c) the proposed Seabed Mineral Activities are
22 compatible with applicable national and international
23 laws, including those relating to safety at sea and the
24 protection and preservation of the Marine Environment;
25 and

1 (d) the proposed Seabed Mineral Activities will
2 not unduly affect:

3 (A) the rights of other legitimate sea
4 users, or

5 (B) the protection and preservation of
6 the Marine Environment,

7 (C) international and domestic peace
8 and security.

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

13 Section 93. Title 24 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 705 under chapter 7 of subtitle II, to read as follows:

16 "Section 705. Terms of the Sponsorship Certificate
17 A Sponsorship Certificate, shall be issued to a
18 Sponsored Party in a form necessary to satisfy the Rules
19 of the ISA, and shall contain:

20 (a) the name of the Sponsored Party;

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

22 (i) a national of the Federated States of
23 Micronesia; or

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

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

3 (d) the date of deposit by the Federated States
4 of Micronesia of its instrument of ratification of, or
5 accession or succession to, the UN Convention on the Law
6 of the Sea;

7 (e) a declaration that the Federated States of
8 Micronesia assumes responsibility in accordance with
9 article 139, article 153, paragraph 4, and Annex III,
10 article 4, paragraph 4, of the UN Convention on the Law
11 of the Sea;

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

13 (g) a statement that the Sponsorship Certificate
14 shall remain in force for the duration of an ISA
15 contract awarded to the Sponsored Party under the
16 State's sponsorship, unless otherwise terminated in
17 accordance with this subtitle; and

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

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

23 "Section 706. Sponsorship agreements.

24 (1) The NSRA may enter into written agreements with
25 the Sponsored Party at any time to establish additional

1 terms and conditions as to the sponsorship arrangement
2 including terms as to the calculation and payment of
3 royalties, taxes, sponsorship fees or other fiscal
4 impositions payable by the Sponsored Party, provided the
5 terms of such an agreement do not, or are not likely to,
6 lead to a contravention by the Federated States of
7 Micronesia or the Sponsoring Party of the Rules of the
8 ISA or this subtitle, and do not conflict with any
9 international law or laws of the Federated States of
10 Micronesia.

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

14 Section 95. Title 24 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by inserting a
16 new section 707 under chapter 7 of subtitle II, to read as follows:

17 "Section 707. Liability of Sponsored Party.

18 (1) The Sponsored Party shall be responsible for the
19 performance of all Seabed Mineral Activities carried out
20 within the Contract Area, and its compliance with the
21 Rules of the ISA, and will be liable:

22 (a) for the actual amount of any compensation or
23 damage or penalties arising out of a failure to comply,
24 or

25 (b) for any wrongful acts or omissions and those

1 of its employees, officers, subcontractors, and agents
2 in the conduct of the Seabed Mineral Activities.

3 (2) Any obligations which are to be observed and
4 performed by the Sponsored Party shall at any time at
5 which the Sponsored Party is more than one person be
6 joint and several obligations.

7 (3) A Sponsored Party shall at all times keep the
8 Federated States of Micronesia indemnified against all
9 actions, proceedings, costs, charges, claims and demands
10 which may be made or brought by any third party in
11 relation to its Seabed Mineral Activities."

12 Section 96. Title 24 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting a
14 new section 708 under chapter 7 of subtitle II, to read as follows:

15 "Section 708. Government Responsibilities.

16 Where the Federated States of Micronesia is sponsoring a
17 Sponsored Party, which holds a contract with the ISA to
18 conduct Seabed Mineral Activities in the Area, the
19 Federated States of Micronesia will, via the NSRA:

20 (a) take all actions necessary to give effect to
21 the sponsorship of the Sponsored Party, including
22 undertaking any communications with, and providing any
23 assistance, documentation, certificates and undertakings
24 to, the ISA or other relevant party required in respect
25 of the sponsorship;

1 (b) ensure that its conduct in relation to the
2 ISA, the Area, and Seabed Mineral Activities adheres to
3 the requirements and standards established by general
4 principles of international law;

5 (c) take all appropriate means to exercise its
6 effective control over Sponsored Parties, seeking to
7 ensure that their Seabed Mineral Activities are carried
8 out in conformity with the UN Convention on the Law of
9 the Sea, the Rules of the ISA, and other requirements
10 and standards established by general principles of
11 international law;

12 (d) not impose unnecessary, disproportionate, or
13 duplicate regulatory burden on Sponsored Parties, and
14 not impose requirements upon a Sponsored except insofar
15 as these are consistent with existing requirements
16 imposed by, the UN Convention on the Law of the Sea, the
17 Rules of the ISA, and other applicable standards of
18 international law; and

19 (e) promote the application of the Precautionary
20 Approach and employment of best environmental practice.”

21 Section 97. Title 24 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by inserting a
23 new section 709 under chapter 7 of subtitle II, to read as follows:

24 “Section 709. Termination of Sponsorship Certificate.

25 (1) A Sponsorship Certificate shall remain in force

1 unless and until it is terminated in accordance with
2 this section;

3 (2) A Sponsorship Certificate terminates if:

4 (a) The Sponsored Party's contract with the ISA
5 expires, is surrendered or is terminated,

6 (b) It is surrendered by the Sponsored Party in
7 accordance with section 711 of this subtitle,

8 (c) It is revoked by the NSRA in accordance with
9 section 710 of this subtitle, and upon termination all
10 rights granted to the Sponsored Party by the Federated
11 States of Micronesia shall cease and determine."

12 Section 98. Title 24 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting a
14 new section 710 under chapter 7 of subtitle II, to read as follows:

15 "Section 710. Revocation of a Sponsorship Certificate.

16 (1) The NSRA may revoke a Sponsorship Certificate:

17 (a) where any of the Sponsorship Qualification
18 Criteria ceases to be met by the Sponsored Party in a
19 material particular;

20 (b) where the Sponsored Party has failed to
21 apply to the ISA for a contract, or has applied but
22 failed to obtain a contract with the ISA, within three
23 years of the date of the issue of the Sponsorship
24 Certificate;

25 (c) in any case, with the written consent of the

1 Sponsored Party;

2 (d) where no material efforts have been made by
3 the Sponsored Party to undertake the sponsored Seabed
4 Mineral Activities for a period exceeding five years
5 from the date of signing the contract with the ISA;

6 (e) where the Sponsored Party has conducted
7 itself in such a way as to result in a serious,
8 persistent, or willful breach of the Rules of the ISA,
9 the requirements of this subtitle, Regulations, an Order
10 made under this subtitle, or a final binding decision of
11 a dispute settlement body applicable to the Sponsored
12 Party, and such breach cannot be remedied, or has not
13 been remedied notwithstanding the giving of reasonable
14 notice to the Sponsored Party by the NSRA;

15 (f) where, following at least two written
16 notices given by the NSRA to the Sponsored Party in
17 accordance with this subtitle, any payment or deposit
18 required or owing under this subtitle is in arrears or
19 unpaid for six months following the day on which it
20 ought to have been paid;

21 (g) where the Sponsored party knowingly or
22 recklessly provides the ISA or the NSRA with information
23 that is false or misleading in a material particular, or
24 fails to retain or willfully alters, suppresses,
25 conceals, or destroys any document which is required to

1 be produced to the ISA or the NSRA; or

2 (h) upon transfer, mortgage, lease of a Title,
3 or significant change in the constitution, ownership or
4 control of the Title Holder, without the NSRA's
5 approval.

6 (2) Before making a decision under this section of
7 this subtitle the NSRA shall:

8 (a) give to the Sponsored Party at least 30
9 days' written notice of the NSRA's intention to make the
10 decision, setting out details of the proposed decision
11 and the reasons for it, and inviting a person to whom
12 the notice, or a copy of the notice has been given to
13 make a written submission to the NSRA about the proposal
14 within a specified timeframe; if there are any
15 objections;

16 (b) give a copy of the notice to any such other
17 persons as the NSRA thinks fit;

18 (c) take into account any submissions made in
19 accordance with the notice; and

20 (d) where the decision is to revoke the
21 Sponsorship Certificate, give the Sponsored Party no
22 fewer than six months' notice before that revocation
23 takes place."

24 Section 99. Title 24 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by inserting a

1 new section 711 under chapter 7 of subtitle II to read as follows:

2 "Section 711. Surrender of sponsorship.

3 A Sponsored Party may at any time surrender a
4 Sponsorship Certificate without penalty by giving to the
5 NSRA not less than six months' prior notice in writing
6 to that effect."

7 Section 100. Title 24 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by inserting a
9 new section 712 under chapter 7 of subtitle II, to read as follows:

10 "Section 712. Ongoing liability after termination of
11 sponsorship.

12 Following termination of sponsorship, a Sponsoring Party
13 shall remain:

14 (a) subject to any ongoing obligations with
15 respect to Seabed Mineral Activities that occurred prior
16 to termination, including requirements to submit reports
17 and to make payments to the NSRA and the ISA; and

18 (b) responsible for any damage from its wrongful
19 acts or otherwise arising from Seabed Minerals
20 Activities carried out prior to termination."

21 Section 101. Title 24 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by creating a
23 new chapter 8 under subtitle II entitled: "Marine Scientific
24 Research".

25 "Section 801. Marine Scientific Research within

1 national jurisdiction.

2 Marine Scientific Research may not be carried out within
3 an area of the Exclusive Economic Zone or Continental
4 Shelf (or Territorial Sea and internal waters where such
5 responsibility has been delegated to NSRA by State under
6 this subtitle) by any person, unless that person has:

7 (a) properly applied for a permit by the NSRA in
8 accordance with this subtitle;

9 (b) properly applied for a marine scientific
10 research permit from National Oceanic Resource
11 Management Authority (NORMA) in accordance with section
12 104 chapter 1 subtitle I of this title; and

13 (c) received consent to both applications, or
14 not received a denial of consent within six months of
15 the date of the applications.”

16 Section 102. Title 24 of the Code of the Federated States of
17 Micronesia, as amended, is hereby further amended by inserting a
18 new section 802 under chapter 8 of subtitle II, to read as follows:

19 “Section 802. Application for Marine Scientific
20 Research.

21 For an application for consent to conduct Marine
22 Scientific Research to have been properly made, for the
23 purposes of section 801 of this subtitle, the
24 application shall be made to the NSRA in writing at
25 least six months before the proposed commencement date

1 of the Marine Scientific Research project, and shall
2 contain:

3 (i) the cruise name and number;

4 (ii) the name, nationality, contact details,
5 and address of the sponsoring institution, the scientist
6 in charge of the project, and any other collaborators
7 and participants;

8 (iii) the co-ordinates and charts of the
9 broad area or areas within which the project is to be
10 conducted;

11 (iv) a general description of the nature and
12 objectives of the proposed project, including the date
13 of commencement and its approximate duration, and the
14 use of the data collected, including any plans to make
15 the research results internationally available;

16 (v) the details of the methods, the
17 equipment, and any installations to be used;

18 (vi) insofar as possible at the time of the
19 application, a preliminary assessment of likely impact
20 on the Marine Environment of the proposed project;

21 (vii) the details of any intended ports of
22 call;

23 (viii) modalities of the participation of a
24 representative of the Federated States of Micronesia in
25 the project; and

1 (ix) the expected dates and method of
2 submission to the Federated States of Micronesia of a
3 preliminary report, a final report, and assessment of
4 data, samples and research results.”

5 Section 103. Title 24 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by inserting a
7 new section 803 under chapter 8 of subtitle II, to read as follows:

8 “Section 803. Consent to Marine Scientific Research.
9 Unless there are reasonable grounds for a denial of
10 consent in accordance with section 901 of this subtitle,
11 the NSRA shall provide its consent to a Marine
12 Scientific Research project as soon as reasonably
13 practicable, and no later than six months after receipt
14 of an application containing the information required by
15 section 802 of this subtitle.”

16 Section 104. Title 24 of the Code of the Federated States of
17 Micronesia, as amended, is hereby further amended by inserting a
18 new section 804 under chapter 8 of subtitle II, to read as follows:

19 “Section 804. Grounds for denial of consent to Marine
20 Scientific Research.

21 The NSRA shall deny consent to an application to conduct
22 Marine Scientific Research where:

23 (a) the NSRA reasonably considers that:

24 (i) the proposed Marine Scientific Research
25 is of direct significance to the exploration and Mining

1 of the natural resources of the Federated States of
2 Micronesia, whether living or non-living;

3 (ii) the information supplied pursuant
4 section 802 of this subtitle is inaccurate in a material
5 particular; or

6 (iii) the person applying to conduct Marine
7 Scientific Research already has an overdue outstanding
8 obligation to the Federated States of Micronesia from a
9 prior Marine Scientific Research project; or

10 (iv) the proposed Marine Scientific Research
11 will interfere with another subsisting legitimate use of
12 the same marine space; or

13 (b) the proposed Marine Scientific Research
14 involves:

15 (i) drilling into the Continental Shelf;

16 (ii) the use of explosives;

17 (iii) the introduction of harmful substances
18 into the Marine Environment;

19 (iv) the construction, operation or use of
20 artificial islands, installations or structures (as
21 referred to in Articles 60 and 80 of the UN Convention
22 on the Law of the Sea); or

23 (v) an unacceptable risk to the Marine
24 Environment."

25 Section 105. Title 24 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by inserting a
2 new section 805 under chapter 8 of subtitle II, to read as follows:

3 "Section 805. Nature of Marine Scientific Research
4 consent.

5 Consent to conduct Marine Scientific Research:

6 (a) does not entail any exclusive rights of
7 access to the seabed or water column, and does not
8 permit extraction of Offshore Minerals;

9 (b) does not constitute the legal basis for any
10 claim to any part of the Marine Environment or its
11 resources; and

12 (c) shall cease entirely or within a particular
13 area upon written notice being given by the NSRA to that
14 effect."

15 Section 106. Title 24 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by inserting a
17 new section 806 under chapter 8 of subtitle II, to read as follows:

18 "Section 806. Duties of persons conducting Marine
19 Scientific Research.

20 It is a condition of any consent for Marine Scientific
21 Research within the Federated States of Micronesia's
22 national jurisdiction, that the persons conducting the
23 Marine Scientific Research shall at all times:

24 (a) adhere to the terms of this subtitle,
25 Regulations, the Environment Law, and any rules or

1 procedures relating to Marine Scientific Research issued
2 by the Federated States of Micronesia's Government;

3 (b) apply the Precautionary Approach and best
4 environmental practices at all times;

5 (c) conduct the Marine Scientific Research
6 exclusively:

7 (i) for peaceful purposes; and

8 (ii) to increase scientific knowledge for
9 the benefit of all mankind;

10 (d) not proceed with Marine Scientific Research
11 if there is evidence indicating that to proceed is
12 likely to cause serious harm to the Marine Environment;

13 (e) submit to the NSRA a preliminary report, a
14 final report, and assessment of data, samples and
15 research results at such times and in such formats as
16 are prescribed or agreed with the NSRA prior to
17 commencement of the project;

18 (f) hold securely and provide the NSRA with
19 access at its request to all data and samples derived
20 from the project;

21 (g) work with the NSRA to facilitate and support
22 financially the participation of a representative of the
23 Federated States of Micronesia in the project;

24 (h) inform the NSRA of any major changes to the
25 proposed Marine Scientific Research program from the

1 information provided in the application for consent;

2 (i) submit to the NSRA immediately by telephone
3 and in writing notice of any Incident; and

4 (j) after completion of the project, remove any
5 installations or equipment unless otherwise agreed with
6 the NSRA."

7 Section 107. Title 24 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by creating a
9 new chapter 9 under subtitle II entitled: "Financial
10 Arrangements".

11 Section 109. Title 24 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by inserting a
13 new section 901 under chapter 9 of subtitle II to read as follows:

14 "Section 901. Payments by Prospectors, Licensees and
15 Sponsored Parties.

16 (1) Application fee

17 An Applicant for a Title under this subtitle shall upon
18 Application pay to the NSRA the Prescribed fee, which
19 shall be non-recoverable.

20 (2) License fees

21 The NSRA may prescribe that a Licensee shall be required
22 to pay an annual License fee, the amount or manner of
23 determining the License fee, and the times and manner of
24 payment.

25 (3) Sponsorship payments

1 The holder of a Sponsorship Certificate shall pay to the
2 NSRA:

3 (a) such sums by way of annual administrative
4 fees for the Federated States of Micronesia's
5 sponsorship of its Seabed Mineral Activities in the
6 Area, and

7 (b) where the Sponsorship Certificate pertains
8 to a contract for Mining in the Area, such sums by way
9 of a commercial recovery payment, at such times and in
10 such amounts as may be Prescribed, or provided in the
11 Sponsorship Certificate or a sponsorship agreement made
12 under this subtitle.

13 (4) Retention fees

14 Where the NSRA makes a determination under subsection
15 617(2) to retain an area for future Mining by a
16 Licensee, the NSRA may prescribe that a Licensee shall
17 be required to pay an annual retention fee, the amount
18 or manner of determining the retention fee, and the
19 times and manner of payment.

20 (5) Taxes

21 Title Holders, and their sub-contractors, advisors, and
22 employees shall pay all applicable customs duties and
23 taxes in accordance with the relevant applicable laws of
24 the Federated States of Micronesia.

25 (6) Seabed Minerals royalties

1 (a) The holder of a Mining License shall pay
2 into a dedicated Treasury account such sums by way of
3 royalties for the extraction of the Federated States of
4 Micronesia's Seabed Minerals and at such times as may be
5 specified in Regulations or in any other law enacted for
6 such purpose. Each payment shall be accompanied by
7 details of the Seabed Minerals produced, sold or
8 disposed of, and the details of the payment and how the
9 payment has been calculated.

10 (b) Where any such royalty payment relates to
11 Seabed Minerals located within a State's Territorial
12 Seas or internal waters, Treasury shall transfer any
13 such royalties to that State.

14 (7) Transfer fees

15 A Title Holder shall upon any transfer of Title under
16 section 1005 of this subtitle, or any significant change
17 in the ownership of the Title Holder under section 1006
18 of this subtitle, pay any transfer fees as may be
19 Prescribed."

20 Section 110. Title 24 of the Code of the Federated States of
21 Micronesia, as amended, is hereby further amended by inserting a
22 new section 902 under chapter 9 of subtitle II, to read as follows:

23 "Section 902. Recovery of payments owed by Title
24 Holders.

25 A sum of money payable pursuant to section 901 of this

1 subtitle, is a debt due to the Federated States of
2 Micronesia, and may be recovered in a court of competent
3 jurisdiction, where:

4 (a) in any such proceedings a certificate of the
5 NSRA certifying that a specified sum of money is so
6 payable, shall be received as evidence of that fact;

7 (b) any sum unpaid by the Title Holder may at
8 the court's discretion may be recovered from any
9 security deposited by the Title Holder under section
10 1003 of this subtitle; and

11 (c) interest on the amount outstanding may
12 additionally be charged at a Prescribed or otherwise
13 reasonable rate determined by the court."

14 Section 111. Title 24 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by inserting a
16 new section 903 of chapter 9, to read as follows:

17 "Section 903. Security Deposit.

18 (1) The NSRA may before granting a Title require an
19 Applicant for a Title to deposit security as a guarantee
20 of performance of the obligations attaching to the Title
21 and that may be used to rectify any damage, clean-up,
22 compensation, or other loss arising or resulting from a
23 failure or fault by the Licensee to adhere to its
24 obligations under this subtitle.

25 (2) The NSRA shall, in consultation with the Licensee

1 at Application stage, determine the form of the
2 security, the amount or value of the security, and the
3 terms and conditions under which the security is held or
4 may be used by the NSRA.”

5 Section 112. Title 24 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by inserting a
7 new section 904 under chapter 9 of subtitle II, to read as follows:

8 “Section 904. The Seabed Resources Fund.

9 (1) There shall be established under the control and
10 management of the Department of Finance and
11 Administration a fund to be called the Seabed Resources
12 Fund into which there shall be paid any sums paid under
13 section 901 of this subtitle excepting:

14 (a) any funds required to be transferred to
15 State in accordance with section 901(6)(b) of this
16 subtitle, and

17 (b) any funds allocated by the Treasury to be
18 used directly for the purposes of covering the costs of
19 establishing and operating the NSRA to perform its
20 functions under this subtitle.

21 (2) The Seabed Resources Fund is established with the
22 objective to ensure the prudent management of the Seabed
23 Minerals for the benefit of present and future
24 generations.

25 (3) The rules for the operation and management of the

1 Seabed Resources Fund shall be laid down in a separate
2 Act passed by Congress or by regulation promulgated by
3 the NSRA.”

4 Section 113. Title 24 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by creating a
6 new chapter 10 under subtitle II entitled: “Miscellaneous”.

7 Section 114. Title 24 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by inserting a
9 new section 1001 under chapter 10 of subtitle II, to read as
10 follows:

11 “Section 1001. Vessel Standards.

12 (1) Title Holders must at all material times ensure
13 the following in respect of vessels engaged in Seabed
14 Mineral Activities and Ancillary Operations:

15 (a) all the Federated States of Micronesia’s
16 flagged vessels comply with the laws of the Federated
17 States of Micronesia regulating the construction,
18 certification, maintenance, operation, crewing of
19 vessels, including in Title 19 of the Code of the
20 Federated States of Micronesia, and any enactment or
21 amendment replacing, or regulations made under that
22 Title, and comply with all applicable international
23 standards incorporated into the Federated States of
24 Micronesia’s laws by reference;

25 (b) all foreign flag vessels whose flag state is

1 party to the International Convention for Safety of Life
2 at Sea, 1974 (SOLAS 74) possess current valid SOLAS 74
3 certificates and comply with the flag state's
4 requirements and standards concerning ship
5 certification;

6 (c) all foreign flag vessels whose flag state is
7 not party to SOLAS 74 but is party to the International
8 Convention for the Safety of Life at Sea, 1960 (SOLAS
9 60) possesses current valid SOLAS 60 certificates and
10 comply with the flag state's requirements and standards
11 concerning ship certification;

12 (d) all foreign flag vessels whose flag state is
13 not a party to either SOLAS 74 or SOLAS 60 meets all
14 applicable structural and safety requirements contained
15 in the published rules of a member of the International
16 Association of Classification Societies (IACS) and
17 comply with other flag state requirements and standards
18 concerning ship certification;

19 (e) submission of the applicable certification
20 in accordance with this section for each vessel to be
21 used in the Seabed Mineral Activities which has not
22 previously been submitted to the NSRA, not less than 5
23 Business Days before the commencement of the cruise on
24 which the vessel will be used; and

25 (f) all vessels, installations and equipment are

1 in good repair.

2 (2) A person who does not comply with any of the
3 provisions of subsection (1) commits an offense, and any
4 person guilty of that offense shall be liable to a fine
5 not exceeding one hundred thousand dollars (\$100,000) or
6 to a prison term not exceeding 3 years or both."

7 Section 115. Title 24 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by inserting a
9 new section 1002 under chapter 10 of subtitle II, to read as
10 follows:

11 "Section 1002. Discovery by Title Holder of Seabed
12 Minerals not covered by this Title.

13 (1) A Title Holder shall notify the NSRA during the
14 course of conducting Seabed Mineral Activities of the
15 discovery and location of any Seabed Minerals to which
16 that Title does not relate, within thirty days of the
17 discovery.

18 (2) Any application to include newly discovered
19 Seabed Minerals in an existing Title shall be treated as
20 a variation of the Title, in accordance with the
21 relevant provisions of this subtitle or as may be
22 prescribed."

23 Section 116. Title 24 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting a
25 new section 1003 under chapter 10 of subtitle II, to read as

1 follows:

2 "Section 1003. Environmental conditions arising from
3 Environmental and Social Impact Assessment.

4 The terms of any environmental conditions arising from
5 an Environmental and Social Impact Assessment conducted
6 in compliance with this subtitle or any other law of the
7 Federated States of Micronesia shall be adopted as part
8 of the terms and conditions of any Title issued under
9 this subtitle."

10 Section 117. Title 24 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by inserting a
12 new section 1004 under chapter 10 of subtitle II, to read as
13 follows:

14 "Section 1004. Reports required under this subtitle.
15 The form and content of any data or report required to
16 be supplied to the NSRA under this subtitle shall
17 conform to any requirement Prescribed or specified in
18 the conditions of the relevant Title."

19 Section 118. Title 24 of the Code of the Federated States of
20 Micronesia, as amended, is hereby further amended by inserting a
21 new section 1005 under chapter 10 of subtitle II, to read as
22 follows:

23 "Section 1005. Transfer of Title.

24 (1) No Title granted under this subtitle can be
25 assigned, transferred, leased, sub-let or mortgaged

1 without the NSRA's prior written consent.

2 (2) In considering whether or not to give such
3 consent, the NSRA may require the same information from
4 the proposed transferee as would be required of a new
5 Applicant for the same Title under this subtitle, and an
6 undertaking that the transferee assumes all of the
7 obligations of the transferor, and the NSRA may require
8 the transferee to comply with the same processes as are
9 required by this subtitle or otherwise Prescribed for an
10 Application for that type of Title.

11 (3) A transfer of Title will only become effective
12 upon payment of any transfer fee required under section
13 901 of this subtitle, and entry into the register of
14 Titles maintained by the NSRA under section 406 of this
15 subtitle."

16 Section 119. Title 24 of the Code of the Federated States of
17 Micronesia, as amended, is hereby further amended by inserting a
18 new section 1006 under chapter 10 of subtitle II, to read as
19 follows:

20 "Section 1006. Change of Ownership, Constitution or
21 Control of a Title Holder.

22 (1) A Title Holder shall notify the NSRA of any
23 significant change in the constitution, ownership,
24 control or corporate organization of the Title Holder.

25 (2) The NSRA shall determine whether a change of the

1 type stipulated in subsection (1) shall be considered a
2 transfer for the purposes of section 1005 of this
3 subtitle.”

4 Section 120. Title 24 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by inserting a
6 new section 1007 under chapter 10 of subtitle, to read as follows:

7 “Section 1007. Suspension of Title.

8 (1) A Title confers no entitlements during any period
9 it is suspended under this subtitle.

10 (2) The power to suspend a Title under this subtitle
11 includes a power to lift the suspension.”

12 Section 121. Title 24 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting a
14 new section 1008 under chapter 10 of subtitle II, to read as
15 follows:

16 “Section 1008. Termination of Title. A Title granted
17 terminates if, pursuant to this subtitle:

18 (a) its term expires, without renewal;

19 (b) it is surrendered by the Title Holder;

20 (c) it is revoked by the NSRA; or

21 (d) in the case of an Exploration License, it
22 ceases to be in force in respect of the whole of its
23 area under section 617 of this subtitle.”

24 Section 122. Title 24 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by inserting a

1 new section 1009 under chapter 10 of subtitle II, to read as
2 follows:

3 "Section 1009. Grant of Title confers reasonable rights
4 of access.

5 A Title under this subtitle entails the right of
6 navigation within the Exclusive Economic Zone (or
7 Territorial Sea and internal waters where such
8 responsibility has been delegated to NSRA by State under
9 this subtitle) in so far as is reasonably required by
10 the Title Holder to access the area that is the subject
11 of the consent or Title."

12 Section 123. Title 24 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting a
14 new section 1010 under chapter 10 of subtitle II, to read as
15 follows:

16 "Section 1010. Nothing under this subtitle to authorize
17 unnecessary interference with other sea users.

18 (1) A Title Holder must carry out the Seabed Mineral
19 Activities in such a way that will not interfere
20 unreasonably with the exercise of the freedom of the
21 high seas as reflected in Article 87 of the UN
22 Convention on the Law of the Sea, or the unreasonable
23 interference with any other subsisting legitimate use of
24 any part of the sea or the seabed.

25 (2) Any works or installations erected by a Title

1 Holder in or over any part of the sea must be of such
2 sort and must be made, placed, marked and buoyed,
3 equipped and maintained in such a way as to leave safe
4 and convenient channels for shipping in the area.

5 (3) A Title Holder contravenes this section if:

6 (a) its performance of Seabed Mineral Activities
7 or Ancillary Operations, interferes with lawfully
8 conducted:

9 (i) navigation;

10 (ii) fishing;

11 (iii) submarine cabling;

12 (iv) Marine Scientific Research;

13 (v) conservation of the resources of the
14 sea or the seabed; or

15 (vi) any other activities that are lawfully
16 being carried out; and

17 (b) that interference is greater than is
18 necessary for the reasonable exercise of the rights or
19 performance of the person's duties under the Title.

20 (4) Any person who contravenes this section commits
21 an offense punishable upon conviction to a fine not
22 exceeding five thousand dollars (\$5,000)."

23 Section 124. Title 24 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting a
25 new section 1011 under chapter 10 of subtitle II, to read as

1 follows:

2 "Section 1011. Rights of other nations.

3 (1) Nothing in this subtitle affects the rights of
4 other nations in accordance with Article 142 and other
5 relevant provisions of the UN Convention on the Law of
6 the Sea.

7 (2) Any other national Government which has grounds
8 for believing that Seabed Mineral Activities have
9 caused, are causing, or are likely to cause Serious Harm
10 to the Environment under its jurisdiction may notify the
11 NSRA in writing of the grounds upon which such belief is
12 based. The NSRA shall provide any Applicant or Title
13 Holder affected by the notice with a reasonable
14 opportunity to examine the notice and evidence, if any,
15 provided by the Government as the basis for its belief,
16 and submit its observations thereon to the NSRA within a
17 time that is reasonable in the circumstances.

18 (3) If in the NSRA's opinion, upon consultation with
19 the relevant stakeholders, there are clear grounds for
20 the national Government's belief under subsection (2),
21 the NSRA must take immediate measures of a temporary
22 nature to stop, prevent, or mitigate that harm to the
23 Environment, including by direction or Order to any
24 affected Title Holders."

25 Section 125. Title 24 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by inserting a
2 new section 1012 under chapter 10 of subtitle II, to read as
3 follows:

4 "Section 1012. Objects of an archaeological or
5 historical nature:

6 (1) Any Title Holder finding an object of an
7 archaeological or historical nature within the
8 jurisdiction or control of the Federated States of
9 Micronesia must report that find to the NSRA and treat
10 the object in accordance with the NSRA's instructions,
11 and must safeguard the object pending receipt of those
12 instructions.

13 (2) The instructions given by the NSRA under this
14 section shall take into account Articles 149 and 303 of
15 the UN Convention on the Law of the Sea."

16 Section 126. Title 24 of the Code of the Federated States of
17 Micronesia, as amended, is hereby further amended by inserting a
18 new section 1013 under chapter 10 of subtitle II, to read as
19 follows:

20 "Section 1013. No interest in land.

21 The grant of a Title under this subtitle does not create
22 an estate or interest in land other than the rights
23 expressly granted by this subtitle or the Title, nor
24 does a grant of a Title which give rise to land taxation
25 duties."

1 Section 127. Title 24 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by inserting a
3 new section 1014 under chapter 10 of subtitle II, to read as
4 follows:

5 "Section 1014. Safety Zones.

6 (1) For the purpose of protecting an installation,
7 infrastructure, facility or vessel being used for Seabed
8 Mining Activities, the NSRA may, by notice, prohibit all
9 vessels or specified classes of vessels, from entering
10 or being present in a specified surrounding area ('the
11 safety zone') without the written consent of the NSRA.

12 (2) The owner of a vessel and any person in formal or
13 substantive command of a vessel commits an offense
14 against this section if the vessel enters or remains in
15 a safety zone in contravention of subsection (1).

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

19 (4) It is a defense to a prosecution of a person for
20 an offense against subsection (2) if the person
21 satisfies the court that:

22 (i) an unforeseen emergency made it necessary
23 for the vessel to enter or remain in the safety zone to
24 attempt to secure the safety of human life, a vessel,
25 pipeline, structure, or equipment;

1 (ii) the vessel entered or remained in the safety
2 zone in circumstances beyond the control of the person
3 who was in command or in charge of the vessel; or

4 (iii) the vessel's owner is under prosecution and
5 did not know that the person in command or in charge of
6 the vessel was in contravention of subsection (2)."

7 Section 128. Title 24 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by inserting a
9 new section 1015 under chapter 10 of subtitle II, to read as
10 follows:

11 "Section 1015. Interference with Seabed Mineral
12 Activities.

13 (1) Unless authorized under this subtitle or
14 Regulations, no person may interfere with Seabed Mineral
15 Activities, or Ancillary Operations.

16 (2) For the purposes of this section, "interfere"
17 means willful sabotage of operations, or violence
18 against any representative of the NSRA or a Title Holder
19 in the performance of their respective functions and
20 duties under this subtitle or a Title, or similar
21 physical interference or obstruction without reasonable
22 excuse.

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

25 (4) Any person guilty of an offense under this

1 section shall be liable to a fine not exceeding five
2 thousand dollars (\$5,000) or to a prison term not
3 exceeding two years or both."

4 Section 129. Title 24 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by inserting a
6 new section 1016 under chapter 10 of subtitle II, to read as
7 follows:

8 "Section 1016. Indemnity of Public Officials
9 The NSRA, authorized officers of the NSRA, and other
10 Public Officials shall not be liable for anything done
11 or omitted to be done in good faith in the performance
12 of any function vested in or delegated to them under
13 this subtitle."

14 Section 130. Title 24 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by inserting a
16 new section 1017 under chapter 10 of subtitle II, to read as
17 follows:

18 "Section 1017. Public Officials prohibited from
19 acquiring Title rights.

20 (1) No Public Official shall, directly or indirectly,
21 acquire any individual right or interest in any Title,
22 and any document or transaction purporting to confer any
23 right or interest on any such officer shall be null and
24 void.

25 (2) No member of the NSRA or Public Official employed

1 in the NSRA shall in their personal capacity acquire or
2 retain any share or commercial interest in a private
3 company carrying Seabed Mineral Activities during that
4 employment or within two years following the cessation
5 of that employment.

6 (3) Any person who violates subsection (2) commits an
7 offense.

8 (4) Any person guilty of an offense under this
9 section shall be liable to a fine not exceeding fifty
10 thousand dollars (\$50,000) or to a prison term not
11 exceeding two years or both."

12 Section 131. Title 24 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting a
14 new section 1018 under chapter 10 of subtitle II, to read as
15 follows:

16 "Section 1018. Conflict of interest.

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

22 (2) A conflict of interest exists if the Executive
23 Director, member or employee could personally benefit
24 directly or indirectly from a decision on a matter over
25 which he or she has influence or control, or if a matter

1 over which he or she has influence or control relates in
2 any way to a business or property he or she or a family
3 member directly or indirectly owns or controls, or in
4 which he or she has a beneficial interest of any kind,
5 whether through a trust or otherwise.

6 (3) Any conflict of interest shall be disclosed, and
7 such disclosure shall be recorded in the minutes of the
8 NSRA, and that member or employee shall not take part in
9 any deliberation, decision, or execution of a decision
10 of the NSRA.

11 (4) In this section, the following terms shall have
12 the meanings stated below:

13 (a) 'Benefit' shall mean gain or advantage of
14 any kind, and shall include financial gain, property,
15 service, or improvement of condition.

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

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

1 children.

2 (d) 'Interest' shall mean either direct
3 ownership of, indirect ownership of, shares in,
4 financial benefit from, or complete or partial control
5 of, such property or business.

6 (e) 'Property' shall mean real or personal
7 property of every description whether situated in the
8 Federated States of Micronesia or elsewhere.

9 (5) A person who violates the provisions of this
10 section commits an offense and upon conviction shall be
11 liable to a fine of not more than fifty thousand dollars
12 (\$50,000), imprisonment for not more than three years,
13 or both."

14 Section 132. Title 24 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by inserting a
16 new section 1019 under chapter 10 of subtitle II, to read as
17 follows:

18 "Section 1019. Import Duties.

19 (1) A Title Holder and its nominated contractors and
20 subcontractors engaged in Seabed Mineral Activities are
21 hereby permitted to import into the Federated States of
22 Micronesia's jurisdiction free of duty or other taxes on
23 imports of machinery, equipment, vehicles, materials,
24 supplies, consumable items, and moveable property where
25 imports of any of the said categories have been

1 certified by the Title Holder to be for use solely in
2 carrying out Seabed Mineral Activities under the Title.

3 (2) Any of the items imported into the Federated
4 States of Micronesia may, if no longer required for the
5 Seabed Mineral Activities, be freely exported at any
6 time by the importing party without the payment of any
7 export or import duty.

8 (3) On the sale or transfer by the importer of any
9 duty free imported items to any person in the Federated
10 States of Micronesia, import duty shall be payable by
11 the importer on the value thereof at the date of such
12 sale or transfer."

13 Section 133. Title 24 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 1020 under chapter 10 of subtitle II, to read as
16 follows:

17 "Section 1020. Offense committed by a body corporate.
18 Where an offense under this subtitle that has been
19 committed by a body corporate is committed with the
20 consent or connivance, or is attributable to the
21 neglect, of any Director or officer of the body
22 corporate, that officer as well as the body corporate is
23 guilty of that offense and, in respect of an offense
24 punishable by a fine only, if the court finds that the
25 offense was committed by that person willfully,

1 recklessly, corruptly or for the purpose of personal
2 gain, that officer is liable to imprisonment for a
3 period of up to two years.”

4 Section 134. Title 24 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by inserting a
6 new section 1021 under chapter 10 of subtitle II, to read as
7 follows:

8 “Section 1021. Notice.

9 Any application, request, notice, warning, report, or
10 direction made or given under this subtitle, or service
11 of process or notification in any proceeding of any
12 court or tribunal having jurisdiction, shall be made by
13 the NSRA or the representative of the Title Holder
14 designated in the Title in writing, and shall be deemed
15 served the day after delivery, if delivered by hand,
16 facsimile or email to the NSRA or to the designated
17 representative.”

18 Section 135. Title 24 of the Code of the Federated States of
19 Micronesia, as amended, is hereby further amended by inserting a
20 new section 1022 under chapter 10 of subtitle II, to read as
21 follows:

22 “Section 1022. Disputes.

23 (a) Any dispute arising between the Federated
24 States of Micronesia and another State in connection
25 with Seabed Mineral Activities shall be resolved

1 pursuant to the provisions of the UN Convention on the
2 Law of the Sea;

3 (b) Any dispute between the Federated States of
4 Micronesia and a Title Holder arising in connection with
5 the administration of this subtitle shall be dealt with
6 by:

7 (i) the parties attempting to reach
8 settlement by mutual agreement or mediation, and in the
9 event this is not successful then,

10 (ii) by referral to the courts of the
11 Federated States of Micronesia or, upon agreement by the
12 parties, by arbitration to be conducted by the
13 International Centre for Settlement of Investment
14 Disputes established under Convention on the Settlement
15 of Investment Disputes between States and Nationals of
16 other States."

17 Section 136. Title 24 of the Code of the Federated States of
18 Micronesia, as amended, is hereby further amended by inserting a
19 new section 1023 under chapter 10 of subtitle II, to read as
20 follows:

21 "Section 1023. Transitional provisions

22 One year from the commencement of this subtitle:

23 (a) any authority or minerals right granted
24 under any other legislation or otherwise to carry out
25 Seabed Mineral Activities in the Exclusive Economic Zone

1 or upon the Continental Shelf shall expire; and

2 (b) any person or persons who were before the
3 commencement of this subtitle authorized to carry out
4 Seabed Mineral Activities in the Exclusive Economic Zone
5 or upon the Continental Shelf, to allow the continuation
6 of such activities, shall obtain a Permit or License
7 under this subtitle and comply with the requirements of
8 this subtitle.”

9 Section 137. Title 24 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by inserting a
11 new section 1024 under chapter 10 of subtitle II, to read as
12 follows:

13 “Section 1024. Schedule I: Environmental and Social
14 Impact Assessment Contents.

15 For the purpose of section 622 of this subtitle, the
16 following is the minimum required content of an
17 Environmental and Social Impact Assessment and resulting
18 report, where one is required under this subtitle or any
19 other laws of the Federated States of Micronesia for any
20 part of any Seabed Mineral Activities carried out under
21 License under this subtitle.

22 A. Executive Summary: providing an explanation of
23 the Seabed Mineral Activities for non-technical readers,
24 including:

25 (1) description of the proposed activity and its

1 objectives,

2 (2) anticipated bio-physical and socio-economic of
3 the activity, highlighting which are direct and which
4 indirect, and which are reversible and which are
5 irreversible,

6 (3) details of remedial actions that are proposed,

7 (4) description of all benefits to be derived from
8 the project,

9 (5) details of consultation program undertaken by the
10 applicant, including degree of public interest,

11 (6) description of end-use plans for the development
12 activity

13 B. Introduction

14 (1) Background: summary of the project being
15 proposed.

16 (2) Project History: summary of the work undertaken
17 to date, including Seabed Mineral deposit discovery and
18 any prospecting, exploration or test mining activities
19 conducted to date.

20 (3) Project Proponent: summary of the credentials of
21 the Licensee, including major shareholders, other Titles
22 owned or applied for (or similar within other
23 jurisdictions).

24 (4) Purpose and Justification: information on the
25 viability of the proposed activity, including but not

1 limited to the following:

2 (i) information on the capital cost
3 associated with the development,

4 (ii) details of the proponent's
5 technological expertise and resources,

6 (iii) results of any feasibility
7 investigations that have been carried out,

8 (iv) information on the extent of landowner
9 and/or resource owner support, including a copy of the
10 formal written approval of their consent,

11 (v) the anticipated life-span and
12 development phases of the project.

13 (5) This Report: statutory context, description of
14 the scope of the EIA, and the report's structure.

15 C. Policy, Legal and Administrative Framework:
16 information on relevant national legislation, agreements
17 or policy, relevant international agreements or
18 conventions, and other non-legal standards or
19 guidelines, that are applicable to the proposed
20 activity, and how the Licensee will comply with these
21 requirements.

22 D. Stakeholder Consultation: description of what
23 consultation has occurred with interested parties and
24 stakeholders, any consents received from local
25 communities, and what continuing consultation is

1 planned.

2 E. Description of Proposed Activity: including the
3 following:

4 (1) Location (with reference to a map)

5 (2) Details of the type, grade and volume of the
6 Seabed Mineral deposit, and estimates of inferred and
7 indicated resource

8 (3) The activity or activities that have triggered
9 the Environmental and Social Impact Assessment
10 requirement, a work plan showing how these are proposed
11 to be conducted

12 (4) A proposed timetable, with milestone dates by
13 which tasks are expected to be completed

14 (5) Seabed infrastructure to be used

15 (6) Technology to be employed (with reference to
16 relevant diagrams and drawings), and details of any
17 construction and operating standards used

18 (7) Transport to be used

19 (8) Storage facilities to be used

20 (9) Anticipated waste products, and waste disposal
21 mechanisms to be used

22 (10) Any material-handling or hazardous material
23 management methods or protocols to be used

24 (11) Any Ancillary Operations, support equipment or
25 onshore infrastructure or processes required to carry

1 out the activity.

2 (12) Alternative sites or methods considered

3 (13) Workforce description and details of any health
4 and safety standards used

5 (14) Decommissioning, closure, and site rehabilitation
6 plans

7 F. Description of Existing Environment: detailed
8 account of knowledge of the environmental conditions at
9 the site, and a baseline description of geological,
10 oceanographic and biological conditions against which
11 impacts will be measured and assessed, including:

12 (1) Regional oceanographic, geological and biological
13 overview

14 (2) Studies and research activities completed which
15 provide relevant information

16 (3) Special characteristics of the site

17 (4) Meteorology and air quality

18 (5) Geological setting

19 (6) Physical oceanographic setting, including water
20 quality and sediment characteristics

21 (7) Biological environment

22 (i) Pelagic (surface to 200m depth)

23 (ii) Midwater (between 200m depth and seafloor)

24 (iii) Benthic (at seafloor level)

25 (8) Natural hazards

1 (9) Noise

2 (10) Air quality

3 (11) Description of existing onshore environment, as
4 relevant

5 (12) Socio-economic environment of the site,
6 including: other Seabed Mineral Activities, fisheries,
7 Marine Scientific research, navigation lanes, submarine
8 cabling, tourism, customary sea use, aquaculture.

9 (13) Cultural/Historic resources

10 (14) Socio-economic and socio-cultural issues
11 generally, including onshore direct or indirect impacts,
12 and anticipated effects on the livelihoods and
13 lifestyles of the population of the Federated States of
14 Micronesia.

15 G. Environmental impacts on the seabed site, the
16 regional site, and the coastal and onshore environment,
17 mitigation and management measures-

18 (1) the nature and extent of any impact on any and
19 all of the categories listed in section F, and also,
20 insofar as not covered by the section F categories, the
21 effects / issues anticipated from:

22 (i) Greenhouse gas emissions and climate
23 change;

24 (ii) Biosecurity

25 (iii) Pollution

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- 1 (iv) Health and safety of workers
- 2 (v) Waste management
- 3 (vi) Economic benefit or impact for the
4 Federated States of Micronesia
- 5 (vii) Skills development, industry diversity
6 and community impacts for the Federated States of
7 Micronesia
- 8 (viii) Supply chain, utilities, access to
9 water, fuel, and impact to local communities in terms of
10 access to supplies
- 11 (ix) Any other direct or indirect impacts on
12 the Federated States of Micronesia's population
- 13 (x) Environmentally hazardous discharges
14 resulting from accidental and extreme natural events
- 15 (2) measures that will be taken to avoid, mitigate,
16 minimize or such impact; and
- 17 (3) what unavoidable impacts will remain;
- 18 (4) how those impacts will be compensated for.
- 19 H. Environmental Management, Monitoring and Reporting
- 20 (1) Organizational structure and responsibilities for
21 environmental management
- 22 (2) Environmental management plan, including –
- 23 (i) Impact mitigation and minimizing
- 24 (ii) Monitoring plan
- 25 (3) Closure and rehabilitation plan

- 1 (4) Monitoring studies
- 2 (5) Reporting
- 3 I. Environmental and Social Impact Assessment team
- 4 (1) Licensee personnel
- 5 (2) Lead Environmental Consultant(s)
- 6 (3) Other personnel or consultants
- 7 J. References
- 8 K. Glossary and abbreviations
- 9 L. Appendix: all supporting studies"

10 Section 138. This act shall become law upon approval by the
11 President of the Federated States of Micronesia or upon its
12 becoming law without such approval.

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July 30, 2018

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