
A BILL FOR 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 1070of 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

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- 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 (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

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- 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

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Area; or

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

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

(ii) the Mining Application is accompanied by the consent of the person who held that preceding Exploration License."

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

"Section 608. Issue of more than one License. Nothing in this subtitle shall prevent more than one License being issued to the same person."

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

"Section 609. License Decision-Making: neighboring nations The NSRA, upon satisfactory receipt of an Application for an Exploration or Mining License, shall before taking a decision under section 602 of this subtitle 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 614 of chapter 6, to read as follows:

13 "Section 614. 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 an 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 the Office of
21 Environment and Emergency Management of its endorsement
22 of the environmental management and impact mitigation
23 plan, and approval to commencement of the Seabed Mineral
24 Activities under section 623(3) of this subtitle; and

25 (b) A bank statement indicating that the Title

1 Holder has appropriate financial resources, security
2 deposit or monetary guarantee, in accordance with the
3 provisions of this subtitle.

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

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

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

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

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

24 (c) those Seabed Minerals are not subject to the
25 rights of any other person."

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

4 "Section 622. Diligent Mining

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

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

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

18 "Section 623. Environmental and Social Impact
19 Assessment

20 (1) An Environmental and Social Impact Assessment:

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

25 (i) Gravity and magnetometric observations

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- 1 and measurements;
- 2 (ii) Bottom and sub-bottom acoustic or
3 electromagnetic profiling of resistivity, multi-beam
4 bathymetric mapping, self-potential or induced
5 polarization, or imaging without the use of explosives
6 or frequencies known to significantly affect marine
7 life;
- 8 (iii) Water, biotic, sediment, and rock
9 sampling for environmental baseline study including:
- 10 (A) Sampling of small quantities of
11 water, sediment and biota (e.g. from remotely-operated
12 vehicles);
- 13 (B) Mineral and rock sampling of a
14 small-scale and limited nature. For the purposes of this
15 subsection (B) 'small-scale and limited' means:
- 16 (a) core samples of up to 10 meters,
17 (b) for Seabed Mineral deposits that are
18 seafloor massive sulphides, grab, or bucket samples of
19 up to 2 square meters, or
20 (c) for other Seabed Mineral deposits, grab,
21 dredge or bucket samples covering, in total, no more
22 than 10,000 square meters of the seabed.
- 23 (C) Sediment sampling by box corer and
24 small diameter corer;
- 25 (iv) Meteorological observations and

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

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

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

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

24 (4) Further procedures and requirement for an
25 Environmental and Social Impact Assessment for Seabed

1 Mineral Activities as may be Prescribed."

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

5 "Section 624. Liability of Licensee.

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

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

25 (3) Any obligations which are to be observed and

1 performed by the Licensee shall at any time at which the
 2 Licensee is more than one person be joint and several
 3 obligations.

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

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

11 "Section 625. Part of License Area outside of national
 12 jurisdiction.

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

23 Section 81. Title 24 of the Code of the Federated States
 24 of Micronesia, as amended, is hereby further amended by inserting
 25 a new section 626 under chapter 6 of subtitle, to read as follows:

1 "Section 626. Renewal of License.
2 (1) A Licensee can apply to the NSRA for that License
3 to be renewed for successive periods of up to five years
4 each.
5 (2) The NSRA will grant such a renewal provided the
6 application to renew is received at least ninety days
7 before the expiry date of the initial term of the Title,
8 and the Title Holder continues to meet the Qualification
9 Criteria and has met its obligations under the
10 subsisting Title.
11 (3) If a renewal is granted after the expiry date of
12 the initial term of the Title, the Title is deemed to
13 have continued in force during the period between that
14 expiry date and the date the renewal is granted.
15 (4) If a renewal is to be refused, the NSRA will
16 follow the processes contained in section 628(2) of this
17 subtitle.
18 (5) If the renewal relates to a Mining License, prior
19 written approval from the Office of Environment and
20 Emergency Management must be obtained for any renewal to
21 be valid."

22 Section 82. Title 24 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by inserting a
24 new section 627 under chapter 6 of subtitle II, to read as follows:

25 "Section 627. Review of Licenses.

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

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

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

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

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

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

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

23 Section 83. Title 24 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting a
25 new section 628 under chapter 6 of subtitle II, to read as follows:

1 "Section 628. Variation, suspension, or revocation of a
2 License

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

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

8 (b) if a security deposit required under section
9 903 of this subtitle is not deposited in accordance with
10 this subtitle;

11 (c) where the variation or revocation is in the
12 opinion of the NSRA necessary to

13 (i) prevent serious risk to:

14 (a) the safety, health or welfare of any person,
15 or

16 (b) the Environment;

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

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

24 (d) in any case, with the consent of the
25 Licensee;

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

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

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

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

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

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

22 (i) a material undertaking or term or
 23 condition of the License,

24 (ii) the provisions of this subtitle or
 25 Regulations or other laws of the Federated States of

1 Micronesia,
2 (iii) conditions imposed under the
3 Environment Law, or
4 (iv) requirement of an Order made under this
5 subtitle;
6 and such breach either cannot be remedied or has not
7 been remedied upon the giving of reasonable notice by
8 the NSRA;
9 (k) where the relevant Seabed Mineral Activities
10 in the reasonable view of the NSRA constitute an
11 unacceptable risk to the Federated States of Micronesia
12 or are clearly no longer in the public interest.
13 (l) where any payment owing under section 901 of
14 this subtitle, or any part of this subtitle, is in
15 arrears or unpaid for six months following the day on
16 which it ought to have been paid; or
17 (m) upon transfer, mortgage, lease of a Title,
18 or significant change in the constitution, ownership or
19 control of the Title Holder, without the NSRA's prior
20 approval.
21 (2) Before making a decision under this section the
22 NSRA, shall unless the decision is made on the exact
23 terms of a request by the Licensee, give to the Licensee
24 at least ninety days written notice of the NSRA's
25 intention to make the decision, setting out details of

1 that proposed decision and the reasons for it, and
2 inviting a person to whom the notice or a copy of the
3 notice has been given, and who objects to it, to make a
4 written submission to the NSRA about the proposal within
5 a specified timeframe.

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

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

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

25 (6) The NSRA shall not execute a decision involving

1 monetary penalties under subsection (5) until the
2 Licensee has been accorded a reasonable opportunity to
3 exhaust the judicial remedies available to it under the
4 laws of the Federated States of Micronesia.

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

11 (8) Upon effecting a variation of a term of the
12 License, the NSRA shall:

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

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

19 (c) issue to the Licensee a copy of that
20 instrument of variation; and

21 (d) publish notice of the variation."

22 Section 84. Title 24 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by inserting a
24 new section 629 under chapter 6 of subtitle II, to read as follows:

25 "Section 629. Surrender of a License.

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

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

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

23 Section 86. Title 24 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting a
25 new section 631 under chapter 6 of subtitle II, to read as follows:

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

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

11 "Section 632. Mineral development agreements.

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

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

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

24 (c) the acquisition by the National Government
25 of the Federated States of Micronesia either directly or

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

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

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

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

23 "Section 701. The NSRA may contract for Seabed Mineral
24 Activities in the Area.

25 The NSRA may, upon consultation with the relevant

1 stakeholders:

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

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

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

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

22 (iii) the Secretary of Finance and
23 Administration endorses that he or she is satisfied that
24 the terms of the sub-contract are sufficiently likely to
25 lead to sufficient benefit to the Federated States of

1 Micronesia, to outweigh the likelihood and quantum of
2 any associated costs or risks;

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

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

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

14 "Section 702. Entry into Sponsorship of Seabed Mineral
15 Activities in the Area.

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

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

25 (3) To be eligible to perform Seabed Mineral

1 Activities under the Federated States of Micronesia's
2 sponsorship, a Sponsored Party must first:

3 (a) obtain a valid Sponsorship Certificate from
4 the NSRA, and

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

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

13 (a) to issue to an Applicant:

14 (i) a Sponsorship Certificate for
15 Exploration, or

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

20 (b) not to issue any Sponsorship Certificate.

21 (5) The NSRA may provide opportunity for members of
22 the public or interest groups representing the public,
23 to provide information be taken into account by the NSRA
24 in taking a decision under subsection (4)."

25 Section 91. Title 24 of the Code of the Federated States of

1 Micronesia, as amended, is hereby further amended by inserting a
2 new section 703 under chapter 7 of subtitle II, to read as follows:

3 "Section 703. Conditions to issue of Sponsorship
4 Certificate.

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

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

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

15 "Section 704. Sponsorship Application and Sponsorship
16 Qualification Criteria.

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

19 (a) provide evidence that the Sponsorship
20 Applicant meets the Sponsorship Qualification Criteria,
21 and

22 (b) include:

23 (i) the same content that is required by
24 the Rules of the ISA for an application to the ISA for
25 approval of a plan of work to obtain a contract for the

1 proposed Seabed Mineral Activities

2 (ii) written undertakings that the

3 Applicant:

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

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

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

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

19 (iv) An indication insofar as known of the
20 Applicant's proposed:

21 (A) methods for financing the Seabed
22 Mineral Activities,

23 (B) ownership, lease or other
24 arrangement to use vessels and equipment required for
25 the operation of the Seabed Mineral Activities, and

1 (C) insurance or contingency funding
2 to cover damage that may be caused by the Seabed Mineral
3 Activities or the costs of responding to an Incident;
4 (v) A list of employees required to operate
5 the Seabed Mineral Activities, and an indication if any
6 of these will be recruited from the Federated States of
7 Micronesia;
8 (vi) A capacity-building program providing
9 for the training of personnel of the Federated States of
10 Micronesia;
11 (vii) The Application fee required by section
12 901 of this subtitle;
13 (viii) A statement as to whether the Sponsored
14 Party or any of its Directors has previously been found
15 on reasonable evidence to have:
16 (A) breached a material term or
17 condition of the Rules of the ISA;
18 (B) been convicted of an offense or
19 incurred a civil penalty pertaining to the conduct of
20 Seabed Mineral Activities or similar sea or land based
21 activities in another jurisdiction; or
22 (C) been convicted of an offense
23 involving fraud or dishonesty;
24 (ix) Any other matters as may be Prescribed.
25 (2) The Sponsorship Qualification Criteria are that:

1 (a) the Sponsorship Applicant:
2 (i) is an existing body corporate,
3 registered in the Federated States of Micronesia;
4 (ii) has, or will have at the commencement
5 of the proposed Seabed Mineral Activities, sufficient
6 financial and technical resources and capability:
7 (A) properly to perform the Seabed
8 Mineral Activities in compliance with the Rules of the
9 ISA; and
10 (B) to cover damage that may be caused
11 by the Seabed Mineral Activities or the costs of
12 responding to an Incident;
13 (iii) has submitted a valid Application in
14 accordance with this subtitle and these Regulations,
15 including the Sponsorship Application fee;
16 (b) the proposed Seabed Mineral Activities are
17 consistent with the Rules of the ISA in relation to
18 environmental management;
19 (c) the proposed Seabed Mineral Activities are
20 compatible with applicable national and international
21 laws, including those relating to safety at sea and the
22 protection and preservation of the Marine Environment;
23 and
24 (d) the proposed Seabed Mineral Activities will
25 not unduly affect:

-
-
- 1 (A) the rights of other legitimate sea
2 users, or
3 (B) the protection and preservation of
4 the Marine Environment,
5 (C) international and domestic peace
6 and security.

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

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

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

- 18 (a) the name of the Sponsored Party;
19 (b) a statement that the Sponsored Party is:
20 (i) a national of the Federated States of
21 Micronesia; or
22 (ii) subject to the effective control of the
23 Federated States of Micronesia or its nationals;
24 (c) a statement by the Federated States of
25 Micronesia that it sponsors the Sponsored Party;

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

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

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

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

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

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

21 "Section 706. Sponsorship agreements.

22 (1) The NSRA may enter into written agreements with
23 the Sponsored Party at any time to establish additional
24 terms and conditions as to the sponsorship arrangement
25 including terms as to the calculation and payment of

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

9 (2) The NSRA may consult the relevant stakeholders,
10 and their views taken into account, before any
11 sponsorship agreement is entered into the NSRA."

12 Section 95. Title 24 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting a
14 new section 707 under chapter 7 of subtitle II, to read as follows:

15 "Section 707. Liability of Sponsored Party.

16 (1) The Sponsored Party shall be responsible for the
17 performance of all Seabed Mineral Activities carried out
18 within the Contract Area, and its compliance with the
19 Rules of the ISA, and will be liable:

20 (a) for the actual amount of any compensation or
21 damage or penalties arising out of a failure to comply,
22 or

23 (b) for any wrongful acts or omissions and those
24 of its employees, officers, subcontractors, and agents
25 in the conduct of the Seabed Mineral Activities.

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

5 (3) A Sponsored Party shall at all times keep the
6 Federated States of Micronesia indemnified against all
7 actions, proceedings, costs, charges, claims and demands
8 which may be made or brought by any third party in
9 relation to its Seabed Mineral Activities."

10 Section 96. Title 24 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by inserting a
12 new section 708 under chapter 7 of subtitle II, to read as follows:

13 "Section 708. Government Responsibilities.
14 Where the Federated States of Micronesia is sponsoring a
15 Sponsored Party, which holds a contract with the ISA to
16 conduct Seabed Mineral Activities in the Area, the
17 Federated States of Micronesia will, via the NSRA:

18 (a) take all actions necessary to give effect to
19 the sponsorship of the Sponsored Party, including
20 undertaking any communications with, and providing any
21 assistance, documentation, certificates and undertakings
22 to, the ISA or other relevant party required in respect
23 of the sponsorship;

24 (b) ensure that its conduct in relation to the
25 ISA, the Area, and Seabed Mineral Activities adheres to

1 the requirements and standards established by general
 2 principles of international law;

3 (c) take all appropriate means to exercise its
 4 effective control over Sponsored Parties, seeking to
 5 ensure that their Seabed Mineral Activities are carried
 6 out in conformity with the UN Convention on the Law of
 7 the Sea, the Rules of the ISA, and other requirements
 8 and standards established by general principles of
 9 international law;

10 (d) not impose unnecessary, disproportionate, or
 11 duplicate regulatory burden on Sponsored Parties, and
 12 not impose requirements upon a Sponsored except insofar
 13 as these are consistent with existing requirements
 14 imposed by, the UN Convention on the Law of the Sea, the
 15 Rules of the ISA, and other applicable standards of
 16 international law; and

17 (e) promote the application of the Precautionary
 18 Approach and employment of best environmental practice.”

19 Section 97. Title 24 of the Code of the Federated States of
 20 Micronesia, as amended, is hereby further amended by inserting a
 21 new section 709 under chapter 7 of subtitle II, to read as follows:

22 “Section 709. Termination of Sponsorship Certificate.

23 (1) A Sponsorship Certificate shall remain in force
 24 unless and until it is terminated in accordance with
 25 this section;

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-
- 1 (2) A Sponsorship Certificate terminates if:
- 2 (a) The Sponsored Party's contract with the ISA
- 3 expires, is surrendered or is terminated,
- 4 (b) It is surrendered by the Sponsored Party in
- 5 accordance with section 711 of this subtitle,
- 6 (c) It is revoked by the NSRA in accordance with
- 7 section 710 of this subtitle, and upon termination all
- 8 rights granted to the Sponsored Party by the Federated
- 9 States of Micronesia shall cease and determine."

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

11 Micronesia, as amended, is hereby further amended by inserting a

12 new section 710 under chapter 7 of subtitle II, to read as follows:

13 "Section 710. Revocation of a Sponsorship Certificate.

- 14 (1) The NSRA may revoke a Sponsorship Certificate:
- 15 (a) where any of the Sponsorship Qualification
- 16 Criteria ceases to be met by the Sponsored Party in a
- 17 material particular;
- 18 (b) where the Sponsored Party has failed to
- 19 apply to the ISA for a contract, or has applied but
- 20 failed to obtain a contract with the ISA, within three
- 21 years of the date of the issue of the Sponsorship
- 22 Certificate;
- 23 (c) in any case, with the written consent of the
- 24 Sponsored Party;
- 25 (d) where no material efforts have been made by

1 the Sponsored Party to undertake the sponsored Seabed
2 Mineral Activities for a period exceeding five years
3 from the date of signing the contract with the ISA;

4 (e) where the Sponsored Party has conducted
5 itself in such a way as to result in a serious,
6 persistent, or willful breach of the Rules of the ISA,
7 the requirements of this subtitle, Regulations, an Order
8 made under this subtitle, or a final binding decision of
9 a dispute settlement body applicable to the Sponsored
10 Party, and such breach cannot be remedied, or has not
11 been remedied notwithstanding the giving of reasonable
12 notice to the Sponsored Party by the NSRA;

13 (f) where, following at least two written
14 notices given by the NSRA to the Sponsored Party in
15 accordance with this subtitle, any payment or deposit
16 required or owing under this subtitle is in arrears or
17 unpaid for six months following the day on which it
18 ought to have been paid;

19 (g) where the Sponsored party knowingly or
20 recklessly provides the ISA or the NSRA with information
21 that is false or misleading in a material particular, or
22 fails to retain or willfully alters, suppresses,
23 conceals, or destroys any document which is required to
24 be produced to the ISA or the NSRA; or

25 (h) upon transfer, mortgage, lease of a Title,

1 or significant change in the constitution, ownership or
2 control of the Title Holder, without the NSRA's
3 approval.

4 (2) Before making a decision under this section of
5 this subtitle the NSRA shall:

6 (a) give to the Sponsored Party at least 30
7 days' written notice of the NSRA's intention to make the
8 decision, setting out details of the proposed decision
9 and the reasons for it, and inviting a person to whom
10 the notice, or a copy of the notice has been given to
11 make a written submission to the NSRA about the proposal
12 within a specified timeframe; if there are any
13 objections;

14 (b) give a copy of the notice to any such other
15 persons as the NSRA thinks fit;

16 (c) take into account any submissions made in
17 accordance with the notice; and

18 (d) where the decision is to revoke the
19 Sponsorship Certificate, give the Sponsored Party no
20 fewer than six months' notice before that revocation
21 takes place."

22 Section 99. Title 24 of the Code of the Federated States of
23 Micronesia, as amended, is hereby further amended by inserting a
24 new section 711 under chapter 7 of subtitle II to read as follows:

25 "Section 711. Surrender of sponsorship.

1 A Sponsored Party may at any time surrender a
 2 Sponsorship Certificate without penalty by giving to the
 3 NSRA not less than six months' prior notice in writing
 4 to that effect."

5 Section 100. Title 24 of the Code of the Federated States of
 6 Micronesia, as amended, is hereby further amended by inserting a
 7 new section 712 under chapter 7 of subtitle II, to read as follows:

8 "Section 712. Ongoing liability after termination of
 9 sponsorship.

10 Following termination of sponsorship, a Sponsoring Party
 11 shall remain:

12 (a) subject to any ongoing obligations with
 13 respect to Seabed Mineral Activities that occurred prior
 14 to termination, including requirements to submit reports
 15 and to make payments to the NSRA and the ISA; and

16 (b) responsible for any damage from its wrongful
 17 acts or otherwise arising from Seabed Minerals
 18 Activities carried out prior to termination."

19 Section 101. Title 24 of the Code of the Federated States of
 20 Micronesia, as amended, is hereby further amended by creating a
 21 new chapter 8 under subtitle II entitled: "Marine Scientific
 22 Research".

23 "Section 801. Marine Scientific Research within
 24 national jurisdiction.

25 Marine Scientific Research may not be carried out within

1 an area of the Exclusive Economic Zone or Continental
2 Shelf (or Territorial Sea and internal waters where such
3 responsibility has been delegated to NSRA by State under
4 this subtitle) by any person, unless that person has:
5 (a) properly applied for a permit by the NSRA in
6 accordance with this subtitle;
7 (b) properly applied for a marine scientific
8 research permit from National Oceanic Resource
9 Management Authority (NORMA) in accordance with section
10 104 chapter 1 subtitle I of this title; and
11 (c) received consent to both applications, or
12 not received a denial of consent within six months of
13 the date of the applications.”

14 Section 102. Title 24 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by inserting a
16 new section 802 under chapter 8 of subtitle II, to read as follows:

17 “Section 802. Application for Marine Scientific
18 Research.
19 For an application for consent to conduct Marine
20 Scientific Research to have been properly made, for the
21 purposes of section 801 of this subtitle, the
22 application shall be made to the NSRA in writing at
23 least six months before the proposed commencement date
24 of the Marine Scientific Research project, and shall
25 contain:

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- 1 (i) the cruise name and number;
2 (ii) the name, nationality, contact details,
3 and address of the sponsoring institution, the scientist
4 in charge of the project, and any other collaborators
5 and participants;
6 (iii) the co-ordinates and charts of the
7 broad area or areas within which the project is to be
8 conducted;
9 (iv) a general description of the nature and
10 objectives of the proposed project, including the date
11 of commencement and its approximate duration, and the
12 use of the data collected, including any plans to make
13 the research results internationally available;
14 (v) the details of the methods, the
15 equipment, and any installations to be used;
16 (vi) insofar as possible at the time of the
17 application, a preliminary assessment of likely impact
18 on the Marine Environment of the proposed project;
19 (vii) the details of any intended ports of
20 call;
21 (viii) modalities of the participation of a
22 representative of the Federated States of Micronesia in
23 the project; and
24 (ix) the expected dates and method of
25 submission to the Federated States of Micronesia of a

1 preliminary report, a final report, and assessment of
2 data, samples and research results.”

3 Section 103. Title 24 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by inserting a
5 new section 803 under chapter 8 of subtitle II, to read as follows:

6 “Section 803. Consent to Marine Scientific Research.
7 Unless there are reasonable grounds for a denial of
8 consent in accordance with section 901 of this subtitle,
9 the NSRA shall provide its consent to a Marine
10 Scientific Research project as soon as reasonably
11 practicable, and no later than six months after receipt
12 of an application containing the information required by
13 section 802 of this subtitle.”

14 Section 104. Title 24 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by inserting a
16 new section 804 under chapter 8 of subtitle II, to read as follows:

17 “Section 804. Grounds for denial of consent to Marine
18 Scientific Research.
19 The NSRA shall deny consent to an application to conduct
20 Marine Scientific Research where:

- 21 (a) the NSRA reasonably considers that:
 - 22 (i) the proposed Marine Scientific Research
23 is of direct significance to the exploration and Mining
24 of the natural resources of the Federated States of
25 Micronesia, whether living or non-living;

1 (ii) the information supplied pursuant
2 section 802 of this subtitle is inaccurate in a material
3 particular; or

4 (iii) the person applying to conduct Marine
5 Scientific Research already has an overdue outstanding
6 obligation to the Federated States of Micronesia from a
7 prior Marine Scientific Research project; or

8 (iv) the proposed Marine Scientific Research
9 will interfere with another subsisting legitimate use of
10 the same marine space; or

11 (b) the proposed Marine Scientific Research
12 involves:

13 (i) drilling into the Continental Shelf;

14 (ii) the use of explosives;

15 (iii) the introduction of harmful substances
16 into the Marine Environment;

17 (iv) the construction, operation or use of
18 artificial islands, installations or structures (as
19 referred to in Articles 60 and 80 of the UN Convention
20 on the Law of the Sea); or

21 (v) an unacceptable risk to the Marine
22 Environment."

23 Section 105. Title 24 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting a
25 new section 805 under chapter 8 of subtitle II, to read as follows:

1 "Section 805. Nature of Marine Scientific Research
2 consent.
3 Consent to conduct Marine Scientific Research:
4 (a) does not entail any exclusive rights of
5 access to the seabed or water column, and does not
6 permit extraction of Offshore Minerals;
7 (b) does not constitute the legal basis for any
8 claim to any part of the Marine Environment or its
9 resources; and
10 (c) shall cease entirely or within a particular
11 area upon written notice being given by the NSRA to that
12 effect."

13 Section 106. Title 24 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 806 under chapter 8 of subtitle II, to read as follows:

16 "Section 806. Duties of persons conducting Marine
17 Scientific Research.
18 It is a condition of any consent for Marine Scientific
19 Research within the Federated States of Micronesia's
20 national jurisdiction, that the persons conducting the
21 Marine Scientific Research shall at all times:
22 (a) adhere to the terms of this subtitle,
23 Regulations, the Environment Law, and any rules or
24 procedures relating to Marine Scientific Research issued
25 by the Federated States of Micronesia's Government;

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- 1 (b) apply the Precautionary Approach and best
2 environmental practices at all times;
- 3 (c) conduct the Marine Scientific Research
4 exclusively:
- 5 (i) for peaceful purposes; and
6 (ii) to increase scientific knowledge for
7 the benefit of all mankind;
- 8 (d) not proceed with Marine Scientific Research
9 if there is evidence indicating that to proceed is
10 likely to cause serious harm to the Marine Environment;
- 11 (e) submit to the NSRA a preliminary report, a
12 final report, and assessment of data, samples and
13 research results at such times and in such formats as
14 are prescribed or agreed with the NSRA prior to
15 commencement of the project;
- 16 (f) hold securely and provide the NSRA with
17 access at its request to all data and samples derived
18 from the project;
- 19 (g) work with the NSRA to facilitate and support
20 financially the participation of a representative of the
21 Federated States of Micronesia in the project;
- 22 (h) inform the NSRA of any major changes to the
23 proposed Marine Scientific Research program from the
24 information provided in the application for consent;
- 25 (i) submit to the NSRA immediately by telephone

1 and in writing notice of any Incident; and
 2 (j) after completion of the project, remove any
 3 installations or equipment unless otherwise agreed with
 4 the NSRA."

5 Section 107. Title 24 of the Code of the Federated States of
 6 Micronesia, as amended, is hereby further amended by creating a
 7 new chapter 9 under subtitle II entitled: "Financial
 8 Arrangements".

9 Section 109. Title 24 of the Code of the Federated States of
 10 Micronesia, as amended, is hereby further amended by inserting a
 11 new section 901 under chapter 9 of subtitle II to read as follows:

12 "Section 901. Payments by Prospectors, Licensees and
 13 Sponsored Parties.

14 (1) Application fee
 15 An Applicant for a Title under this subtitle shall upon
 16 Application pay to the NSRA the Prescribed fee, which
 17 shall be non-recoverable.

18 (2) License fees
 19 The NSRA may prescribe that a Licensee shall be required
 20 to pay an annual License fee, the amount or manner of
 21 determining the License fee, and the times and manner of
 22 payment.

23 (3) Sponsorship payments
 24 The holder of a Sponsorship Certificate shall pay to the
 25 NSRA:

1 (a) such sums by way of annual administrative
2 fees for the Federated States of Micronesia's
3 sponsorship of its Seabed Mineral Activities in the
4 Area, and

5 (b) where the Sponsorship Certificate pertains
6 to a contract for Mining in the Area, such sums by way
7 of a commercial recovery payment, at such times and in
8 such amounts as may be Prescribed, or provided in the
9 Sponsorship Certificate or a sponsorship agreement made
10 under this subtitle.

11 (4) Retention fees

12 Where the NSRA makes a determination under subsection
13 617(2) to retain an area for future Mining by a
14 Licensee, the NSRA may prescribe that a Licensee shall
15 be required to pay an annual retention fee, the amount
16 or manner of determining the retention fee, and the
17 times and manner of payment.

18 (5) Taxes

19 Title Holders, and their sub-contractors, advisors, and
20 employees shall pay all applicable customs duties and
21 taxes in accordance with the relevant applicable laws of
22 the Federated States of Micronesia.

23 (6) Seabed Minerals royalties

24 (a) The holder of a Mining License shall pay
25 into a dedicated Treasury account such sums by way of

1 royalties for the extraction of the Federated States of
 2 Micronesia's Seabed Minerals and at such times as may be
 3 specified in Regulations or in any other law enacted for
 4 such purpose. Each payment shall be accompanied by
 5 details of the Seabed Minerals produced, sold or
 6 disposed of, and the details of the payment and how the
 7 payment has been calculated.

8 (b) Where any such royalty payment relates to
 9 Seabed Minerals located within a State's Territorial
 10 Seas or internal waters, Treasury shall transfer any
 11 such royalties to that State.

12 (7) Transfer fees

13 A Title Holder shall upon any transfer of Title under
 14 section 1005 of this subtitle, or any significant change
 15 in the ownership of the Title Holder under section 1006
 16 of this subtitle, pay any transfer fees as may be
 17 Prescribed."

18 Section 110. Title 24 of the Code of the Federated States of
 19 Micronesia, as amended, is hereby further amended by inserting a
 20 new section 902 under chapter 9 of subtitle II, to read as follows:

21 "Section 902. Recovery of payments owed by Title
 22 holders.

23 A sum of money payable pursuant to section 901 of this
 24 subtitle, is a debt due to the Federated States of
 25 Micronesia, and may be recovered in a court of competent

1 jurisdiction, where:

2 (a) in any such proceedings a certificate of the
3 NSRA certifying that a specified sum of money is so
4 payable, shall be received as evidence of that fact;

5 (b) any sum unpaid by the Title Holder may at
6 the court's discretion may be recovered from any
7 security deposited by the Title Holder under section
8 1003 of this subtitle; and

9 (c) interest on the amount outstanding may
10 additionally be charged at a Prescribed or otherwise
11 reasonable rate determined by the court."

12 Section 111. Title 24 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting a
14 new section 903 of chapter 9, to read as follows:

15 "Section 903. Security Deposit.

16 (1) The NSRA may before granting a Title require an
17 Applicant for a Title to deposit security as a guarantee
18 of performance of the obligations attaching to the Title
19 and that may be used to rectify any damage, clean-up,
20 compensation, or other loss arising or resulting from a
21 failure or fault by the Licensee to adhere to its
22 obligations under this subtitle.

23 (2) The NSRA shall, in consultation with the Licensee
24 at Application stage, determine the form of the
25 security, the amount or value of the security, and the

1 terms and conditions under which the security is held or
2 may be used by the NSRA.”

3 Section 112. Title 24 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by inserting a
5 new section 904 under chapter 9 of subtitle II, to read as follows:

6 “Section 904. The Seabed Resources Fund.

7 (1) There shall be established under the control and
8 management of the Department of Finance and
9 Administration a fund to be called the Seabed Resources
10 Fund into which there shall be paid any sums paid under
11 section 901 of this subtitle excepting:

12 (a) any funds required to be transferred to
13 State in accordance with section 901(6)(b) of this
14 subtitle, and

15 (b) any funds allocated by the Treasury to be
16 used directly for the purposes of covering the costs of
17 establishing and operating the NSRA to perform its
18 functions under this subtitle.

19 (2) The Seabed Resources Fund is established with the
20 objective to ensure the prudent management of the Seabed
21 Minerals for the benefit of present and future
22 generations.

23 (3) The rules for the operation and management of the
24 Seabed Resources Fund shall be laid down in a separate
25 Act passed by Congress or by regulation promulgated by

1 the NSRA."

2 Section 113. Title 24 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by creating a
4 new chapter 10 under subtitle II entitled: "Miscellaneous".

5 Section 114. Title 24 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by inserting a
7 new section 1001 under chapter 10 of subtitle II, to read as
8 follows:

9 "Section 1001. Vessel Standards.

10 (1) Title Holders must at all material times ensure
11 the following in respect of vessels engaged in Seabed
12 Mineral Activities and Ancillary Operations:

13 (a) all the Federated States of Micronesia's
14 flagged vessels comply with the laws of the Federated
15 States of Micronesia regulating the construction,
16 certification, maintenance, operation, crewing of
17 vessels, including in Title 19 of the Code of the
18 Federated States of Micronesia, and any enactment or
19 amendment replacing, or regulations made under that
20 Title, and comply with all applicable international
21 standards incorporated into the Federated States of
22 Micronesia's laws by reference;

23 (b) all foreign flag vessels whose flag state is
24 party to the International Convention for Safety of Life
25 at Sea, 1974 (SOLAS 74) possess current valid SOLAS 74

1 certificates and comply with the flag state's
2 requirements and standards concerning ship
3 certification;

4 (c) all foreign flag vessels whose flag state is
5 not party to SOLAS 74 but is party to the International
6 Convention for the Safety of Life at Sea, 1960 (SOLAS
7 60) possesses current valid SOLAS 60 certificates and
8 comply with the flag state's requirements and standards
9 concerning ship certification;

10 (d) all foreign flag vessels whose flag state is
11 not a party to either SOLAS 74 or SOLAS 60 meets all
12 applicable structural and safety requirements contained
13 in the published rules of a member of the International
14 Association of Classification Societies (IACS) and
15 comply with other flag state requirements and standards
16 concerning ship certification;

17 (e) submission of the applicable certification
18 in accordance with this section for each vessel to be
19 used in the Seabed Mineral Activities which has not
20 previously been submitted to the NSRA, not less than 5
21 Business Days before the commencement of the cruise on
22 which the vessel will be used; and

23 (f) all vessels, installations and equipment are
24 in good repair.

25 (2) A person who does not comply with any of the

1 provisions of subsection (1) commits an offense, and any
2 person guilty of that offense shall be liable to a fine
3 not exceeding one hundred thousand dollars (\$100,000) or
4 to a prison term not exceeding 3 years or both."

5 Section 115. Title 24 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by inserting a
7 new section 1002 under chapter 10 of subtitle II, to read as
8 follows:

9 "Section 1002. Discovery by Title Holder of Seabed
10 Minerals not covered by Title.

11 (1) A Title Holder shall notify the NSRA during the
12 course of conducting Seabed Mineral Activities of the
13 discovery and location of any Seabed Minerals to which
14 that Title does not relate, within thirty days of the
15 discovery.

16 (2) Any application to include newly discovered
17 Seabed Minerals in an existing Title shall be treated as
18 a variation of the Title, in accordance with the
19 relevant provisions of this subtitle or as may be
20 prescribed."

21 Section 116. Title 24 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by inserting a
23 new section 1003 under chapter 10 of subtitle II, to read as
24 follows:

25 "Section 1003. Environmental conditions arising from

1 Environmental and Social Impact Assessment.
 2 The terms of any environmental conditions arising from
 3 an Environmental and Social Impact Assessment conducted
 4 in compliance with this subtitle or any other law of the
 5 Federated States of Micronesia shall be adopted as part
 6 of the terms and conditions of any Title issued under
 7 this subtitle.”

8 Section 117. Title 24 of the Code of the Federated States of
 9 Micronesia, as amended, is hereby further amended by inserting a
 10 new section 1004 under chapter 10 of subtitle II, to read as
 11 follows:

12 “Section 1004. Reports required under this subtitle.
 13 The form and content of any date or report required to
 14 be supplied to the NSRA under this subtitle shall
 15 conform to any requirement Prescribed or specified in
 16 the conditions of the relevant Title.”

17 Section 118. Title 24 of the Code of the Federated States of
 18 Micronesia, as amended, is hereby further amended by inserting a
 19 new section 1005 under chapter 10 of subtitle II, to read as
 20 follows:

21 “Section 1005. Transfer of Title.
 22 (1) No Title granted under this subtitle can be
 23 assigned, transferred, leased, sub-let or mortgaged
 24 without the NSRA’s prior written consent.
 25 (2) In considering whether or not to give such

1 consent, the NSRA may require the same information from
2 the proposed transferee as would be required of a new
3 Applicant for the same Title under this subtitle, and an
4 undertaking that the transferee assumes all of the
5 obligations of the transferor, and the NSRA may require
6 the transferee to comply with the same processes as are
7 required by this subtitle or otherwise Prescribed for an
8 Application for that type of Title.

9 (3) A transfer of Title will only become effective
10 upon payment of any transfer fee required under section
11 901 of this subtitle, and entry into the register of
12 Titles maintained by the NSRA under section 406 of this
13 subtitle.”

14 Section 119. Title 24 of the Code of the Federated States of
15 Micronesia, as amended, is hereby further amended by inserting a
16 new section 1006 under chapter 10 of subtitle II, to read as
17 follows:

18 “Section 1006. Change of Ownership, Constitution or
19 Control of a Title Holder.

20 (1) A Title Holder shall notify the NSRA of any
21 significant change in the constitution, ownership,
22 control or corporate organization of the Title Holder.

23 (2) The NSRA shall determine whether a change of the
24 type stipulated in subsection (1) shall be considered a
25 transfer for the purposes of section 1005 of this

1 subtitle."

2 Section 120. Title 24 of the Code of the Federated States of
 3 Micronesia, as amended, is hereby further amended by inserting a
 4 new section 1007 under chapter 10 of subtitle, to read as follows:

5 "Section 1007. Suspension of Title.

6 (1) A Title confers no entitlements during any period
 7 it is suspended under this subtitle.

8 (2) The power to suspend a Title under this subtitle
 9 includes a power to lift the suspension."

10 Section 121. Title 24 of the Code of the Federated States of
 11 Micronesia, as amended, is hereby further amended by inserting a
 12 new section 1008 under chapter 10 of subtitle II, to read as
 13 follows:

14 "Section 1008. Termination of Title. A Title granted
 15 terminates if, pursuant to this subtitle:

- 16 (a) its term expires, without renewal;
- 17 (b) it is surrendered by the Title Holder;
- 18 (c) it is revoked by the NSRA; or
- 19 (d) in the case of an Exploration License, it
 20 ceases to be in force in respect of the whole of its
 21 area under section 617 of this subtitle."

22 Section 122. Title 24 of the Code of the Federated States of
 23 Micronesia, as amended, is hereby further amended by inserting a
 24 new section 1009 under chapter 10 of subtitle II, to read as
 25 follows:

1 “Section 1009. Grant of Title confers reasonable rights
2 of access.

3 A Title under this subtitle entails the right of
4 navigation within the Exclusive Economic Zone (or
5 Territorial Sea and internal waters where such
6 responsibility has been delegated to NSRA by State under
7 this subtitle) in so far as is reasonably required by
8 the Title Holder to access the area that is the subject
9 of the consent or Title.”

10 Section 123. Title 24 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by inserting a
12 new section 1010 under chapter 10 of subtitle II, to read as
13 follows:

14 “Section 1010. Nothing under this subtitle to authorize
15 unnecessary interference with other sea users.

16 (1) A Title Holder must carry out the Seabed Mineral
17 Activities in such a way that will not interfere
18 unreasonably with the exercise of the freedom of the
19 high seas as reflected in Article 87 of the UN
20 Convention on the Law of the Sea, or the unreasonable
21 interference with any other subsisting legitimate use of
22 any part of the sea or the seabed.

23 (2) Any works or installations erected by a Title
24 Holder in or over any part of the sea must be of such
25 sort and must be made, placed, marked and buoyed,

1 equipped and maintained in such a way as to leave safe
 2 and convenient channels for shipping in the area.

3 (3) A Title Holder contravenes this section if:

4 (a) its performance of Seabed Mineral Activities
 5 or Ancillary Operations, interferes with lawfully
 6 conducted:

7 (i) navigation;

8 (ii) fishing;

9 (iii) submarine cabling;

10 (iv) Marine Scientific Research;

11 (v) conservation of the resources of the
 12 sea or the seabed; or

13 (vi) any other activities that are lawfully
 14 being carried out; and

15 (b) that interference is greater than is
 16 necessary for the reasonable exercise of the rights or
 17 performance of the person's duties under the Title.

18 (4) Any person who contravenes this section commits
 19 an offense punishable upon conviction to a fine not
 20 exceeding five thousand dollars (\$5,000)."

21 Section 124. Title 24 of the Code of the Federated States of
 22 Micronesia, as amended, is hereby further amended by inserting a
 23 new section 1011 under chapter 10 of subtitle II, to read as
 24 follows:

25 "Section 1011. Rights of other nations.

1 (1) Nothing in this subtitle affects the rights of
2 other nations in accordance with Article 142 and other
3 relevant provisions of the UN Convention on the Law of
4 the Sea.

5 (2) Any other national Government which has grounds
6 for believing that Seabed Mineral Activities have
7 caused, are causing, or are likely to cause Serious Harm
8 to the Environment under its jurisdiction may notify the
9 NSRA in writing of the grounds upon which such belief is
10 based. The NSRA shall provide any Applicant or Title
11 Holder affected by the notice with a reasonable
12 opportunity to examine the notice and evidence, if any,
13 provided by the Government as the basis for its belief,
14 and submit its observations thereon to the NSRA within a
15 time that is reasonable in the circumstances.

16 (3) If in the NSRA's opinion, upon consultation with
17 the relevant stakeholders, there are clear grounds for
18 the national Government's belief under subsection (2),
19 the NSRA must take immediate measures of a temporary
20 nature to stop, prevent, or mitigate that harm to the
21 Environment, including by direction or Order to any
22 affected Title Holders."

23 Section 125. Title 24 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by inserting a
25 new section 1012 under chapter 10 of subtitle II, to read as

1 follows:

2 "Section 1012. Objects of an archaeological or
 3 historical nature:

4 (1) Any Title Holder finding an object of an
 5 archaeological or historical nature within the
 6 jurisdiction or control of the Federated States of
 7 Micronesia must report that find to the NSRA and treat
 8 the object in accordance with the NSRA's instructions,
 9 and must safeguard the object pending receipt of those
 10 instructions.

11 (2) The instructions given by the NSRA under this
 12 section shall take into account Articles 149 and 303 of
 13 the UN Convention on the Law of the Sea."

14 Section 126. Title 24 of the Code of the Federated States of
 15 Micronesia, as amended, is hereby further amended by inserting a
 16 new section 1013 under chapter 10 of subtitle II, to read as
 17 follows:

18 "Section 1013. No interest in land.
 19 The grant of a Title under this subtitle does not create
 20 an estate or interest in land other than the rights
 21 expressly granted by this subtitle or the Title, nor
 22 does a grant of a Title give rise to land taxation
 23 duties."

24 Section 127. Title 24 of the Code of the Federated States of
 25 Micronesia, as amended, is hereby further amended by inserting a

1 new section 1014 under chapter 10 of subtitle II, to read as
 2 follows:

3 "Section 1014. Safety Zones.

4 (1) For the purpose of protecting an installation,
 5 infrastructure, facility or vessel being used for Seabed
 6 Mining Activities, the NSRA may, by notice, prohibit all
 7 vessels or specified classes of vessels, from entering
 8 or being present in a specified surrounding area ('the
 9 safety zone') without the written consent of the NSRA.

10 (2) The owner of a vessel and any person in formal or
 11 substantive command of a vessel commits an offense
 12 against this section if the vessel enters or remains in
 13 a safety zone in contravention of subsection (1).

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

17 (4) It is a defense to a prosecution of a person for
 18 an offense against subsection (2) if the person
 19 satisfies the court that:

20 (i) an unforeseen emergency made it necessary
 21 for the vessel to enter or remain in the safety zone to
 22 attempt to secure the safety of human life, a vessel,
 23 pipeline, structure, or equipment;

24 (ii) the vessel entered or remained in the safety
 25 zone in circumstances beyond the control of the person

1 who was in command or in charge of the vessel; or

2 (iii) the vessel's owner is under prosecution and
3 did not know that the person in command or in charge of
4 the vessel was in contravention of subsection (2)."

5 Section 128. Title 24 of the Code of the Federated States of
6 Micronesia, as amended, is hereby further amended by inserting a
7 new section 1015 under chapter 10 of subtitle II, to read as
8 follows:

9 "Section 1015. Interference with Seabed Mineral
10 Activities.

11 (1) Unless authorized under this subtitle or
12 Regulations, no person may interfere with Seabed Mineral
13 Activities, or Ancillary Operations.

14 (2) For the purposes of this section, "interfere"
15 means willful sabotage of operations, or violence
16 against any representative of the NSRA or a Title Holder
17 in the performance of their respective functions and
18 duties under this subtitle or a Title, or similar
19 physical interference or obstruction without reasonable
20 excuse.

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

23 (4) Any person guilty of an offense under this
24 section shall be liable to a fine not exceeding five
25 thousand dollars (\$5,000) or to a prison term not

1 exceeding two years or both.”

2 Section 129. Title 24 of the Code of the Federated States of
3 Micronesia, as amended, is hereby further amended by inserting a
4 new section 1016 under chapter 10 of subtitle II, to read as
5 follows:

6 “Section 1016. Indemnity of Public Officials
7 The NSRA, authorized officers of the NSRA, and other
8 Public Officials shall not be liable for anything done
9 or omitted to be done in good faith in the performance
10 of any function vested in or delegated to them under
11 this subtitle.”

12 Section 130. Title 24 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting a
14 new section 1017 under chapter 10 of subtitle II, to read as
15 follows:

16 “Section 1017. Public Officials prohibited from
17 acquiring Title rights.

18 (1) No Public Official shall, directly or indirectly,
19 acquire any individual right or interest in any Title,
20 and any document or transaction purporting to confer any
21 right or interest on any such officer shall be null and
22 void.

23 (2) No member of the NSRA or Public Official employed
24 in the NSRA shall in their personal capacity acquire or
25 retain any share or commercial interest in a private

1 company carrying Seabed Mineral Activities during that
2 employment or within two years following the cessation
3 of that employment.

4 (3) Any person who violates subsection (2) commits an
5 offense.

6 (4) Any person guilty of an offense under this
7 section shall be liable to a fine not exceeding fifty
8 thousand dollars (\$50,000) or to a prison term not
9 exceeding two years or both."

10 Section 131. Title 24 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by inserting a
12 new section 1018 under chapter 10 of subtitle II, to read as
13 follows:

14 "Section 1018. Conflict of interest.

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

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

1 member directly or indirectly owns or controls, or in
2 which he or she has a beneficial interest of any kind,
3 whether through a trust or otherwise.

4 (3) Any conflict of interest shall be disclosed, and
5 such disclosure shall be recorded in the minutes of the
6 NSRA, and that member or employee shall not take part in
7 any deliberation, decision, or execution of a decision
8 of the NSRA.

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

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

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

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

25 (d) 'Interest' shall mean either direct

1 ownership of, indirect ownership of, shares in,
2 financial benefit from, or complete or partial control
3 of, such property or business.

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

7 (5) A person who violates the provisions of this
8 section commits an offense and upon conviction shall be
9 liable to a fine of not more than fifty thousand dollars
10 (\$50,000), imprisonment for not more than three years,
11 or both."

12 Section 132. Title 24 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting a
14 new section 1019 under chapter 10 of subtitle II, to read as
15 follows:

16 "Section 1019. Import Duties.

17 (1) A Title Holder and its nominated contractors and
18 subcontractors engaged in Seabed Mineral Activities are
19 hereby permitted to import into the Federated States of
20 Micronesia's jurisdiction free of duty or other taxes on
21 imports of machinery, equipment, vehicles, materials,
22 supplies, consumable items, and moveable property where
23 imports of any of the said categories have been
24 certified by the Title Holder to be for use solely in
25 carrying out Seabed Mineral Activities under the Title.

1 (2) Any of the items imported into the Federated
2 States of Micronesia may, if no longer required for the
3 Seabed Mineral Activities, be freely exported at any
4 time by the importing party without the payment of any
5 export or import duty.

6 (3) On the sale or transfer by the importer of any
7 duty free imported items to any person in the Federated
8 States of Micronesia, import duty shall be payable by
9 the importer on the value thereof at the date of such
10 sale or transfer."

11 Section 133. Title 24 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by inserting a
13 new section 1020 under chapter 10 of subtitle II, to read as
14 follows:

15 "Section 1020. Offense committed by a body corporate.
16 Where an offense under this subtitle that has been
17 committed by a body corporate is committed with the
18 consent or connivance, or is attributable to the
19 neglect, of any Director or officer of the body
20 corporate, that officer as well as the body corporate is
21 guilty of that offense and, in respect of an offense
22 punishable by a fine only, if the court finds that the
23 offense was committed by that person willfully,
24 recklessly, corruptly or for the purpose of personal
25 gain, that officer is liable to imprisonment for a

1 period of up to two years.”

2 Section 134. Title 24 of the Code of the Federated States of
 3 Micronesia, as amended, is hereby further amended by inserting a
 4 new section 1021 under chapter 10 of subtitle II, to read as
 5 follows:

6 “Section 1021. Notice.
 7 Any application, request, notice, warning, report, or
 8 direction made or given under this subtitle, or service
 9 of process or notification in any proceeding of any
 10 court or tribunal having jurisdiction, shall be made by
 11 the NSRA or the representative of the Title Holder
 12 designated in the Title in writing, and shall be deemed
 13 served the day after delivery, if delivered by hand,
 14 facsimile or email to the NSRA or to the designated
 15 representative.”

16 Section 135. Title 24 of the Code of the Federated States of
 17 Micronesia, as amended, is hereby further amended by inserting a
 18 new section 1022 under chapter 10 of subtitle II, to read as
 19 follows:

20 “Section 1022. Disputes.
 21 (a) Any dispute arising between the Federated
 22 States of Micronesia and another State in connection
 23 with Seabed Mineral Activities shall be resolved
 24 pursuant to the provisions of the UN Convention on the
 25 Law of the Sea;

1 (b) Any dispute between the Federated States of
2 Micronesia and a Title Holder arising in connection with
3 the administration of this subtitle shall be dealt with
4 by:

5 (i) the parties attempting to reach
6 settlement by mutual agreement or mediation, and in the
7 event this is not successful then,

8 (ii) by referral to the courts of the
9 Federated States of Micronesia or, upon agreement by the
10 parties, by arbitration to be conducted by the
11 International Centre for Settlement of Investment
12 Disputes established under Convention on the Settlement
13 of Investment Disputes between States and Nationals of
14 other States."

15 Section 136. Title 24 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by inserting a
17 new section 1023 under chapter 10 of subtitle II, to read as
18 follows:

19 "Section 1023. Transitional provisions
20 One year from the commencement of this subtitle:

21 (a) any authority or minerals right granted
22 under any other legislation or otherwise to carry out
23 Seabed Mineral Activities in the Exclusive Economic Zone
24 or upon the Continental Shelf shall expire; and

25 (b) any person or persons who were before the

1 commencement of this subtitle authorized to carry out
 2 Seabed Mineral Activities in the Exclusive Economic Zone
 3 or upon the Continental Shelf, to allow the continuation
 4 of such activities, shall obtain a Permit or License
 5 under this subtitle and comply with the requirements of
 6 this subtitle.”

7 Section 137. Title 24 of the Code of the Federated States of
 8 Micronesia, as amended, is hereby further amended by inserting a
 9 new section 1024 under chapter 10 of subtitle II, to read as
 10 follows:

11 “Section 1024. Schedule I: Environmental and Social
 12 Impact Assessment Contents.

13 For the purpose of section 622 of this subtitle, the
 14 following is the minimum required content of an
 15 Environmental and Social Impact Assessment and resulting
 16 report, where one is required under this subtitle or any
 17 other laws of the Federated States of Micronesia for any
 18 part of any Seabed Mineral Activities carried out under
 19 License under this subtitle.

20 A. Executive Summary: providing an explanation of
 21 the Seabed Mineral Activities for non-technical readers,
 22 including:

23 (1) description of the proposed activity and its
 24 objectives,

25 (2) anticipated bio-physical and socio-economic of

1 the activity, highlighting which are direct and which
 2 indirect, and which are reversible and which are
 3 irreversible,

4 (3) details of remedial actions that are proposed,
 5 (4) description of all benefits to be derived from
 6 the project,

7 (5) details of consultation program undertaken by the
 8 applicant, including degree of public interest,

9 (6) description of end-use plans for the development
 10 activity

11 B. Introduction

12 (1) Background: summary of the project being
 13 proposed.

14 (2) Project History: summary of the work undertaken
 15 to date, including Seabed Mineral deposit discovery and
 16 any prospecting, exploration or test mining activities
 17 conducted to date.

18 (3) Project Proponent: summary of the credentials of
 19 the Licensee, including major shareholders, other Titles
 20 owned or applied for (or similar within other
 21 jurisdictions).

22 (4) Purpose and Justification: information on the
 23 viability of the proposed activity, including but not
 24 limited to the following:

25 (i) information on the capital cost

1 associated with the development,
 2 (ii) details of the proponent's
 3 technological expertise and resources,
 4 (iii) results of any feasibility
 5 investigations that have been carried out,
 6 (iv) information on the extent of landowner
 7 and/or resource owner support, including a copy of the
 8 formal written approval of their consent,
 9 (v) the anticipated life-span and
 10 development phases of the project.

11 (5) This Report: statutory context, description of
 12 the scope of the EIA, and the report's structure.

13 C. Policy, Legal and Administrative Framework:
 14 information on relevant national legislation, agreements
 15 or policy, relevant international agreements or
 16 conventions, and other non-legal standards or
 17 guidelines, that are applicable to the proposed
 18 activity, and how the Licensee will comply with these
 19 requirements.

20 D. Stakeholder Consultation: description of what
 21 consultation has occurred with interested parties and
 22 stakeholders, any consents received from local
 23 communities, and what continuing consultation is
 24 planned.

25 E. Description of Proposed Activity: including the

- 1 following:
- 2 (1) Location (with reference to a map)
- 3 (2) Details of the type, grade and volume of the
 4 Seabed Mineral deposit, and estimates of inferred and
 5 indicated resource
- 6 (3) The activity or activities that have triggered
 7 the Environmental and Social Impact Assessment
 8 requirement, a work plan showing how these are proposed
 9 to be conducted
- 10 (4) A proposed timetable, with milestone dates by
 11 which tasks are expected to be completed
- 12 (5) Seabed infrastructure to be used
- 13 (6) Technology to be employed (with reference to
 14 relevant diagrams and drawings), and details of any
 15 construction and operating standards used
- 16 (7) Transport to be used
- 17 (8) Storage facilities to be used
- 18 (9) Anticipated waste products, and waste disposal
 19 mechanisms to be used
- 20 (10) Any material-handling or hazardous material
 21 management methods or protocols to be used
- 22 (11) Any Ancillary Operations, support equipment or
 23 onshore infrastructure or processes required to carry
 24 out the activity.
- 25 (12) Alternative sites or methods considered

- 1 (13) Workforce description and details of any health
 2 and safety standards used
- 3 (14) Decommissioning, closure, and site rehabilitation
 4 plans
- 5 F. Description of Existing Environment: detailed
 6 account of knowledge of the environmental conditions at
 7 the site, and a baseline description of geological,
 8 oceanographic and biological conditions against which
 9 impacts will be measured and assessed, including:
- 10 (1) Regional oceanographic, geological and biological
 11 overview
- 12 (2) Studies and research activities completed which
 13 provide relevant information
- 14 (3) Special characteristics of the site
- 15 (4) Meteorology and air quality
- 16 (5) Geological setting
- 17 (6) Physical oceanographic setting, including water
 18 quality and sediment characteristics
- 19 (7) Biological environment
- 20 (i) Pelagic (surface to 200m depth)
- 21 (ii) Midwater (between 200m depth and seafloor)
- 22 (iii) Benthic (at seafloor level)
- 23 (8) Natural hazards
- 24 (9) Noise
- 25 (10) Air quality

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- 1 (11) Description of existing onshore environment, as
2 relevant
- 3 (12) Socio-economic environment of the site,
4 including: other Seabed Mineral Activities, fisheries,
5 Marine Scientific research, navigation lanes, submarine
6 cabling, tourism, customary sea use, aquaculture.
- 7 (13) Cultural/Historic resources
- 8 (14) Socio-economic and socio-cultural issues
9 generally, including onshore direct or indirect impacts,
10 and anticipated effects on the livelihoods and
11 lifestyles of the population of the Federated States of
12 Micronesia.
- 13 G. Environmental impacts on the seabed site, the
14 regional site, and the coastal and onshore environment,
15 mitigation and management measures-
- 16 (1) the nature and extent of any impact on any and
17 all of the categories listed in section F, and also,
18 insofar as not covered by the section F categories, the
19 effects / issues anticipated from:
- 20 (i) Greenhouse gas emissions and climate
21 change;
- 22 (ii) Biosecurity
- 23 (iii) Pollution
- 24 (iv) Health and safety of workers
- 25 (v) Waste management

- 1 (vi) Economic benefit or impact for the
- 2 Federated States of Micronesia
- 3 (vii) Skills development, industry diversity
- 4 and community impacts for the Federated States of
- 5 Micronesia
- 6 (viii) Supply chain, utilities, access to
- 7 water, fuel, and impact to local communities in terms of
- 8 access to supplies
- 9 (ix) Any other direct or indirect impacts on
- 10 the Federated States of Micronesia's population
- 11 (x) Environmentally hazardous discharges
- 12 resulting from accidental and extreme natural events
- 13 (2) measures that will be taken to avoid, mitigate,
- 14 minimize or such impact; and
- 15 (3) what unavoidable impacts will remain;
- 16 (4) how those impacts will be compensated for.
- 17 H. Environmental Management, Monitoring and Reporting
- 18 (1) Organizational structure and responsibilities for
- 19 environmental management
- 20 (2) Environmental management plan, including –
- 21 (i) Impact mitigation and minimizing
- 22 (ii) Monitoring plan
- 23 (3) Closure and rehabilitation plan
- 24 (4) Monitoring studies
- 25 (5) Reporting

