

A BILL FOR AN ACT

To further amend title 24 of the Code of the Federated States of Micronesia (Annotated), as amended, for the purpose of strengthening measures for the conservation and protection of marine resources under national jurisdiction, by adding a new subtitle III to enact a FSM Marine Spatial Plan for the Federated States of Micronesia; to provide for national marine protected areas; to require environmental impact assessment whenever applicable in the Exclusive Economic Zone of the Federated States of Micronesia and other marine areas over which the Federated States of Micronesia is entitled to exercise or assert sovereign rights; to amend section 2025 of subtitle II of title 24 of the FSM Code, as amended, by carving out from its application Protected Area and Marine Reserve as defined in such subtitle, 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 (Annotated), as amended, is hereby amended by adding
3 a new subtitle III, entitled: "Marine Spatial Planning Act of
4 2022."

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

9 Section 3. Title 24 of the Code of the Federated States of
10 Micronesia (Annotated), as amended, is hereby further amended by
11 inserting a new section 101 under chapter 1 of subtitle III, to
12 read as follows:

13 "Section 101. Short Title. This subtitle shall be

1 known and may be cited as the "FSM Marine Spatial
2 Planning Act of 2022"."

3 Section 4. Title 24 of the Code of the Federated States of
4 Micronesia (Annotated), as amended, is hereby further amended by
5 inserting a new section 102 under chapter 1 of subtitle III, to
6 read as follows:

7 "Section 102. Legislative findings. The FSM Congress
8 finds that:

9 1) The Pacific Ocean and its many resources are of
10 environmental, economic, aesthetic, recreational,
11 social, cultural and historic importance to the people
12 of the Federated States of Micronesia.

13 2) The prospecting, exploration, development and
14 extraction of ocean resources by both private companies
15 and government-backed initiatives have gained increasing
16 attention, raising the risk of conflicting uses and
17 demands on ocean resources for food and minerals, which
18 may jeopardize values of importance to the people of the
19 Federated States of Micronesia.

20 3) It is important that the Federated States of
21 Micronesia engage in comprehensive marine spatial
22 planning, including the development and maintenance of a
23 marine spatial plan, to promote integrated management of
24 living and non-living marine resources within national
25 jurisdiction, in particular, in the exclusive economic

1 zone and in the areas considered as continental shelf
2 beyond the exclusive economic zone; to ensure effective
3 participation in planning and management of ocean
4 resources and uses which may affect the Federated States
5 of Micronesia; to coordinate management of ocean
6 resources with state and local government management of
7 coastal shores and resources; and to support long-term
8 conservation in the exclusive economic zone of the
9 Federated States of Micronesia, including by ensuring
10 the full protection of at least 30 (thirty) percent of
11 these waters.

12 4) While much is known about the ocean, its
13 composition, attributes, and resources, additional
14 research is required to gain information and
15 understanding necessary for sound ocean planning and
16 management."

17 Section 5. Title 24 of the Code of the Federated States of
18 Micronesia (Annotated), as amended, is hereby further amended by
19 inserting a new section 103 under chapter 1 of subtitle III, to
20 read as follows:

21 "Section 103. Purpose and legislative policy. This
22 subtitle establishes the framework for implementing
23 marine spatial planning in the Federated States of
24 Micronesia. The purposes of this subtitle are to:

25 1) promote economic growth, the environmentally

1 sound development of marine waters of the Federated
2 States of Micronesia and the use of marine resources on
3 a sustainable basis;

4 2) provide for the designation and management of
5 national marine protected areas;

6 3) contribute to achieving the goals of marine
7 spatial planning described in this subtitle; and

8 4) establish the principles of planning and the
9 requirements for the planning procedure.”

10 Section 6. Title 24 of the Code of the Federated States of
11 Micronesia (Annotated), as amended, is hereby further amended by
12 inserting a new section 104 under chapter 1 of subtitle III, to
13 read as follows:

14 “Section 104. Application of this subtitle. This
15 subtitle applies to:

16 1) all individuals, whether or not citizens of or
17 residents in the Federated States of Micronesia; and

18 2) all bodies corporate, whether or not
19 incorporated or carrying on business in the Federated
20 States of Micronesia.”

21 Section 7. Title 24 of the Code of the Federated States of
22 Micronesia (Annotated), as amended, is hereby further amended by
23 inserting a new section 105 under chapter 1 of subtitle III, to
24 read as follows:

25 “Section 105. Jurisdiction. This subtitle applies to

1 the entire territory of the Federated States of
2 Micronesia under national jurisdiction, including all
3 areas over which the Federated States of Micronesia
4 exercises sovereignty or is entitled to assert sovereign
5 rights, and further including, for all marine waters,
6 the seabed, subsoil, and water column."

7 Section 8. Title 24 of the Code of the Federated States of
8 Micronesia (Annotated), as amended, is hereby further amended by
9 inserting a new section 106 under chapter 1 of subtitle III, to
10 read as follows:

11 "Section 106. Definitions. For the purposes of this
12 Act, the following definitions shall apply:

13 1) "Activities" includes any commercial,
14 recreational, conservation, cultural, subsistence, or
15 other activities carried out by humans in marine waters,
16 including, without limitation, fishing and other
17 harvesting of fauna and flora; swimming; surfing;
18 boating, yachting, and sailing; shipping; diving and
19 snorkeling; mineral exploration and extraction;
20 research, education, and training; tourism; wildlife
21 viewing; energy production; transportation; and
22 aquaculture;

23 2) "Atoll" means a naturally formed coral reef
24 system which has one or more islands situated on the
25 reef system, including, but not limited to, Ngulu,

1 Ulithi, Sorol, Eauripik, Woleai, Faraulep, Ifalik,
2 Olaimarao, Elato, Lamotrek, West Fayu, Puluwat, Pulap,
3 Pulusuk, Namonuito, Kuop, Nomowin, Murilo, Losap,
4 Namoluk, Satawan, Etal, Lukunor, Minto Reef, Oroluk,
5 Nukuoro, Kapingamarangi, Pakin, Ant, Sapwuahfik,
6 Mwoakilloa and Pingelap;

7 3) "Authorized Officer" means any person or category
8 of persons designated pursuant to section 602 of chapter
9 6 of this subtitle as an authorized officer;

10 4) "Citizen" means a person who is a citizen of the
11 Federated States of Micronesia;

12 5) "Closed Area" means an area in which fishing or
13 other extraction of resources is prohibited;

14 6) "Closed Season" means a period of time during
15 which fishing or other extraction of resources is
16 prohibited;

17 7) "Committee" means the National Marine Spatial
18 Planning Advisory Committee established pursuant to
19 section 204 of chapter 2 of this subtitle;

20 8) "Commercial Fishing" means any fishing resulting
21 or intending or appearing to result in the sale or trade
22 of any fish which may be taken during the fishing
23 operations, and does not include subsistence fishing;

24 9) "Continental Shelf" means the continental shelf
25 of the Federated States of Micronesia as defined in

1 title 18 of this code, and includes any areas of
2 extended continental shelf as further defined therein
3 and claimed by the Federated States of Micronesia in
4 accordance with article 76 of the United Nations
5 Convention on the Law of the Sea;

6 10) "Contiguous Zone" means the contiguous zone of
7 the Federated States of Micronesia as defined in title
8 18 of this code;

9 11) "Court" means the Supreme Court of the Federated
10 States of Micronesia;

11 12) "Department" means the Department of Resources
12 and Development;

13 13) "Exclusive Economic Zone" means the exclusive
14 economic zone of the Federated States of Micronesia as
15 defined in title 18 of this code;

16 14) "Fish" means any living marine resource;

17 15) "Internal Waters" means the internal waters of
18 the Federated States of Micronesia as defined in title
19 18 of this code;

20 16) "Island" means a naturally formed area of land
21 surrounded by water, which is above water at high tide;

22 17) "Marine Protected Area" means an ocean area
23 designated as a national marine protected area and
24 managed pursuant to chapter 4 of this subtitle, or
25 pursuant to another law of a State or of the Federated

1 States of Micronesia, or by other lawful means, to
2 achieve the long-term conservation of nature with
3 associated ecosystem services and cultural values;

4 18) "Marine Resource" means the natural resources in
5 the marine waters of the Federated States of Micronesia,
6 whether living or non-living;

7 19) "Marine Spatial Plan" or Plan" means a plan,
8 adopted pursuant to this Act, or by a State marine
9 spatial planning law, including all associated maps and
10 materials, that allocates the spatial and temporal
11 distribution of human activities in an area of marine
12 waters of the Federated States of Micronesia;

13 20) "Marine Spatial Planning" means the public
14 process established by this Act, or by a State marine
15 spatial planning law, for analyzing and allocating the
16 spatial and temporal distribution of human activities in
17 an area of marine waters of the Federated States of
18 Micronesia to achieve ecological, economic, and social
19 objectives;

20 21) "Marine Waters of the Federated States of
21 Micronesia" or "Marine Waters" means the waters located
22 within the maritime zones of the Federated States of
23 Micronesia, and unless otherwise specified, includes:
24 the water column; the seabed, subsoil, and any minerals
25 contained therein; the continental shelf and any

1 extension thereof; all flora, fauna, historical or
2 cultural features; anyone or anything else located in or
3 on the water and the subsoil; and natural phenomena such
4 as tidal, wind, and solar influences;

5 22) "Maritime Zone" means the internal waters,
6 Territorial Sea, contiguous zone, and exclusive economic
7 zone of the Federated States of Micronesia, and any
8 other such zone that may be lawfully established
9 pursuant to title 18 of this code;

10 23) "Ocean Area" means any clearly defined
11 geographical area located within the marine waters of
12 the Federated States of Micronesia, and unless otherwise
13 specified, includes: the surface and airspace above the
14 water; the water column; the seabed, subsoil, and any
15 minerals contained therein; the continental shelf and
16 any extension thereof; all flora, fauna, historical or
17 cultural features; anyone or anything else located in or
18 on the water; and natural phenomena such as tidal, wind,
19 and solar influences;

20 24) "Offshore" means the marine waters located beyond
21 12 (twelve) nautical miles from baselines;

22 25) "Person" means and natural person or business
23 enterprise and includes, but is not limited to, a
24 corporation, partnership, cooperative, association, the
25 government of any of the four States, or any political

1 subdivision thereof, and any foreign government,
2 subdivisions of such government or other entity;

3 26) "Plan Area" means the total area of marine waters
4 of the Federated States of Micronesia covered by a
5 marine spatial plan;

6 27) "Protected Areas Network" or "PAN" means the
7 National Protected Areas Network of the Federated States
8 of Micronesia, as it may be further elaborated through
9 policy statements and law;

10 28) "Recreational Fishing" means fishing for sport or
11 leisure;

12 29) "Regulation" or "Regulations" means any
13 regulation which may be promulgated pursuant to this
14 subtitle;

15 30) "Secretary" means the Secretary of the Department
16 of Resources and Development;

17 31) "Territorial Sea" means the Territorial Sea of
18 the Federated States of Micronesia as defined in title
19 18 of this code; and

20 32) "Use Zone" means an area of marine waters that is
21 designated as a zone for purposes of this Act and that
22 prioritizes or excludes one or more activities or forms
23 of development."

24 Section 9. Title 24 of the Code of the Federated States of
25 Micronesia (Annotated), as amended, is hereby further amended by

1 inserting a new section 107 under chapter 1 of subtitle III, to
2 read as follows:

3 "Section 107. Principles and approaches. To achieve
4 the objectives of this subtitle, and in the
5 implementation of this subtitle, the Federated States of
6 Micronesia shall be guided by the following principles
7 and approaches:

8 1) the principle of non-regression (a commitment to
9 not walking back environmental protections, once in
10 place, afforded by law or regulation);

11 2) the polluter pays principle (the individual or
12 company responsible for introducing or spreading
13 pollution should bear the costs of measures to prevent,
14 eradicate, contain or manage that pollution and to
15 mitigate and remediate the damage it gives rise to);

16 3) the precautionary principle (lack of full
17 scientific certainty should not be used as a reason for
18 postponing measures to prevent environmental damage to
19 habitats or species when there is a threat of serious or
20 irreversible environmental degradation);

21 4) evidence-based decision making (making decisions
22 about a program, practice, or policy that are grounded
23 in the best available research evidence and informed by
24 experiential evidence from the field and relevant
25 contextual evidence);

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- 1 5) the use of best available science;
- 2 6) the use of best available technology;
- 3 7) the ecosystem approach (a strategy for the
4 integrated management of land, water and living
5 resources that promotes conservation and sustainable use
6 in an equitable way);
- 7 8) ecosystem-based management (integration of
8 biological, social, and economic factors into a
9 comprehensive strategy aimed at protecting and enhancing
10 sustainability, diversity, and productivity of natural
11 resources);
- 12 9) an integrated approach (an integrated approach to
13 the conservation of marine resources and the management
14 of maritime activities that is cross-sectoral and also
15 works across the various levels of government);
- 16 10) adaptive management (a systematic approach for
17 improving management through learning by management
18 outcomes);
- 19 11) an approach that builds ecosystem resilience to
20 the adverse effects of climate change and ocean
21 acidification and restores ecosystem integrity;
- 22 12) consideration of the traditional knowledge and
23 practices held by indigenous peoples and local
24 communities;
- 25 13) recognition of traditional leadership

1 (traditional leaders should be consulted on management
2 and in decisions about over-consumption or the
3 destruction of any species, place, or thing);

4 14) not undermining conservation efforts;

5 15) the non-transfer, directly or indirectly, of
6 damage of hazards from one area to another and the non-
7 transformation of one type of pollution into another;

8 16) public trust (holding that marine resources
9 belong to the people and are held in trust by the
10 Government for its people and future generations, and
11 that marine waters should be managed as a common area,
12 not owned exclusively by or for the benefit of any one
13 group or private interest);

14 17) transparency (processes used to make decisions
15 should be easily understood by the public, allowing
16 citizens to see how decisions are made, and how
17 resources have been allocated); and

18 18) public participation (the Government shall
19 establish means of public participation by informing all
20 interested parties and by consulting relevant
21 stakeholders and authorities, and the public concerned,
22 at an early stage in the development of a marine spatial
23 plan, in accordance with this subtitle, the law of the
24 Federated States of Micronesia, and traditional
25 processes of engagement)."

1 Section 10. Title 24 of the Code of the Federated States of
2 Micronesia (Annotated), as amended, is hereby further amended by
3 inserting a new section 108 under chapter 1 of subtitle III, to
4 read as follows:

5 "Section 108. Severability. If any provision of this
6 subtitle or amendments or additions thereto, or the
7 application thereof to any person, thing or circumstance
8 is held invalid, the invalidity does not affect the
9 provisions, application, amendments or additions that
10 can be given effect without the invalid provisions or
11 application, and to this end the provisions of this
12 subtitle and the amendments or additions thereto are
13 severable."

14 Section 11. Title 24 of the Code of the Federated States of
15 Micronesia (Annotated), as amended, is hereby further amended by
16 creating a new chapter 2 under subtitle III entitled:
17 "Administration."

18 Section 12. Title 24 of the Code of the Federated States of
19 Micronesia (Annotated), as amended, is hereby further amended by
20 inserting a new section 201 under chapter 2 of subtitle III, to
21 read as follows:

22 "Section 201. Government coordination and
23 administration. The responsibility for developing,
24 executing and implementing a marine spatial plan shall
25 be with the Department of Resources and Development, at

1 the direction of the Secretary in consultation with the
2 National Marine Spatial Planning Advisory Committee
3 established pursuant to section 204 of chapter 2 of this
4 subtitle. The Secretary shall provide timely updates to
5 the President or a secretariat in the President's Office
6 for coordination and accountability purposes."

7 Section 13. Title 24 of the Code of the Federated States of
8 Micronesia (Annotated), as amended, is hereby further amended by
9 inserting a new section 202 under chapter 2 of subtitle III, to
10 read as follows:

11 "Section 202. Secretary of the Department of Resources
12 and Development—duties and functions.

13 1) The Secretary shall formulate and implement a
14 legal framework to promote, administer, manage,
15 implement, and coordinate marine spatial planning in the
16 Federated States of Micronesia.

17 2) The Secretary shall, as appropriate and pursuant
18 to the requirements of this subtitle:

19 a) develop and adopt one or more marine spatial
20 plans;

21 b) modify a marine spatial plan;

22 c) revoke a marine spatial plan;

23 d) ensure cooperation among other governmental
24 departments with respect to marine spatial planning,
25 including by way of consultation with the National

1 Marine Spatial Planning Advisory Committee;
2 e) seek to resolve user conflicts; and
3 f) report to the President on implementation of
4 marine spatial planning in the Federated States of
5 Micronesia at least once every 2 (two) years.

6 3) Except as may be expressly provided, nothing in
7 this subtitle is intended to change or limit the
8 existing authority of the Secretary, the Department, or
9 any other governmental entity."

10 Section 14. Title 24 of the Code of the Federated States of
11 Micronesia (Annotated), as amended, is hereby further amended by
12 inserting a new section 203 under chapter 2 of subtitle III, to
13 read as follows:

14 "Section 203. Regulations.

15 1) The Secretary promulgate suitable regulation
16 according to the Administrative Procedures Act in order
17 to implement this subtitle.

18 2) The Secretary has further authority to adopt
19 regulation with respect to the following subjects:

20 a) the operation of the National Marine Spatial
21 Planning Advisory Committee;

22 b) the content of a marine spatial plan,
23 including its elements and form;

24 c) the process for developing and adopting a
25 marine spatial plan, modifying a marine spatial plan, or

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- 1 revoking a marine spatial plan;
- 2 d) the collection of and response to public
3 comments, or any other aspect of public participation
4 with respect to marine spatial planning;
- 5 e) the categories of use zones that may be
6 included in a marine spatial plan and the applicable
7 requirements for such use zones;
- 8 f) monitoring and conducting reviews of a
9 marine spatial plan;
- 10 g) the designation and management of national
11 marine protected areas in the exclusive economic zone
12 and continental shelf of the Federated States of
13 Micronesia;
- 14 h) the collection, storage, management, and
15 sharing of spatial data and other information
16 pertaining to marine spatial planning;
- 17 i) marine scientific research;
- 18 j) procedures for resolving user conflicts;
- 19 k) prescribing penalties and offenses for
20 violations of this subtitle;
- 21 l) the payment of fees and fines pursuant to
22 this subtitle;
- 23 m) marine spatial plan administration,
24 compliance, and enforcement; and
- 25 n) any other subject deemed necessary for the

1 implementation of this subtitle.

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

5 Section 15. Title 24 of the Code of the Federated States of
6 Micronesia (Annotated), as amended, is hereby further amended by
7 inserting a new section 204 under chapter 2 of subtitle III, to
8 read as follows:

9 "Section 204. National Marine Spatial Planning Advisory
10 Committee—established.

11 1) To provide advise to the Secretary regarding the
12 marine spatial plan, there is hereby a National Marine
13 Spatial Planning Advisory Committee comprised of the
14 following national officials: the Secretary of Justice;
15 the Secretary of Environment, Climate Change and
16 Emergency Management; the Secretary of Foreign Affairs;
17 Secretary of Transportation, Communication &
18 Infrastructure, Director of National Archive, Cultural
19 and Historic Preservation, and the Executive Director of
20 the National Oceanic Resource Management Authority, or
21 their designated representatives.

22 2) The Committee shall:

23 a) review and advise the Secretary on every
24 proposal to adopt, modify, or revoke a marine spatial
25 plan;

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- 1 b) advise the Secretary on the resolution of
2 user conflicts;
- 3 c) advise the Secretary on the review of a
4 marine spatial plan;
- 5 d) facilitate cooperation between relevant
6 governmental departments as it relates to marine spatial
7 planning;
- 8 e) provide a forum for discussing ocean
9 resource policy, planning and management issues and,
10 when appropriate, mediating disagreements; and
- 11 f) otherwise advise, assist, and make
12 recommendations to the Secretary, as requested, on
13 matters relating to the implementation of this subtitle.
- 14 3) The Committee may engage scientific and technical
15 experts, from inside as well as outside of Government,
16 to develop knowledge and understanding of relevant
17 issues related to marine spatial planning. The
18 Committee may also engage with the relevant state
19 officials and agencies to ensure broad consultation with
20 respect to the marine spatial plan."

21 Section 16. Title 24 of the Code of the Federated States of
22 Micronesia (Annotated), as amended, is hereby further amended by
23 creating a new chapter 3 under subtitle III entitled: "Marine
24 Spatial Planning."

1 Section 17. Title 24 of the Code of the Federated States of
2 Micronesia (Annotated), as amended, is hereby further amended by
3 inserting a new section 301 under chapter 3 of subtitle III, to
4 read as follows:

5 "Section 301. Adoption of marine spatial plan.

6 1) The Secretary shall, pursuant to the requirements
7 of this subtitle, adopt one or more marine spatial plans
8 to beneficially organise and regulate activities in the
9 exclusive economic zone of the Federated States of
10 Micronesia.

11 2) Upon delegation by a State of its authority to
12 implement marine spatial planning in the Territorial Sea
13 or internal waters, the Secretary, pursuant to the
14 requirements of this subtitle, shall adopt one or more
15 marine spatial plans according to the delegated
16 authority.

17 3) In preparing and adopting any marine spatial
18 plan, the Secretary shall:

19 a) develop a draft plan that satisfies the
20 requirements of this subtitle;

21 b) seek review of the draft plan by the
22 National Marine Spatial Planning Advisory Committee and
23 seek to address the advice of the Committee;

24 c) ensure adequate consultation with all public
25 and private stakeholders with respect to the plan area,

1 including State governments and traditional leaders;
2 d) make the draft plan subject to a public
3 notice and comment process at least as stringent as that
4 provided for by the Administrative Procedures Act; and
5 e) publish the final plan in the form of a
6 regulation.

7 4) A marine spatial plan takes effect upon the
8 effective date of the regulation adopting it."

9 Section 18. Title 24 of the Code of the Federated States of
10 Micronesia (Annotated), as amended, is hereby further amended by
11 inserting new section 302 under chapter 3 of subtitle III, to read
12 as follows:

13 "Section 302. Plan elements and criteria.

14 1) The Secretary shall include in a marine spatial
15 plan official maps issued by authority under title 18 of
16 this Code, narrative descriptions, and other elements as
17 may be necessary to clearly describe the plan area, any
18 use zones within the plan area, and the activities that
19 are subject to the plan.

20 2) Without restricting the generality of subsection
21 (1) hereof, the Secretary shall ensure that a marine
22 spatial plan includes the following elements—

23 a) one or more maps that delineate by way of
24 Global Positioning System coordinates:

25 i) the boundaries of the plan area; and

1 ii) any use zones within the plan area in
2 which one or more specified activities are allowed,
3 prohibited, or otherwise regulated, to facilitate
4 implementation, compliance, and enforcement;

5 b) for each use zone within the plan area, a
6 written description including:

7 i) identification of permissible
8 activities in the use zone, including any licenses,
9 permits, or other permissions that may be required to
10 engage in such activities;

11 ii) a concise description of any
12 prohibitions, limitations, or other requirements
13 applicable to the use zone, including as to the nature,
14 timing, duration, or location of any activity; and

15 iii) references to any other Act, law,
16 regulation, marine protected area designation, or policy
17 of the Federated States of Micronesia, or of any State
18 where such State has delegated planning authority to the
19 National Government pursuant to this Act, that governs
20 activities within the use zone.

21 3) The Secretary shall use best efforts to delineate
22 the boundaries of the plan area and any use zones
23 contained therein so as to allow for ease of
24 administration and enforcement, including through the
25 use of straight lines not less than 60 (sixty)nautical

1 miles in length.

2 4) Subject to subsection 5), the Secretary may
3 include as part of a marine spatial plan additional
4 elements to assist in the implementation,
5 administration, and public understanding of the plan,
6 such as:

7 a) narrative information (e.g., concerning the
8 cultural, environmental, economic, or social context of
9 the plan area; the plan's procedural history and
10 development; or relevant regional or international
11 factors);

12 b) an implementation plan or similar tool to
13 aid in the plan's effectiveness;

14 c) references to scientific data and
15 information, studies, and reports; and

16 d) supplemental maps, charts, graphs, tables,
17 photographs, and other graphic materials or visual aids.

18 5) Any additional element included in a marine
19 spatial plan pursuant to subsection 4) does not provide
20 an independent basis for enforcement against any person,
21 except as the Secretary may expressly provide by
22 regulation.

23 6) The Secretary shall ensure that a marine spatial
24 plan—

25 a) reflects the principles and approaches

1 contained in section 107 of chapter 1 this subtitle; and
2 b) identifies and addresses, subject to section
3 306(2) of chapter 3 of this subtitle, all present
4 activities, and any reasonably anticipated future
5 activities in the plan area; and
6 c) conforms to national law and is consistent
7 with the regional and international obligations and
8 commitments of the Federated States of Micronesia as
9 implemented by national law.”

10 Section 19. Title 24 of the Code of the Federated States of
11 Micronesia (Annotated), as amended, is hereby further amended by
12 inserting new section 303 under chapter 3 of subtitle III, to read
13 as follows:

14 “Section 303. Use zones.

15 1) In preparing a marine spatial plan, the Secretary
16 may delineate one or more use zones within the plan area
17 in which specified activities are allowed, prohibited,
18 or otherwise regulated.

19 2) The following categories of areas constitute use
20 zones for purposes of this subtitle:

21 a) any marine protected area;

22 b) any use zone established pursuant to
23 regulations promulgated under this subtitle; and

24 c) any area or zone otherwise provided for by
25 the law of the Federated States of Micronesia or of a

1 State where such State has delegated planning authority
2 to the National Government pursuant to this subtitle.

3 3) The categories of use zones identified in
4 subsection (2) hereof shall have independent legal
5 effect separate and apart from the legal effect of the
6 marine spatial plan.”

7 Section 20. Title 24 of the Code of the Federated States of
8 Micronesia (Annotated), as amended, is hereby further amended by
9 inserting new section 304 under chapter 3 of subtitle III, to read
10 as follows:

11 “Section 304. Plan modification and revocation.

12 1) The Secretary may, pursuant to the requirements
13 of this section, modify a marine spatial plan:

14 a) to include a new activity, or to more
15 effectively address a changed activity, within the plan
16 area;

17 b) to account for new scientific data or other
18 information that suggests the need to revisit a use
19 zone’s requirements or boundaries;

20 c) to account for a change in the law, policy,
21 or international obligations of the Federated States of
22 Micronesia that affects how activities or ocean areas
23 covered within the plan area are regulated; or

24 d) in response to any other change in
25 circumstances that, in the judgment of the Secretary,

1 requires a modification.

2 2) The Secretary may revoke a marine spatial plan--

3 a) when doing so is necessary to replace the
4 plan with a new marine spatial plan; or

5 b) when, for any reason, the plan is no longer
6 consistent with the requirements of this subtitle or
7 another law--and the plan cannot be made consistent by
8 way of a modification pursuant to this section.

9 3) In modifying or revoking any marine spatial plan,
10 the Department shall follow the procedure set forth in
11 section 301(3) of chapter 3 of this subtitle, except
12 that such modification or revocation may be published by
13 way of either a new or amended regulation according to
14 the Administrative Procedures Act.

15 4) The modification or revocation of a marine
16 spatial plan is effective upon promulgation by the
17 Secretary as a new or amended regulation according to
18 the Administrative Procedures Act."

19 Section 21. Title 24 of the Code of the Federated States of
20 Micronesia (Annotated), as amended, is hereby further amended by
21 inserting new section 305 under chapter 3 of subtitle III, to read
22 as follows:

23 "Section 305. Plan review.

24 1) The Secretary may, in consultation with the
25 National Marine Spatial Planning Advisory Committee,

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- 1 conduct a review of a marine spatial plan:
- 2 a) at any time after plan implementation has
- 3 begun; or
- 4 b) in response to an emergency, natural
- 5 disaster, or significant change in ecological conditions
- 6 based on best available science or technology.
- 7 2) In conducting a review of a marine spatial plan,
- 8 the Secretary shall prepare written findings.
- 9 3) The Secretary shall conduct a review of a marine
- 10 spatial plan at least once every five years."

11 Section 22. Title 24 of the Code of the Federated States of

12 Micronesia (Annotated), as amended, is hereby further amended by

13 inserting new section 306 under chapter 3 of subtitle III, to read

14 as follows:

- 15 "Section 306. Plans harmonized; activities addressed.
- 16 1) The Secretary shall use best efforts to ensure
- 17 that all marine spatial plans adopted for the marine
- 18 waters of the Federated States of Micronesia—whether
- 19 adopted by the Secretary pursuant to this subtitle or by
- 20 the States—are harmonized to the greatest extent
- 21 practicable and implemented in a coordinated manner.
- 22 2) If a marine spatial plan adopted pursuant to this
- 23 subtitle will address fewer than all present activities
- 24 or reasonably anticipated future activities in the plan
- 25 area, the Secretary shall include as part of the plan a

1 brief statement indicating:

2 a) which activities are to be omitted from the
3 plan;

4 b) why these activities are to be omitted; and

5 c) how and when the omitted activities are
6 likely to be addressed in the future.”

7 Section 23. Title 24 of the Code of the Federated States of
8 Micronesia (Annotated), as amended, is hereby further amended by
9 inserting new section 307 under chapter 3 of subtitle III, to read
10 as follows:

11 “Section 307. Plan duration. Unless a marine spatial
12 plan specifies otherwise, the plan remains in force
13 until modified or revoked pursuant to this subtitle.”

14 Section 24. Title 24 of the Code of the Federated States of
15 Micronesia (Annotated), as amended, is hereby further amended by
16 inserting new section 308 under chapter 3 of subtitle III, to read
17 as follows:

18 “Section 308. Binding effect of plan. All persons are
19 bound by the requirements of a marine spatial plan, as
20 that plan is expressed through the plan area boundaries,
21 use zone boundaries, use zone requirements, and any
22 other express requirements.”

23 Section 25. Title 24 of the Code of the Federated States of
24 Micronesia (Annotated), as amended, is hereby further amended by

1 inserting new section 309 under chapter 3 of subtitle III, to read
2 as follows:

3 "Section 309. Relationship of plan to other laws.

4 1) Notwithstanding any provision of the code, if all
5 or part of an ocean area is subject to a marine spatial
6 plan, no new regulatory requirements may be imposed in
7 that ocean area except in conformity with the plan.

8 2) A government official deciding on the issuance of
9 a certificate, license, permit, approval, or other
10 permission under another law for any activity, use,
11 development, or other action that will or is likely to
12 occur within an area subject to a marine spatial plan
13 shall ensure that such decision, and any resulting
14 certificate, license, permit, approval, or other
15 permission, conform to the plan's requirements to the
16 maximum extent practicable.

17 3) A proposed project to be implemented in the
18 exclusive economic zone or continental shelf that may
19 have a potential impact on the marine environment,
20 including any such project that will be carried out in a
21 plan area, is subject to the environmental impact
22 assessment requirements of the Federated States of
23 Micronesia."

24 Section 26. Title 24 of the Code of the Federated States of
25 Micronesia (Annotated), as amended, is hereby further amended by

1 inserting new section 310 under chapter 3 of subtitle III, to read
2 as follows:

3 "Section 310. Marine spatial plan. Notwithstanding any
4 other provision of this Act, the marine spatial plan
5 appearing in Schedule 1 is in force."

6 Section 27. Title 24 of the Code of the Federated States
7 of Micronesia (Annotated), as amended, is hereby further amended
8 by creating a new chapter 4 under subtitle III entitled: "National
9 Marine Protected Areas."

10 Section 28. Title 24 of the Code of the Federated States
11 of Micronesia (Annotated), as amended, is hereby further amended
12 by inserting new section 401 under chapter 4 of subtitle III, to
13 read as follows:

14 "Section 401. Designation of national marine protected
15 areas. The Secretary may, pursuant to the requirements
16 of this chapter, declare an ocean area located within
17 the exclusive economic zone or continental shelf to be a
18 national marine protected area."

19 Section 29. Title 24 of the Code of the Federated States of
20 Micronesia (Annotated), as amended, is hereby further amended by
21 inserting new section 402 under chapter 4 of subtitle III, to read
22 as follows:

23 "Section 402. Management of national marine protected
24 areas.

25 1) The Secretary shall provide for the management of

1 any national marine protected area designated pursuant
2 to this chapter.

3 2) Such management must include a written management
4 plan tailored to the purpose and needs of the national
5 marine protected area.”

6 Section 30. Title 24 of the Code of the Federated States of
7 Micronesia (Annotated), as amended, is hereby further amended by
8 inserting new section 403 under chapter 4 of subtitle III, to read
9 as follows:

10 “Section 403. Protected Areas Network.

11 1) National marine protected areas designated
12 pursuant to this chapter are included in the Protected
13 Areas Network of the Federated States of Micronesia.

14 2) The Secretary shall use best efforts to ensure
15 that the designation, implementation, and management of
16 national marine protected areas designated pursuant this
17 chapter are carried out so as to maximize the
18 conservation benefits and effectiveness of the Protected
19 Areas Network as a whole.”

20 Section 31. Title 24 of the Code of the Federated States of
21 Micronesia (Annotated), as amended, is hereby further amended by
22 inserting new section 404 under chapter 4 of subtitle III, to read
23 as follows:

24 “Section 404. Closed area designated as protected. The
25 closed area established pursuant to section 505 of

1 subtitle I of this title is designated as a national
2 marine protected area.”

3 Section 32. Title 24 of the Code of the Federated States of
4 Micronesia (Annotated), as amended, is hereby further amended by
5 inserting new section 405 under chapter 4 of subtitle III, to read
6 as follows:

7 “Section 405. National marine protected areas. The
8 areas listed in Schedule 2 are designated as national
9 marine protected areas.”

10 Section 33. Title 24 of the Code of the Federated States of
11 Micronesia (Annotated), as amended, is hereby further amended by
12 creating a new chapter 5 under subtitle III entitled: “Data
13 Management.”

14 Section 34. Title 24 of the Code of the Federated States of
15 Micronesia (Annotated), as amended, is hereby further amended by
16 inserting new section 501 under chapter 5 of subtitle III, to read
17 as follows:

18 “Section 501. Generally. The National Government of
19 the Federated States of Micronesia shall collect, store,
20 manage, and share information, including spatial data,
21 so as to advance the objectives of this Act.”

22 Section 35. Title 24 of the Code of the Federated States of
23 Micronesia (Annotated), as amended, is hereby further amended by
24 inserting new section 502 under chapter 5 of subtitle III, to read
25 as follows:

1 "Section 502. Management of spatial data and other
2 information. With respect to the management of spatial
3 data and other information, the Secretary shall ensure,
4 by regulation or otherwise, that:

5 1) spatial data and other information is collected,
6 stored, managed, and made available by the National
7 Government of the Federated States of Micronesia in a
8 centralized manner;

9 2) it is possible to combine spatial data and other
10 information from different sources in a consistent way
11 and share it between several users and applications;

12 3) it is possible that spatial data and other
13 information collected at one level of government can be
14 shared between and among other State and National
15 governmental entities; and

16 4) that spatial data and other information is made
17 available to the public under appropriate conditions."

18 Section 36. Title 24 of the Code of the Federated States of
19 Micronesia (Annotated), as amended, is hereby further amended by
20 inserting new section 503 under chapter 5 of subtitle III, to read
21 as follows:

22 "Section 503. Requirement to furnish information. The
23 Secretary may require any person to furnish within a
24 reasonable time any information he reasonably believes
25 is in that person's possession and that relates to any

1 matter within the ambit of this Act and is relevant to
2 the execution of the Department's functions."

3 Section 37. Title 24 of the Code of the Federated States of
4 Micronesia (Annotated), as amended, is hereby further amended by
5 creating a new chapter 6 under subtitle III entitled:
6 "Enforcement."

7 Section 38. Title 24 of the Code of the Federated States of
8 Micronesia (Annotated), as amended, is hereby further amended by
9 inserting a new section 601 under chapter 6 of subtitle III, to
10 read as follows:

11 "Section 601. Enforcement. The Department of Justice
12 shall have primary responsibility for enforcement of
13 this chapter."

14 Section 39. Title 24 of the Code of the Federated States of
15 Micronesia (Annotated), as amended, is hereby further amended by
16 inserting a new section 602 under chapter 6 of subtitle III, to
17 read as follows:

18 "Section 602. Appointment of authorized officers.

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

25 2) Any officer of the Division of Border Control and

1 Maritime Surveillance of the Government of the Federated
2 States of Micronesia shall be deemed to be an officer
3 for the purposes of this subtitle.”

4 Section 40. Title 24 of the Code of the Federated States of
5 Micronesia (Annotated), as amended, is hereby further amended by
6 inserting a new section 603 under chapter 6 of subtitle III, to
7 read as follows:

8 “Section 603. Powers of authorized officers.

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

11 a) stop, board, and remain on board any vessel
12 in the plan area for the purpose of conducting routine
13 inspection or inquiry including inspection of
14 registration papers and identity of crew;

15 b) stop and search any vessel, vehicle or
16 aircraft in the plan area that he reasonably believes
17 may be transporting marine resources, engaging in other
18 activities related to extraction of marine resources, or
19 violating any requirement of a marine spatial plan or of
20 this subtitle;

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

25 d) examine the master or any crew member or

1 other person aboard about the cargo, contents of holds
2 and storage spaces, voyage and activities of the vessel;

3 e) make such examination and inquiry as may
4 appear necessary concerning any vessel, vehicle or
5 aircraft in relation to which any of the powers
6 conferred by this subsection have been or may be
7 exercised and take samples of any marine resources;

8 f) require to be produced, examine and take
9 copies of any permit, logbook, record or other documents
10 required under this subtitle or concerning the operation
11 of any vessel or aircraft;

12 g) make an entry dated and signed by him in the
13 logbook of such vessel or aircraft;

14 h) require to be produced and examine any
15 marine resources, fishing gear or appliance, explosive,
16 poison or other noxious substance;

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

24 j) endorse any permit; and

25 h) arrest any person who assaults him or any

1 other authorized officer in the exercise of his duties
2 under this subtitle.

3 2) Where an officer has reasonable grounds to
4 believe an offense against this subtitle is being or has
5 been committed, he may without a warrant:

6 a) enter, inspect and search any vessel,
7 vehicle, or aircraft, in which he has reasonable grounds
8 to believe an offense has been or is being committed or
9 marine resources have been taken illegally and are being
10 stored;

11 b) stop, enter, search and stay in or on any
12 vessel, vehicle, or aircraft which he reasonably
13 suspects of transporting marine resources;

14 c) take samples of any marine resources found
15 in any vessel, vehicle, or aircraft inspected or
16 searched under this subtitle;

17 d) after hot pursuit of a foreign fishing
18 vessel undertaken in accordance with international law
19 and commenced within the marine waters of the Federated
20 States of Micronesia, stop, board and search outside the
21 marine waters of the Federated States of Micronesia any
22 fishing vessel that he has reasonable grounds to believe
23 has been used in the commission of an offense, exercise
24 any powers conferred by this subtitle in accordance with
25 international law, and bring such vessel and all persons

1 and things on board within the marine waters of the
2 Federated States of Micronesia;

3 e) seize:

4 i) any vessel, vehicle, fishing gear, nets
5 or other fishing appliances or aircraft that he has
6 reasonable grounds to believe has been or is being used
7 in the commission of an offense or in respect of which
8 the offense has been committed;

9 ii) any marine resources that he has
10 reasonable grounds to believe have been taken in the
11 commission of an offense or are possessed in
12 contravention of this subtitle;

13 iii) any logs, charts or other documents
14 required to be maintained by this subtitle or under the
15 terms of any license or other authorization or which he
16 has reasonable grounds to believe show or tend to show,
17 with or without other evidence, the commission of an
18 offense against this subtitle; and

19 iv) any thing which he has reasonable
20 grounds to believe might be used as evidence in any
21 proceeding under this subtitle;

22 f) arrest any person who he has reasonable
23 grounds to believe has committed an offense against this
24 subtitle;

25 g) issue citations as authorized by regulations

1 promulgated under this subtitle.

2 3) An authorized officer may, while arresting
3 any person or vessel that he has reasonable grounds to
4 believe has done any act in contravention of this
5 subtitle, use such force as is reasonably necessary in
6 the circumstances to effect the arrest.

7 4) Any person arrested without a warrant under this
8 section shall be detained and dealt with in accordance
9 with law.

10 5) An authorized officer may:

11 a) execute any warrant or other process issued
12 by any court of competent jurisdiction; and

13 b) exercise any other lawful authority.

14 6) A written receipt shall be given for any article
15 or thing seized under this section and the grounds for
16 such seizure shall be stated in such receipt."

17 Section 41. Title 24 of the Code of the Federated States of
18 Micronesia (Annotated), as amended, is hereby further amended by
19 inserting a new section 604 under chapter 6 of subtitle III, to
20 read as follows:

21 "Section 604. Requirements for seized vessels.

22 1) Where any vessel is seized under this subtitle:

23 a) the master and crew shall take the vessel to
24 such port as the authorized officer shall designate as
25 being the nearest or most convenient port; and

1 b) the master shall be responsible for the
2 safety of the vessel and each person on board the
3 vessel, including the crew, himself and any authorized
4 officer until the vessel arrives at the designated port.

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

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

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

20 5) Any person who commits an act, or omits to act,
21 in violation of this section shall be subject to a civil
22 penalty of not less than \$40,000 and not more than
23 \$100,000."

24 Section 42. Title 24 of the Code of the Federated States of
25 Micronesia (Annotated), as amended, is hereby further amended by

1 inserting a new section 605 under chapter 6 of subtitle III, to
2 read as follows:

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

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

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

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

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

1 Section 43. Title 24 of the Code of the Federated States of
2 Micronesia (Annotated), as amended, is hereby further amended by
3 inserting a new section 606 under chapter 6 of subtitle III, to
4 read as follows:

5 "Section 606. Duties owed to authorized officers.

6 1) The master and each crew member of any vessel,
7 the driver of any vehicle and the pilot and crew of any
8 aircraft shall immediately comply with every instruction
9 or direction given by an authorized officer as
10 appropriate and facilitate safe boarding, entry and
11 inspection of the vessel, vehicle or aircraft and any
12 fishing gear, equipment, records and marine resources.

13 2) The master and each crew member of a vessel,
14 driver of a vehicle and pilot and crew of an aircraft
15 shall take all reasonable measures to ensure the safety
16 of an authorized officer as appropriate in the
17 performance of his duties.

18 3) No person shall:

19 a) assault, obstruct, resist, delay, refuse
20 boarding to, intimidate or fail to take all reasonable
21 measures to ensure the safety of, or otherwise interfere
22 with an authorized officer in the performance of his
23 duties;

24 b) incite or encourage any other person to
25 assault, resist or obstruct any authorized officer who

1 is carrying out his powers or duties, or any person
2 lawfully acting under the authorized officer's orders or
3 in his aid;

4 c) use threatening language or behave in a
5 threatening or insulting manner or use abusive language
6 or insulting gestures towards any authorized officer
7 while in the execution of his powers or duties, or any
8 person lawfully acting under an authorized officers
9 orders or in his aid;

10 d) fail to comply with the lawful requirements
11 of authorized officer;

12 e) furnish to any authorized officer any
13 particulars which, to his knowledge, are false or
14 misleading in any respect;

15 f) impersonate or falsely represent himself to
16 be an authorized officer or falsely represent himself or
17 herself to be a person lawfully acting under an
18 authorized officer's orders or in his aid;

19 g) resist lawful arrest for any act prohibited
20 by this subtitle; or

21 h) breach any other duty to an authorized
22 officer required under this subtitle.

23 4) For purposed of subsection 3) of this section,
24 any person who does not allow any authorized officer or
25 an authorized observer, or any person acting under his

1 order or in his aid, to exercise any of the powers
2 conferred on such person by this subtitle shall be
3 deemed to be obstructing that officer or person.

4 5) Every person who is a master, owner, charterer,
5 agent or company established under the laws of the
6 Federated States of Micronesia of a vessel that
7 transports an authorized officer outside the marine
8 waters of the Federated States of Micronesia and causes
9 him to disembark outside the territory or jurisdiction
10 of the Federated States of Micronesia, shall be jointly
11 and severally liable for a fine plus all costs of
12 repatriation including board and lodging while out of
13 the Federated States of Micronesia and direct
14 transportation to the Federated States of Micronesia. It
15 is unlawful for any vessel to cause an authorized
16 officer to disembark outside the territory or
17 jurisdiction of the Federated States of Micronesia.

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

21 Section 44. Title 24 of the Code of the Federated States of
22 Micronesia (Annotated), as amended, is hereby further amended by
23 inserting a new section 607 under chapter 6 of subtitle III, to
24 read as follows:

25 "Section 607. Identification of authorized officers. An

1 authorized officer, when exercising any of the powers
2 conferred by this subtitle, shall on request, produce
3 identification to show that he is an authorized officer
4 or authorized observer under this subtitle."

5 Section 45. Title 24 of the Code of the Federated States of
6 Micronesia (Annotated), as amended, is hereby further amended by
7 inserting a new section 608 under chapter 6 of subtitle III, to
8 read as follows:

9 "Section 608. Protection against liability. Any person
10 who does, partly does, or omits to do any act in
11 pursuance or intended pursuance of any functions, powers
12 or duties conferred by or under this subtitle shall not
13 be subject to any legal action, or civil or criminal
14 liability with respect to such act, whether on the
15 grounds of want of jurisdiction, mistake of law or fact,
16 or on any other grounds, unless the act, or omissions to
17 act, was done in bad faith without reasonable cause."

18 Section 46. Title 24 of the Code of the Federated States of
19 Micronesia (Annotated), as amended, is hereby further amended by
20 creating a new chapter 7 under subtitle III entitled:
21 "Jurisdiction and Evidence."

22 Section 47. Title 24 of the Code of the Federated States of
23 Micronesia (Annotated), as amended, is hereby further amended by
24 inserting a new section 701 under chapter 7 of subtitle III, to
25 read as follows:

1 "Section 701. Jurisdiction of the court.

2 1) Any case or controversy arising under this
3 subtitle or out of any act or omission committed in
4 contravention of any provision of this subtitle by any
5 person:

6 a) within the marine waters of the Federated
7 States of Micronesia; or

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

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

20 2) Where an authorized officer is exercising any
21 powers conferred on him outside the marine waters of the
22 Federated States of Micronesia in accordance with this
23 subtitle, any act or omission of any person in
24 contravention of any of the provision of this subtitle

1 shall be deemed to have been committed within the marine
2 waters of the Federated States of Micronesia.

3 3) Notwithstanding any provision of any other law of
4 the Federated States of Micronesia, any information or
5 complaint with respect to any violation of this subtitle
6 must be filed within two years of the discovery of the
7 violation.

8 3) The Court may at any time enter restraining
9 orders or prohibitions, issue warrants, issue process in
10 rem or other processes, prescribe and accept
11 satisfactory bonds or other security, and take such
12 other actions as are in the interests of justice."

13 Section 48. Title 24 of the Code of the Federated States of
14 Micronesia (Annotated), as amended, is hereby further amended by
15 inserting a new section 702 under chapter 7 of subtitle III, to
16 read as follows:

17 "Section 702. Presumptions.

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

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

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

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

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

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

25 a) the camera taking the photograph is

1 connected directly to the instruments which provide the
2 date, time and position concerned; and
3 b) the photograph was taken by an authorized
4 officer."

5 Section 49. Title 24 of the Code of the Federated States of
6 Micronesia (Annotated), as amended, is hereby further amended by
7 creating a new chapter 8 under subtitle III entitled: "Violations
8 and Penalties for Prohibited Acts."

9 Section 50. Title 24 of the Code of the Federated States of
10 Micronesia (Annotated), as amended, is hereby further amended by
11 inserting a new section 801 under chapter 8 of subtitle III, to
12 read as follows:

13 "Section 801. Civil Penalties.

14 1) Any person who is found by the Supreme Court of
15 the Federated States of Micronesia in a civil proceeding
16 to have committed an act prohibited by this subtitle
17 shall be liable to the Federated States of Micronesia
18 for a civil penalty.

19 2) Each day of a continuing violation shall
20 constitute a separate offense, for which a separate
21 penalty shall be assessed.

22 3) In determining the amount of the penalty, the
23 Supreme Court of the Federated States of Micronesia
24 shall take into account the nature, circumstances,
25 extent and gravity of the prohibited acts committed and,

1 with respect to the violator, the degree of culpability,
2 any history of prior offenses, whether there are
3 multiple violation which together constitute a serious
4 disregard of conservation and management measures and
5 such other matters as justice may require.

6 4) The Department of Justice is authorized to
7 initiate all proceedings under this section and to
8 recover the amount assessed as a civil penalty.

9 5) The proceeds of civil penalties shall be
10 deposited into the General Fund of the Federated States
11 of Micronesia.”

12 Section 51. Title 24 of the Code of the Federated States of
13 Micronesia (Annotated), as amended, is hereby further amended by
14 inserting a new section 802 under chapter 8 of subtitle III, to
15 read as follows:

16 “Section 802. Criminal Penalties.

17 1) Any person who commits an act prohibited by this
18 subtitle is subject to criminal prosecution.

19 2) The captain and any crew of a vessel, who is
20 subject to criminal charges solely for violation of this
21 subtitle occurring outside the territorial waters but
22 within the exclusive economic zone or continental shelf
23 of the Federated States of Micronesia shall be released
24 upon posting of reasonable bond or other surety.

25 3) Unless otherwise provided, all maximum

1 penalties described in this subtitle shall be applicable
2 in both civil and criminal proceedings in respect to the
3 same prohibited acts. In addition to any fine, any
4 criminal violation shall also be punishable by
5 imprisonment for not more than ten years, if in the
6 commission of any such offense the person:

7 a) uses a dangerous weapon;

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

11 c) threatens any such person with bodily
12 injury.

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

16 5) Fines shall be deposited into the General Fund of
17 the Federated States of Micronesia.

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

24 7) Nothing in this subtitle shall be interpreted to
25 allow the abatement of a criminal prosecution upon the

1 late satisfaction of a civil judgment or payment of a
2 fine or other determination pursuant to administrative
3 proceedings under this subtitle.”

4 Section 52. Title 24 of the Code of the Federated States of
5 Micronesia (Annotated), as amended, is hereby further amended by
6 inserting a new section 803 under chapter 8 of subtitle III, to
7 read as follows:

8 “Section 803. Liability for loss or damage. A person
9 found to have committed a violation of this subtitle
10 may be additionally found liable for any loss or
11 damage caused by the violation. The amount of
12 compensation for such loss or damage may be awarded by
13 the Court as restitution in addition to, and recovered
14 in the same manner as, a fine.”

15 Section 53. Title 24 of the Code of the Federated States
16 of Micronesia (Annotated), as amended, is hereby further amended
17 by inserting a new section 804 under chapter 8 of subtitle III,
18 to read as follows:

19 “Section 804. Liability of operators. In any
20 proceedings under this subtitle, the act or omission
21 of any crew member of a vessel or in association with
22 a vessel, shall be deemed to be that of the operator
23 of that vessel.”

24 Section 54. Title 24 of the Code of the Federated States
25 of Micronesia (Annotated), as amended, is hereby further amended

1 by inserting a new section 805 under chapter 8 of subtitle III,
2 to read as follows:

3 "Section 805. Civil liability of officers of
4 companies.

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

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

19 Section 55. Title 24 of the Code of the Federated States
20 of Micronesia (Annotated), as amended, is hereby further amended
21 by inserting a new section 806 under chapter 8 of subtitle III,
22 to read as follows:

23 "Section 806. Prohibited acts-general.

24 1) It is a violation of this subtitle for any person to
25 violate a requirement of a marine spatial plan

1 promulgated pursuant to this subtitle.

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

4 a. extraction of any marine resources in any
5 closed area of the marine spatial plan;

6 b. participation in activities prohibited in any
7 us zone of the marine spatial plan;

8 c. using prohibited gear; or

9 d. falsifying or concealing the markings, identity
10 or registration of a vessel

11 shall be subject to a civil penalty of not less than
12 \$100,000 and not more than \$500,000."

13 Section 56. Title 24 of the Code of the Federated States
14 of Micronesia (Annotated), as amended, is hereby further amended
15 by inserting a new section 807 under chapter 8 of subtitle III,
16 to read as follows:

17 "Section 807. Obstruction of justice.

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

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

1 Section 57. Title 24 of the Code of the Federated States
2 of Micronesia (Annotated), as amended, is hereby further amended
3 by inserting a new section 808 under chapter 8 of subtitle III,
4 to read as follows:

5 “Section 808. Resisting arrest.

6 1) No person shall resist a lawful arrest for any act
7 prohibited by this subtitle.

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

11 Section 58. Title 24 of the Code of the Federated States
12 of Micronesia (Annotated), as amended, is hereby further amended
13 by inserting a new section 809 under chapter 8 of subtitle III,
14 to read as follows:

15 “Section 809. Penalties for other violations of
16 this subtitle. Any person who commits an act in
17 violation of this subtitle, for which no civil
18 penalty is otherwise specified in this chapter or
19 the preceding chapters, shall be subject to a civil
20 penalty of not less than \$40,000 and not more than
21 \$100,000.”

22 Section 59. Section 2025 of subtitle II of Title 24 of the
23 Code of the Federated States of Micronesia, as amended, is
24 hereby further amended to read as follows:

1 "Section 2025. Part of License Area outside of national
2 jurisdiction.

3 If part of the License area includes or purports to include
4 an area that is outside of the national jurisdiction of the
5 Federated States of Micronesia, [~~or an area that comprises~~
6 ~~or is within a Protected Area or a Marine Reserve,~~] [~~+~~]or
7 an area within the Territorial Sea where such
8 responsibility has not been delegated to NSRA by State
9 under this subtitle[~~+~~], then the License remains valid, but
10 does not authorize Seabed Mineral Activities to be carried
11 out within that part until further consultations and
12 conditions are met."

13 Section 60. This act shall become law upon approval by the
14 President of the Federated States of Micronesia or upon its
15 becoming law without such approval.

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17 Date: 9/14/22

Introduced by: /s/ Florencio S. Harper
Florencio S. Harper
(by request)

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