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A BILL FOR AN ACT

To amend section 403 of chapter 4 of title 24 of the Code of the Federated States of Micronesia, as amended, and section 603 of chapter 6 of title 24 of the Code of the Federated States of Micronesia, as amended, to mandate that authorized observers must be present on all fishing boats at all times, and for other purposes.

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

1           Section 1. Section 403 of chapter 4 of title 24 of the Code  
2 of the Federated States of Micronesia, as enacted by Public Law  
3 No. 12-34, is hereby further amended to read as follows:

4                   "Section 404. Access agreements - minimum terms. All  
5 access agreements shall include the following minimum  
6 terms:

7                   (1) the foreign party recognizes the sovereign rights  
8 and exclusive fishery management authority of the  
9 Federated States of Micronesia within the exclusive  
10 economic zone;

11                   (2) the operator and each member of the crew shall  
12 comply with the applicable access agreement, applicable  
13 permit conditions, this subtitle, all regulations issued  
14 pursuant to this subtitle and all other applicable laws  
15 and regulations;

16                   (3) the operator shall:

17                           (a) not operate any vessel with a valid and  
18 applicable permit without [accept] at least one of the  
19 Authority's authorized observers on board at all times,

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1           unless granted permission by the Authority in the case  
2           of emergency circumstances;

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

6           (c) meet the following costs of the authorized  
7           observer:

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

10                   (ii) salary; and

11                   (iii) full insurance coverage;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19          Section 2. Section 607 of chapter 6 of title 24 of the Code  
20          of the Federated States of Micronesia, as enacted by Public Law  
21          No. 12-34, is hereby further amended to read as follows:

22                   "Section 607. Access granted to authorized observers;  
23                   conditions; expenses.

24                   (1) Any person on board any vessel with a valid and  
25                   applicable permit shall allow any authorized observer to

1 board and remain on such vessel at all times for the  
2 purposes of carrying out his duties and functions.

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

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

9 (b) have full access to and the use of facilities  
10 and equipment on board the vessel which the authorized  
11 observer may determine is necessary to carry out his  
12 duties, including:

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

16 (ii) full access to the vessel's records,  
17 including its logbooks and documentation for the  
18 purposes of records inspection and copying;

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

21 (iv) reasonable access to navigation  
22 equipment and radios;

23 (c) take and remove from the vessel reasonable  
24 samples for the purposes of scientific investigation,  
25 and other relevant information;

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1 (d) take photographs of the fishing operations,  
2 including fish, fishing gear, equipment, charts and  
3 records, and remove from the vessel such photographs or  
4 film as he or she may have taken or used on board the  
5 vessel;

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

8 (f) carry out all duties safely; and

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

12 (3) The operator shall provide the authorized  
13 observer [~~and any authorized officer forced by~~  
14 ~~circumstances to stay on board the vessel for a~~  
15 ~~prolonged period of time,~~] while on board the vessel  
16 with food, accommodation and medical facilities at no  
17 expense, equivalent to that accorded to officers.

18 (4) In addition to the requirements of subsection (3)  
19 of this section, the Authority shall, either by  
20 regulation or agreement, require the operator to pay in  
21 full the following costs of authorized observers, other  
22 than port samplers:

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

24 (b) such salary as may be notified by the  
25 Executive Director; and

1 (c) full insurance coverage.

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

5 (6) Any operator of any vessel with a valid permit  
6 issued under this subtitle, shall allow and assist any  
7 authorized observer to have full access to any place  
8 where fish taken in the fishery waters is unloaded or  
9 transshipped; to remove reasonable samples for  
10 scientific purposes and to gather any information  
11 relating to fisheries in the fishery waters.

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

16 Section 3. This act shall become law upon approval by the  
17 President of the Federated States of Micronesia or upon its  
18 becoming law without such approval.

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20 Date: 5/20/08

Introduced by: /s/ Fredrico O. Primo  
Fredrico O. Primo

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