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A BILL FOR AN ACT

To further amend title 22 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Law No. 18-68, to create a new chapter 4 thereof entitled "Biosecurity", to prevent animal and plant pests and diseases from entering the Federated States of Micronesia, to regulate the movement of animals and plants and their products, to control the establishment and spread of animal and plant pests and diseases that enter the Federated States of Micronesia, to facilitate international cooperation in respect of animal and plant diseases, and for other purposes.

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

1           Section 1. Title 22 of the Code of the Federated States  
2 of Micronesia (Annotated), as amended by Public Law No. 18-68,  
3 is hereby further amended by repealing chapter 4 in its  
4 entirety.

5           Section 2. Title 22 of the Code of the Federated States  
6 of Micronesia (Annotated), as amended by Public Law No. 18-68,  
7 is hereby further amended by creating a new chapter 4 entitled:  
8 "Biosecurity".

9           Section 3. Title 22 of the Code of the Federated States  
10 of Micronesia (Annotated), as amended by Public Law No. 18-68,  
11 is hereby further amended by inserting new subchapter 1 under  
12 chapter 4 entitled: "General Provisions".

13           Section 4. Title 22 of the Code of the Federated States  
14 of Micronesia (Annotated), as amended by Public Law No. 18-68,  
15 is hereby further amended by adding a new section 401 of

1 subchapter 1 under chapter 4 to read as follows:

2 "Section 401. Short title.

3 This chapter may be cited as the Federated States of  
4 Micronesia Biosecurity Act."

5 Section 5. Title 22 of the Code of the Federated States  
6 of Micronesia (Annotated), as amended by Public Law No. 18-68,  
7 is hereby further amended by adding a new section 1 of  
8 subchapter 1 under chapter 4 section 402 to read as follows:

9 "Section 402. Public policy.

10 The Federated States of Micronesia, through the  
11 implementation of this chapter, adopts a policy of  
12 maintaining and enhancing national biosecurity  
13 protection for the benefit of the nation's citizens  
14 and environment. Specifically, to the extent of the  
15 available resources, this chapter aims:

16 (a) to protect the Federated States of  
17 Micronesia against the entry of regulated pests and  
18 diseases affecting animals, plants, human beings and  
19 the environment;

20 (b) to monitor pests and diseases in the  
21 Federated States of Micronesia and assess the status  
22 of regulated pests and diseases;

23 (c) to prevent the establishment and spread  
24 of regulated pests and diseases and the release of  
25 organisms that might adversely affect animals,

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1           plants, human beings and the environment in the  
2           Federated States of Micronesia;

3                   (d) to eradicate, contain or control the  
4           movement of regulated pests and diseases that are  
5           already present in the Federated States of  
6           Micronesia;

7                   (e) to prevent the introduction and spread of  
8           regulated pests and diseases not already present in  
9           the Federated States of Micronesia;

10                   (f) to facilitate the safe importation into  
11           the Federated States of Micronesia of animals and  
12           plants and their products, and related equipment and  
13           technology;

14                   (g) to facilitate the export of animals and  
15           plants and their products in accordance with the  
16           biosecurity requirements of the receiving countries;  
17           and

18                   (h) to facilitate international cooperation  
19           to prevent the spread of pests and diseases affecting  
20           plants, animals, human beings and the environment."

21           Section 6. Title 22 of the Code of the Federated States  
22 of Micronesia (Annotated), as amended by Public Law No. 18-68,  
23 is hereby further amended by adding a new section 403 of  
24 subtitle 1 under chapter 4 to read as follows:

25           "Section 403. Definitions.

1           Wherever used in this chapter:

2                   (1) "Aircraft" means any conveyance that may be  
3           used in navigation by air:

4                   (2) "Animal" means any mammal (other than a  
5           human), bird, insect, amphibian, reptile, fish,  
6           mollusk, or any other living organism except a plant,  
7           whether alive or dead, and includes the egg, embryo,  
8           ova or semen and any organic animal tissue from which  
9           another animal could be produced, and the hide, skin,  
10           hair, feathers, shell, horns, hoof, viscera or any  
11           other part or portion of the body of an animal:

12                   (3) "Animal product" means any article or  
13           substance derived from an animal, whether or not in  
14           combination with any other article or substance, and  
15           includes:

16                           (a) meat, fat, milk, whey, cream, butter,  
17           cheese, eggs and other foodstuffs derived from an  
18           animal;

19                           (b) the dung, urine, feces, saliva, bone or  
20           blood of an animal, or any article or substance  
21           derived from the dung, urine, feces, saliva, bone or  
22           blood of an animal; and

23                           (c) the secretions of any animal; and

24                           (d) any product or biological preparation  
25           derived from any animal tissue or animal secretion;

1                   (4) "Article" means a single unit of any goods;

2                   (5) "Authorized" means duly authorized by the  
3                   Secretary for the purposes of this chapter;

4                   (6) "Baggage" means any goods which accompany a  
5                   passenger or crew member on a conveyance, including  
6                   clothing and any article attached or otherwise  
7                   connected to the body or clothing of any passenger or  
8                   crew member;

9                   (7) "Ballast water" means water (including  
10                   sediment that is or has been contained in water) used  
11                   as ballast in a vessel;

12                   (8) "Biosecurity" means the control by legal and  
13                   administrative means of pests and diseases affecting  
14                   animals, plants and their products, in order to avoid  
15                   adverse effects from such pests and diseases on the  
16                   economy and health of the Federated States of  
17                   Micronesia;

18                   (10) "Biosecurity approved premises" means  
19                   premises approved for the inspection, testing and  
20                   treatment of regulated articles under section 426;

21                   (11) "Biosecurity authority" of a receiving  
22                   country means the authority or officer in that  
23                   country which administers its biosecurity laws;

24                   (12) "Biosecurity certification requirement", in  
25                   relation to an article, means a requirement by a

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1 receiving country for a sanitary or phytosanitary  
2 certificate or a certificate of origin in respect of  
3 the article;

4 (13) "Biosecurity clearance", in respect of a  
5 regulated article or consignment, means biosecurity  
6 import clearance or biosecurity export clearance;

7 (14) "Biosecurity clearance agent" means a person  
8 in the Federated States of Micronesia appointed by an  
9 importer or exporter under section 414 for the  
10 purposes of this chapter as the agent of the importer  
11 or exporter to supervise the biosecurity clearance of  
12 a conveyance, container, animal, plant, animal or  
13 plant product or any other goods;

14 (15) "Biosecurity control" of a regulated article  
15 means submission of the article for inspection under  
16 this chapter, and thereafter taking such biosecurity  
17 measures, or permitting such measures to be taken, as  
18 are directed pursuant to this chapter, until  
19 biosecurity clearance is granted in respect of the  
20 article;

21 (16) "Biosecurity controlled area" means an  
22 infested biosecurity controlled area declared under  
23 section 445 or a pest-free biosecurity controlled  
24 area declared under section 447;

25 (17) "Biosecurity declaration" in relation to an

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1 article or consignment means a written statement of  
2 the nature, quantity and origin of the article or  
3 consignment, and of other details relating to it  
4 required by or under this chapter;

5 (18) "Biosecurity emergency" means the incursion  
6 or suspected incursion of a regulated pest or disease  
7 into any area of the Federated States of Micronesia,  
8 or the existence of some other biosecurity threat,  
9 which requires urgent action, whether by eradication,  
10 containment or other response, and for which the  
11 powers under this chapter are not otherwise adequate;

12 (19) "Biosecurity emergency area" means an area  
13 declared in response to a biosecurity emergency under  
14 section 452;

15 (21) "Biosecurity export clearance" of an article  
16 means permission granted under this chapter or the  
17 regulations;

18 (23) "Biosecurity functions of the national  
19 government" means the regulatory and administrative  
20 functions set out in this chapter or the regulations;

21 (24) "Biosecurity goods holding area" means an  
22 area of land at or adjacent to a seaport or airport  
23 designated under section 412 for the biosecurity  
24 inspection of incoming or outgoing articles and  
25 consignments;

1           (25) "Biosecurity holding area" means a  
2           biosecurity port holding area, a biosecurity goods  
3           holding area or a biosecurity postal holding area;

4           (26) "Biosecurity import clearance" of an article  
5           means permission for the article or consignment to be  
6           removed from a biosecurity holding area provided in  
7           accordance with this chapter or the regulations;

8           (27) "Biosecurity import clearance inspection" of  
9           an incoming article means inspection of it to  
10          determine whether to grant biosecurity import  
11          clearance;

12          (28) "Biosecurity import permit" means a  
13          biosecurity import permit issued under this chapter  
14          or the regulations permitting the entry of an  
15          incoming article or articles;

16          (29) "Biosecurity import requirements" in relation  
17          to an article or consignment mean:

18               (a) the conditions of a biosecurity import  
19               permit, if one is required;

20               (b) the requirements of any sanitary or  
21               phytosanitary certificate relating to the article or  
22               consignment; and

23               (c) any other biosecurity measures specified  
24               by a biosecurity officer under this chapter or the  
25               regulations;



1           (30) "Biosecurity inspection" of an incoming or  
2           outgoing conveyance, article or consignment means an  
3           inspection to ascertain whether the conveyance,  
4           article or consignment presents a biosecurity risk to  
5           the Federated States of Micronesia or a receiving  
6           country and whether in other respects it conforms to  
7           the requirements of this chapter;

8           (32) "Biosecurity measure" means the inspection,  
9           detention, quarantining, testing, treatment, re-  
10          consignment or destruction of a regulated article to  
11          eliminate or reduce the biosecurity threat presented  
12          by the article;

13          (33) "Biosecurity officer" means:

14                   (a) the Secretary;

15                   (b) any person designated as a biosecurity  
16          officer under section 415; and

17                   (c) in respect of any particular function, a  
18          biosecurity officer to whom the function has been  
19          assigned or delegated under section 417;

20          (34) "Biosecurity point of departure" means a  
21          seaport, airport or post office designated under  
22          section 411 for the export of regulated articles;

23          (35) "Biosecurity point of entry" means a seaport,  
24          airport or post office designated under section 411  
25          for the importation of regulated articles;

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1           (36) "Biosecurity port holding area" means an area  
2           designated under section 412 for the biosecurity  
3           inspection of incoming vessels or aircraft;

4           (37) "Biosecurity port quarantine" means  
5           quarantine of a vessel or aircraft in a biosecurity  
6           port quarantine area;

7           (38) "Biosecurity port quarantine area" means an  
8           area designated under this chapter or the regulations  
9           for the quarantine of vessels and aircraft;

10          (40) "Biosecurity postal holding area" means an  
11          area of a post office designated under section 412  
12          for the biosecurity inspection of incoming or  
13          outgoing postal items;

14          (41) "Biosecurity quarantine" means confinement in  
15          isolation of a regulated article and any  
16          conveyance, container or packaging in which the  
17          article is carried, for inspection, testing and/or  
18          treatment; in order to prevent or limit the entry,  
19          introduction, establishment or spread of a regulated  
20          pest or disease;

21          (42) "Biosecurity quarantine station" means a  
22          facility under the control of the Secretary and  
23          designated under this chapter or the regulations for  
24          the performance of biosecurity quarantine, and  
25          includes a temporary biosecurity quarantine station;

1           (43) "Biosecurity register" means the register  
2           kept by the Secretary under section 418;

3           (44) "Biosecurity risk" means the likelihood of  
4           the introduction, establishment or spread of a pest  
5           or disease which would adversely affect animals,  
6           plants, human beings, the environment or economic  
7           activities, and the likely extent of such harm;

8           (45) "Biosecurity risk assessment" in relation to  
9           a regulated article means evaluation of the  
10          biosecurity risk posed by the article;

11          (46) "Biosecurity specifications" means  
12          biosecurity import or export requirements relating to  
13          an outgoing or incoming article specified by a  
14          biosecurity officer under this chapter or the  
15          regulations;

16          (47) "Biosecurity threat" means the threat of harm  
17          being caused or adverse effects resulting to animals,  
18          plants, human beings, the environment or economic  
19          activities as a result of the introduction,  
20          establishment or spread of a regulated pest or  
21          disease;

22          (48) "Captain", in relation to an aircraft, means  
23          the person for the time being in command of the  
24          aircraft;

25          (49) "Compliance agreement" means an agreement

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1           between the Secretary and another person as provided  
2           for in section 425;

3           (50) "Consignment" means a quantity of goods which  
4           arrive in the same vessel or aircraft and which in  
5           accordance with this chapter can be covered by a  
6           single import permit or sanitary or phytosanitary  
7           certificate;

8           (51) "Container" means anything in which or by  
9           which goods are encased, covered, enclosed or packed,  
10          including any material in contact with the goods;

11          (52) "Contamination" means the presence in any  
12          item of a pest, not constituting an infestation;

13          (53) "Conveyance" means a ship, aircraft, vehicle  
14          or other means of transporting people, goods or  
15          animals from one location to another, while it is  
16          being used or prepared for such transport;

17          (54) "Country of origin" includes a re-exporting  
18          country;

19          (55) "Custodian", in respect of an item, means the  
20          occupier of a place or the person in possession and  
21          charge of an article, whether lawfully or not, but  
22          does not include a person who has possession or  
23          control of the item only for the purpose of taking  
24          biosecurity measures in respect of it;

25          (56) "Department" means the Department of

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1           Resources and Development of the National Government  
2           of the Federated States of Micronesia;

3           (57) "Disease" means any unhealthy condition in an  
4           animal or plant which is known or suspected to be  
5           caused by an organism, and includes a disease  
6           transmissible from animals to humans and a disease  
7           capable of harming the environment;

8           (58) "Document" means any mode of communicating  
9           information in a retrievable form, including  
10          electronically;

11          (59) "Environment" includes:

12                   (a) the ecosystem and its constituent parts,  
13                   including people and communities;

14                   (b) all natural and physical resources; and

15                   (c) the qualities and characteristics of  
16                   locations, places and areas.

17          (60) "Eradication" means the application of  
18          measures to eliminate a pest or disease from an area;

19          (61) "Establishment", in relation to a pest or  
20          disease, means the perpetuation in an area of the  
21          pest or disease for the foreseeable future after its  
22          entry into the area;

23          (62) "Export" means:

24                   (a) to take or send goods out of the  
25          Federated States of Micronesia; or

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1                   (b) to take goods, or cause goods to be  
2                   taken, out of a State of the Federated States of  
3                   Micronesia into another State of the Federated States  
4                   of Micronesia.

5                   (63) "Exporter" means a person who exports or  
6                   seeks to export goods, other than as the master of  
7                   the vessel or captain of the aircraft in which the  
8                   goods are carried; and includes a biosecurity  
9                   clearance agent;

10                  (64) "Fittings" means any stall, box, cage,  
11                  enclosure, pen, net or other material used for  
12                  penning, yarding, confining or containing any animal  
13                  and includes any harness, saddlery, rope, bucket,  
14                  trough, bedding, utensil or implement used in the  
15                  handling or keeping of animals or animal products;

16                  (65) "Fodder" means any water, meat, vegetables,  
17                  grain or material used for the food or litter of  
18                  animals, or the storage of animal products;

19                  (66) "Garbage" means waste material derived in  
20                  whole or in part from plants, fruit, vegetables, meat  
21                  or other plant or animal material, or other refuse of  
22                  any kind that has been associated with any plants,  
23                  fruits, vegetables, meat or other plant or animal  
24                  material;

25                  (67) "Genetic material" means any material of

1 plant, animal, microbial or other origin containing  
2 functional units of heredity;

3 (68) "Goods" means any kind of moveable property  
4 or thing;

5 (69) "Host material" means any packing material,  
6 container, fittings, litter, manure, fodder or  
7 similar goods that might have had contact with  
8 animals or plants or their products;

9 (70) "Import" means:

10 (a) to bring goods, or cause goods to be  
11 brought, into the Federated States of Micronesia; or

12 (b) to bring goods, or cause goods to be  
13 brought, from a State of the Federated States of  
14 Micronesia into another State of the Federated States  
15 of Micronesia.

16 (71) "Importer" means a person who imports or  
17 seeks to import goods, other than as the master of a  
18 vessel or captain of the aircraft in which the goods  
19 are carried; and includes a biosecurity clearance  
20 agent;

21 (72) "In transit", in relation to goods, means the  
22 goods are not imported into an area but pass through  
23 it to another area, whether by the same or another  
24 conveyance, during which time they remain enclosed,  
25 are not split up, are not combined with other goods,

1           and do not have their packaging changed;

2           (73) "Infected", in relation an animal or plant,  
3           means that the animal or plant is diseased or may  
4           have been exposed to the risk of infection during the  
5           preceding 6 months;

6           (74) "Infested", in relation an item or area,  
7           means that there is present in the item or area a  
8           living pest or disease;

9           (75) "Inspection", in relation to an item, means  
10          an official examination of the item to determine if  
11          any pest or disease is present in the item and  
12          whether in other respects the item conforms to the  
13          requirements of this chapter;

14          (76) "IPPC" means the International Plant  
15          Protection Convention of the Food and Agriculture  
16          Organization of the United Nations;

17          (77) "Introduction", in relation to a pest or  
18          disease, means the entry of the pest or disease into  
19          an area, resulting in its establishment in the area;

20          (78) "Item" means any kind of moveable or  
21          immoveable property or thing, including premises;

22          (79) "Living organism" means any organism capable  
23          of transferring or replicating genetic material,  
24          including sterile organisms, viruses, viroids,  
25          plasmids, bacteriophages and prions;



1           (80) "Judicial officer" means a judge or justice  
2           of the Supreme Court of the Federated States of  
3           Micronesia;

4           (81) "Master", in relation to a vessel, means the  
5           person for the time being in charge of the vessel,  
6           not being the pilot;

7           (82) "Microbe" means any organism or biotic entity  
8           of microscopic proportions, whether unicellular,  
9           multicellular or sub-cellular in common form;

10          (83) "Notifiable pest or disease" means a pest or  
11          disease which is declared under section 450 to be  
12          notifiable;

13          (84) "OIE" means the Organisation Internationale  
14          Epizoötique;

15          (85) "Organism" means a biotic entity capable of  
16          reproduction or replication, other than a human;

17          (86) "Packing material" means any fabric, paper,  
18          cardboard, plastic, wood, straw, grass or leaves used  
19          in packing any goods, and any other type of material  
20          in which goods are covered, enclosed, contained or  
21          wrapped;

22          (87) "Person" means the Federated States of  
23          Micronesia, a State, municipality, political  
24          subdivision, a public or private institution,  
25          corporation, partnership, joint venture, association,

1           firm, or company organized or existing under the laws  
2           of the Federated States of Micronesia or any State or  
3           country, lessee or other occupant of property, or  
4           individual, acting singly or as a group;

5           (88) "Pest" means any species, strain or biotype  
6           of a plant, animal, microbe or pathogenic agent, or  
7           any organism, which:

8                   (a) causes disease; or

9                   (b) is detrimental to or capable of harming  
10           or adversely affecting animals or animal products,  
11           plants or plant products, human beings or the  
12           environment;

13           (89) "Pest risk analysis" means the evaluation by  
14           a qualified person of biological or other scientific  
15           and economic evidence to determine whether a pest or  
16           disease should be regulated and the nature of any  
17           biosecurity measures to be taken against it;

18           (90) "Phytosanitary certificate" means a  
19           certificate relating to a plant or plant product  
20           which:

21                   (a) is issued by the biosecurity authority  
22           of the country of origin or re- exporting country;

23                   (b) certifies that the plant or plant  
24           product is substantially free from plant pests and  
25           diseases and in other respects meets the plant health

1 import requirements of the receiving country; and

2 (c) is patterned after the model

3 certificates of the IPPC;

4 (91) "Plant" includes seeds, germplasm, any other  
5 part of a plant, a dead or preserved plant, and an  
6 aquatic plant;

7 (92) "Plant material" means any unmanufactured  
8 material of plant origin, including grain;

9 (93) "Plant product" means:

10 (a) plant material;

11 (b) timber; and

12 (c) any product manufactured wholly or  
13 partly from one or more plants;

14 (94) "PPPO" means the Pacific Plant Protection  
15 Organisation;

16 (95) "Precautionary principle" means the principle  
17 that it is reasonable to refuse permission for an  
18 activity where there are reasonable concerns that  
19 granting permission may result in substantial  
20 negative impact, even if the data in support of a  
21 refusal is uncertain, incomplete or not supported by  
22 full scientific consensus. Application of the  
23 precautionary principle in relation to this chapter  
24 must be consistent with Article 5.7 of the SPS  
25 Agreement;

1           (96) "Premises" means any immoveable property,  
2           other than land;

3           (97) "Prescribed" means prescribed by this chapter  
4           or by regulations made under it;

5           (98) "Prohibited import" means a regulated article  
6           the importation or ownership of which is prohibited  
7           under section 410;

8           (99) "Re-exporting country", in relation any  
9           goods, means a country which is not the country of  
10          origin of the goods, but where a container or  
11          consignment of goods is opened and re-packed for  
12          export;

13          (100) "Receiving country" means a country which is  
14          the intended destination of an article being or  
15          proposed to be exported;

16          (101) "Reconsign", in relation to a regulated  
17          article or consignment which has been refused  
18          biosecurity import clearance, means to send the  
19          article or consignment out of the Federated States of  
20          Micronesia, either by the vessel or aircraft on which  
21          it was imported or by another vessel or aircraft;

22          (102) "Regulated article" means:

23                   (a) any animal or animal product;

24                   (b) any plant or plant product;

25                   (c) any living organism, whether modified or

1           not;

2                           (d) soil, sand gravel and aggregate;

3                           (e) any genetic material;

4                           (f) human remains;

5                           (g) any host material;

6                           (h) a regulated pest or disease;

7                           (i) any clothing, machinery or other article

8           that contains or has adhering to it anything

9           mentioned in paragraph (a), (b), (c) or (d);

10                           (j) garbage; and

11                           (k) any other article, substance, goods or

12           thing declared by the Secretary by order under

13           subsection (2) to be a regulated article for the

14           purposes of this chapter;

15                           (103) "Regulated consignment" means a consignment

16           of regulated articles;

17                           (104) "Regulated pest or disease" means a pest or

18           disease the importation of which into the Federated

19           States of Micronesia is prohibited or restricted

20           under section 409;

21                           (105) "Regulations" means regulations, orders and

22           any other subsidiary legislation made under this

23           chapter;

24                           (106) "Sanitary certificate" means an international

25           health certificate relating to an animal or animal

1           product which:

2                       (a) is issued by the biosecurity or  
3                       agricultural Director of the country of origin or re-  
4                       exporting country;

5                       (b) certifies that the animal or animal  
6                       product is substantially free from animal pests and  
7                       diseases and in other respects meets the animal  
8                       health import requirements of the receiving country;  
9                       and

10                      (c) complies with relevant requirements of  
11                      the SPS Agreement or the exporting country, as the  
12                      case may be;

13                      (107) "Secretary" means the Secretary of the  
14                      Department of Resources and Development;

15                      (108) "Ship's stores" means any food or other  
16                      regulated articles carried on a vessel or aircraft  
17                      for consumption or use on the vessel or aircraft;

18                      (109) "Specified", in relation to a requirement,  
19                      document, procedure or any other matter, means  
20                      specified by the Secretary under section 452;

21                      (110) "Spread", in relation to a pest or disease,  
22                      means the expansion of the geographical distribution  
23                      of the pest or disease within an area;

24                      (111) "SPS Agreement" means the World Trade  
25                      Organization Agreement on the Application of Sanitary

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1           and Phytosanitary Measures;

2           (112) "State Government means" the Governments of  
3           the States of Yap, Chuuk, Pohnpei and Kosrae;

4           (113) "Status", in relation to a pest or disease,  
5           means its presence, absence, prevalence, incidence,  
6           distribution and occurrence in an area;

7           (114) "Test" means an examination which goes beyond  
8           a visual inspection, to determine if a pest or  
9           disease is, or is likely to be, present or to  
10          identify a pest or disease, and includes chemical  
11          tests of plant material and diagnostic tests in  
12          respect of an animal;

13          (115) "this chapter" includes regulations and  
14          orders made under it;

15          (116) "Timber" includes round wood, sawn wood, wood  
16          chips and dunnage, with or without bark;

17          (117) "Treatment" means an authorized procedure for  
18          the killing, removal, modification or rendering  
19          infertile or non-viable of a pest or disease by way  
20          of cleansing, fumigation, inoculation, disinfection,  
21          disinfestation, decontamination, or otherwise;

22          118) "Uncleared", in relation to a regulated  
23          article, means that the article has not received  
24          biosecurity clearance;

25          (119) "under official control", in relation to a

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1 pest or disease, means that its presence is known,  
2 its distribution is limited and its further spread is  
3 controlled by the exercise of powers under this  
4 chapter;

5 (120) "Vehicle" includes a car, truck, motorcycle,  
6 bicycle (whether motorized or not), cart and any  
7 other wheeled conveyance;

8 (121) "Vessel" includes a ship, hovercraft, boat,  
9 ferry, raft, yacht, canoe or pontoon that is used as  
10 a conveyance in or on water, whether or not it is  
11 self-propelled; and

12 (122) "Written" and "in writing" mean any mode  
13 form, including electronically;

14 Section 7. Title 22 of the Code of the Federated States  
15 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
16 is hereby further amended by adding a new section 404 of  
17 subchapter 1 under chapter 4 to read as follows:

18 "Section 404. Declarations by Secretary.  
19 The Secretary may by order declare any article,  
20 substance, goods or thing to be a regulated article  
21 for the purposes of this chapter."

22 Section 8. Title 22 of the Code of the Federated States  
23 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
24 is hereby further amended by adding a new section 405 of  
25 subchapter 1 under chapter 4 to read as follows:



1           "Section 405. Application of chapter.

2                   (1) The provisions of this chapter apply to every  
3           person in the Federated States of Micronesia,  
4           irrespective of the person's nationality or  
5           citizenship.

6                   (2) The provisions of this chapter apply to all  
7           conveyances, containers and goods while they are in  
8           the Federated States of Micronesia, including vessels  
9           and aircraft owned or operated by the government of a  
10          foreign State;

11                   (3) The provisions of this chapter apply to  
12          persons, conveyances, containers and goods outside  
13          the Federated States of Micronesia to the extent  
14          needed for its effective enforcement."

15           Section 9. Title 22 of the Code of the Federated States  
16 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
17 is hereby further amended by adding a new section 406 of  
18 subchapter 1 under chapter 4 to read as follows:

19                   "Section 406. Chapter binds the National and State  
20           Governments.

21                   This chapter binds the Federated States of  
22           Micronesia, including every department of the  
23           National Government, the State Governments, every  
24           statutory authority and every person in the  
25           employment of the National Government or a State

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1           Government.

2           Section 10. Title 22 of the Code of the Federated States  
3 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
4 is hereby further amended by adding a new section 407 of  
5 subchapter 1 under chapter 4 to read as follows:

6           "Section 407. Responsibility for the chapter.  
7           The Secretary is responsible for the implementation  
8           of this the provisions of this chapter and the  
9           performance of the biosecurity functions of the  
10           National Government, within the resources available  
11           to the Department."

12          Section 11. Title 22 of the Code of the Federated States  
13 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
14 is hereby further amended by adding a new section 408 of  
15 subchapter 1 under chapter 4 to read as follows:

16          "Section 408. Relationship with other laws.

17           (1) This chapter is in addition to and does not  
18           derogate from any other law of the Congress or of any  
19           of the State Governments.

20           (2) To the extent of any inconsistency between  
21           this chapter and any other law of the National  
22           Government or of a State Government, every other law  
23           must so far as possible be construed so as to fulfill  
24           the purpose of this chapter."

25          Section 12. Title 22 of the Code of the Federated States

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1 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
2 is hereby further amended by inserting new subchapter II under  
3 chapter 4 entitled: "Border Biosecurity Control".

4 Section 13. Title 22 of the Code of the Federated States  
5 of Micronesia(Annotated), as amended by Public Law No. 18-86,  
6 is hereby further amended by adding a new section 409 of  
7 subchapter 1 under chapter 4 to read as follows:

8 "Section 409. Regulated pests and diseases.

9 (1) The Secretary may by order declare pests or  
10 diseases:

11 (a) the importation of which is prohibited  
12 for all purposes; or

13 (b) the importation of which is permitted  
14 subject to conditions specified under this chapter or  
15 the regulations;

16 (2) A person who imports or attempts to import a  
17 pest or disease which is prohibited under subsection  
18 (1)(a) commits a level five offense.

19 (3) A person who imports or attempts to import a  
20 pest or disease which is regulated under subsection  
21 (1)(b) in breach of the conditions of import commits  
22 a level five offense."

23 Section 14. Title 22 of the Code of the Federated States  
24 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
25 is hereby further amended by adding a new section 410 of

1 subchapter II under chapter 4 to read as follows:

2 "Section 410. Prohibited imports.

3 (1) The Secretary may by order prohibit the  
4 importation of:

5 (a) particular regulated articles from all  
6 countries; or

7 (b) particular regulated articles from one  
8 or more countries of origin,  
9 if the importation would present an unacceptable  
10 biosecurity risk to the Federated States of  
11 Micronesia.

12 (2) An order under this section in respect of an  
13 article:

14 (a) may be made at any time before  
15 biosecurity import clearance is granted in respect of  
16 the article;

17 (b) continues in force until it is revoked  
18 or varied, but must be reviewed every 12 months.

19 (3) In making a decision under this section, the  
20 Secretary must:

21 (a) have regard to the international  
22 obligations of the Federated States of Micronesia in  
23 respect of biosecurity;

24 (b) apply the precautionary principle.

25 (4) Before making an order under this section the

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1           Secretary must obtain a pest risk analysis in  
2           relation to the article;

3           (5) If a person imports or attempts to import a  
4           prohibited article:

5                   (a) the person commits a level five offense;  
6           and

7                   (b) biosecurity import clearance under must  
8           be refused for the article.

9           (6) A person who without lawful excuse owns or  
10          possesses any prohibited article commits a level five  
11          offense."

12          Section 15. Title 22 of the Code of the Federated States  
13 of Micronesia (Annotated, as amended by Public Law No. 18-86,  
14 is hereby further amended by adding new section 411 of  
15 subchapter II under chapter 4 to read as follows:

16          "Section 411. Biosecurity points of entry and  
17          departure.

18                   (1) The Secretary may by order designate as  
19          biosecurity points of entry the seaports, airports  
20          and post offices at which regulated articles may  
21          enter the Federated States of Micronesia.

22                   (2) Subject to subsection (9), a master or  
23          captain who causes or permits an incoming vessel or  
24          aircraft to berth or land except at a seaport or  
25          airport that is a biosecurity point of entry commits

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1           a level five offense.

2           (3) A person who imports, or attempts to import,  
3           a regulated article or consignment except at a  
4           biosecurity point of entry commits a level three  
5           offense.

6           (4) The Secretary may by order designate as  
7           biosecurity points of departure the seaports,  
8           airports and post offices at which regulated articles  
9           may be exported.

10          (5) A master or captain who causes or permits a  
11          vessel or aircraft to leave the Federated States of  
12          Micronesia except from a seaport or airport that is a  
13          biosecurity point of departure commits a level five  
14          offense.

15          (6) A person who exports, or attempts to export,  
16          a regulated article or consignment except at a  
17          biosecurity point of departure commits a level three  
18          offense.

19          (7) A designation of a biosecurity point of entry  
20          or departure may be limited to particular types of  
21          vessels, aircraft or articles or to arrivals from or  
22          exports to particular countries.

23          (8) A post office may only be designated as a  
24          biosecurity point of entry or departure in respect of  
25          regulated articles that at the time of entry or

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1 departure are in a mail bag or other container that  
2 conforms to the requirements of the postal  
3 legislation of the Federated States of Micronesia.

4 (9) A vessel or aircraft may berth or land  
5 elsewhere than at a biosecurity point of entry:

6 (a) if constrained by adverse weather,  
7 mechanical failure or superior force; or

8 (b) if so directed or permitted by the  
9 Secretary or a biosecurity officer.

10 (10) In the circumstances mentioned in subsection  
11 (9), the place where the vessel has berthed or the  
12 aircraft has landed is deemed to be a biosecurity  
13 point of entry for the purposes of this chapter, once  
14 the Secretary has been notified of the berthing or  
15 landing.

16 (11) Prior to designating any biosecurity point of  
17 entry and departure the Secretary must first secure  
18 the consent and written agreement of the Governor of  
19 the state where the proposed biosecurity point of  
20 entry and departure is located."

21 Section 16. Title 22 of the Code of the Federated States  
22 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
23 is hereby further amended by adding a new section 412 of  
24 subchapter II under chapter 4 to read as follows:

25 "Section 412. Designation of biosecurity holding

1           areas.

2           (1) The Secretary may by order designate:

3           (a) any territorial waters or any part of a seaport as  
4           a biosecurity port holding area for vessels;

5           (b) any part of an airport as a biosecurity port  
6           holding area for aircraft.

7           (2) The Secretary may by order designate any area  
8           of land at or adjacent to a seaport or airport as a  
9           biosecurity goods holding area for incoming or  
10          outgoing containers and goods.

11          (3) The Secretary may designate any part of a  
12          post office that has been designated as a biosecurity  
13          point of entry or departure as a biosecurity postal  
14          holding area for incoming or outgoing postal items.

15          (4) Prior to designating any land or water as a  
16          biosecurity holding area the Secretary must first  
17          secure the consent and written agreement of the  
18          Governor of the state where the proposed biosecurity  
19          holding area is located.

20          (5) The Secretary must ensure that every  
21          biosecurity holding area is provided with such  
22          buildings and facilities as are reasonably needed:

23                  (a) to hold regulated articles in  
24                  biosecurity quarantine;

25                  (b) to prevent unauthorized persons from



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1           entering the station or removing items from the  
2           station;

3                   (c) to enable biosecurity officers to  
4           perform tests, provide treatment and apply other  
5           biosecurity measures as required by or under this  
6           chapter."

7           Section 17. Title 22 of the Code of the Federated States  
8 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
9 is hereby further amended by adding a new section 413 of  
10 subchapter II under chapter 4 to read as follows:

11           "Section 413. Management of biosecurity holding  
12           areas.

13                   (1) No person, other than the person in charge of  
14           the area or a biosecurity officer acting in the  
15           course of duty, may enter a biosecurity holding area  
16           without the written permission of the Secretary, or  
17           the permission of the person in charge of the area or  
18           of a biosecurity officer.

19                   2) A biosecurity officer may, in order to reduce  
20           a biosecurity threat, lock, seal or otherwise prevent  
21           entry to and exit from a biosecurity holding area or  
22           any building in it.

23                   (3) A person who:

24                           (a) enters a biosecurity holding area  
25           without permission given under subsection (2); or

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1                   (b) damages, interferes with or in any way  
2                   reduces the effectiveness of measures taken to  
3                   secure a biosecurity holding area, or any regulated  
4                   article or other item in the area,  
5                   commits a level two offense.

6                   (4) A person who removes or attempts to remove  
7                   from a biosecurity holding area any regulated article  
8                   without obtaining biosecurity clearance in respect of  
9                   it, unless for the purpose of biosecurity measures  
10                  being applied to the article in accordance with this  
11                  chapter, commits a level six offense.”

12                  Section 18. Title 22 of the Code of the Federated States  
13 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
14 is hereby further amended by adding a new section 414 of  
15 subchapter II under chapter 4 to read as follows:

16                  “Section 414. Biosecurity clearance agents.

17                  (1) A person who proposes to import or export  
18                  regulated articles through a seaport or airport and  
19                  who will not be present when biosecurity inspection is  
20                  to take place must:

21                  (a) in writing appoint a person resident in  
22                  the Federated States of Micronesia as a biosecurity  
23                  clearance agent for the purposes of this chapter; and

24                  (b) notify the Secretary in writing of the  
25                  appointment before the agent performs any agency

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1           functions.

2           (2) A biosecurity clearance agent appointed under  
3           subsection (1) ceases to be an agent for the purposes  
4           of this chapter if the Secretary notifies the importer  
5           or exporter in writing that, in the opinion of the  
6           Secretary, the agent's conduct in the performance of  
7           functions under this chapter renders the agent  
8           unacceptable for purposes of this chapter.

9           (3) Where practicable, notice under subsection  
10          (2) must be given in sufficient time to allow the  
11          importer or exporter to appoint another agent.

12          (4) A biosecurity clearance agent who performs or  
13          purports to perform any functions of an importer or  
14          exporter under this chapter is liable to the same  
15          extent as the importer or exporter for any act or  
16          omission which amounts to an offense or which creates  
17          any legal obligation under this chapter.

18          (5) If a person referred to in subsection (1)  
19          fails to comply with that subsection, biosecurity  
20          clearance must not be granted for any regulated  
21          article or consignment which the person seeks to  
22          import or export."

23          Section 19. Title 22 of the Code of the Federated States  
24 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
25 is hereby further amended by inserting a new subchapter III

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1 entitled "Biosecurity Administration".

2 Section 20. Title 22 of the Code of the Federated States  
3 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
4 is hereby further amended by adding a new section 415 of  
5 subchapter III under chapter 4 to read as follows:

6 "Section 415. Designation of biosecurity officers.

7 (1) The Secretary must in writing designate four  
8 or more suitably qualified public officers as  
9 biosecurity officers for the purposes of this chapter.

10 (2) The Secretary may in writing designate any  
11 public officer or employee of a statutory authority to  
12 be a biosecurity officer for a particular purpose or  
13 at a particular location.

14 (3) The Secretary may in writing appoint any  
15 person to be a temporary biosecurity officer for a  
16 period not exceeding 6 months for a particular purpose  
17 or at a particular location.

18 (4) Before designating or appointing a public  
19 officer from another Department, the Secretary must  
20 consult the relevant Secretary, but failure to do so  
21 does not invalidate the designation or appointment.

22 (5) The powers of a biosecurity officer are as  
23 prescribed by or under this chapter.

24 (a) A biosecurity officer must perform such  
25 duties, not inconsistent with this chapter, as are

1           assigned to the officer by the Secretary.

2                   (b) The Secretary may limit the functions to  
3           be performed by a biosecurity officer to those within  
4           the officer's technical sphere of competence;

5                   (c) The functions assigned to an officer  
6           designated under subsection (2) or (3) must be  
7           consistent with the terms of the designation.

8                   (6) The Secretary must provide every biosecurity  
9           officer with a badge, card or other form of official  
10          identification that clearly identifies the person as  
11          a biosecurity officer of the National Government of  
12          the Federated States of Micronesia.

13                  (7) A person who:

14                          (a) upon the termination of his or her  
15          appointment as a biosecurity officer fails to return  
16          to the Secretary the identification issued under  
17          subsection (6) within 24 hours of the termination  
18          taking effect commits a level two offense; or

19                          (b) copies, forges or alters an  
20          identification issued under subsection (6) without  
21          the written authority of the Secretary commits a  
22          level four offense.

23                          (8) A person who is to perform duties as a  
24          biosecurity officer under this section must be given  
25          adequate training in biosecurity control measures and

1           in the provisions of this chapter before embarking on  
2           those duties."

3           Section 21. Title 22 of the Code of the Federated States  
4 of Micronesia, as amended, is hereby further amended by  
5 inserting under chapter 4 subchapter III a new section 416 to  
6 read as follows:

7           "Section 416. Biosecurity planning and  
8           administration.

9           (1) Within 12 months of the date upon which this  
10          chapter enters into force the Secretary must, in  
11          consultation with other National Government  
12          departments and statutory authorities and State  
13          Governments, prepare a Biosecurity Emergency Response  
14          Plan to deal with incursions of regulated pests and  
15          diseases in the Federated States of Micronesia.

16          (2) The Secretary must ensure that the  
17          Biosecurity Emergency Response Plan is updated  
18          whenever necessary, and at a minimum the plan must be  
19          reviewed biannually.

20          (3) The Secretary must develop and publish a  
21          manual of standard operating procedures to guide  
22          biosecurity officers in their duties under this  
23          chapter and regulations issued pursuant to this  
24          chapter.

25          (4) The Secretary must, to the extent possible,

1           publicize the requirements of this chapter and  
2           increase public awareness of the importance of  
3           biosecurity.”

4           Section 22. Title 22 of the Code of the Federated States  
5 of Micronesia, as amended, is hereby further amended by  
6 inserting under chapter 4 subchapter III a new section 417 to  
7 read as follows:

8           “Section 417. Delegation of functions.

9           (1) The Secretary may in writing delegate any of  
10          the Secretary’s functions, powers and duties under  
11          this chapter to another public officer or officers  
12          employed by the Department, other than any  
13          legislative or appellate function or this power to  
14          delegate.

15          (2) A delegation under this section may be to a  
16          specified person or to the holder for the time being  
17          of a specified office or to the holders of offices of  
18          a specified class.

19          (5) A delegation under this section may be made  
20          subject to such restrictions and conditions as  
21          determined by the Secretary, and may be made either  
22          generally or in relation to any particular case or  
23          class of cases.

24          (6) A person purporting to perform any function  
25          by virtue of a delegation under this section must,

1           when required to do so, produce evidence of the  
2           authority to perform the function.

3           (7) A delegation under this section continues in  
4           force notwithstanding a change in the identity of the  
5           delegator, until revoked."

6           Section 22. Title 22 of the Code of the Federated States  
7 of Micronesia, as amended, is hereby further amended by  
8 inserting under chapter 4 subchapter III a new section 418 to  
9 read as follows:

10           "Section 418. Biosecurity register and records.

11           (1) The Secretary must maintain a biosecurity  
12           register and other records needed for the  
13           administration of this chapter and the performance of  
14           the biosecurity functions of the National Government.

15           (2) Without limiting the matters to be recorded  
16           in the biosecurity register, details of the following  
17           must be included:

18                   (a) regulated pests and diseases;

19                   (b) prohibited imports;

20                   (c) biosecurity points of entry and  
21           departure;

22                   (d) biosecurity holding areas;

23                   (e) biosecurity clearance agents;

24                   (f) biosecurity port quarantine areas;

25                   (g) biosecurity quarantine stations;



- 1                   (h) biosecurity approved premises;
- 2                   (i) biosecurity import permits issued,
- 3                   refused and revoked under this chapter or the
- 4                   regulations;
- 5                   (j) biosecurity controlled areas declared;
- 6                   (k) occurrences of notifiable pests and
- 7                   diseases notified under regulation;
- 8                   (l) beneficial organisms released under
- 9                   regulation;
- 10                  (m) agreements and memoranda of
- 11                  understanding with other governments, government
- 12                  departments, statutory authorities and overseas
- 13                  agencies under sections 421 and 422;
- 14                  (n) compliance agreements entered into by
- 15                  the Secretary under section 424;
- 16                  (o) bilateral agreements entered into with
- 17                  potential receiving countries under section 426;
- 18                  (p) any other public biosecurity register
- 19                  required by or under this chapter or considered by
- 20                  the Secretary to be necessary or appropriate.

21                  (3) The biosecurity register must include details  
22                  of:

- 23                  (a) specifications for regulated articles
- 24                  made under this chapter or the regulations, including
- 25                  the biosecurity measures appropriate to each type of

1 regulated article;

2 (b) any other form or matter specified by  
3 the Secretary under this chapter or which is required  
4 by the regulations to be included on the register.

5 (4) In respect of the biosecurity requirements of  
6 receiving countries, the biosecurity register must  
7 include details of:

8 (a) the requirements of those countries for  
9 which biosecurity export clearance has been granted  
10 in the previous 12 months;

11 (b) source material for ascertaining the  
12 biosecurity requirements of all potential receiving  
13 countries.

14 (5) The Secretary must maintain records relating  
15 to the biosecurity functions of the National  
16 Government, including, but not limited to:

17 (a) financial and resource management  
18 records, with budgets and records of expenditure and  
19 revenue;

20 (b) personnel records including the  
21 identities, duty statements and terms and conditions  
22 of employment of all biosecurity officers;

23 (c) operational statistics relating to the  
24 biosecurity functions of the Government.”

25 Section 23. Title 22 of the Code of the Federated States

1 of Micronesia, as amended, is hereby further amended by  
2 inserting under chapter 4 subchapter III a new section 419 to  
3 read as follows:

4 "Section 419. Status of biosecurity register and  
5 records.

6 (1) The biosecurity register kept pursuant to  
7 section 418 must be made available for inspection and  
8 copying by members of the public during office hours  
9 at the office of the Department on payment of the  
10 prescribed fee.

11 (2) Copies of relevant extracts from the  
12 biosecurity register must be made available for  
13 inspection and copying by members of the public at  
14 post offices in each FSM state on payment of the  
15 prescribed fee.

16 (3) A copy of an entry in the biosecurity  
17 register which is certified by the Secretary to be an  
18 accurate copy may be produced in court as *prima facie*  
19 evidence of the entry.

20 (4) The biosecurity register and other records  
21 kept under section 418 may be in electronic format,  
22 provided the information is readily retrievable and  
23 is protected against unintended loss and unauthorized  
24 alteration.

25 (5) The Secretary may by order determine the

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1           period for which entries in the biosecurity register  
2           and other records under section 418 must be kept,  
3           consistent with any other law relating to public  
4           records."

5           Section 24. Title 22 of the Code of the Federated States  
6 of Micronesia, as amended, is hereby further amended by  
7 inserting under chapter 4 subchapter III a new section 420 to  
8 read as follows:

9           "Section 420. Payments.

10           (1) Fines, fees and charges payable under this  
11           chapter are to be paid into the General Fund.

12           (2) If a fee or charge payable under this chapter  
13           is not paid:

14                   (a) if the service for which the fee or  
15                   charge is payable has not been provided - it may be  
16                   withheld until the fee is paid;

17                   (b) if the service has been provided - the  
18                   fee or charge may be recovered as a debt owing to the  
19                   Government;

20                   (c) if the fee or charge is in respect of an  
21                   item in quarantine - the item may be sold once it has  
22                   cleared quarantine, or otherwise be treated as  
23                   abandoned goods."

24           Section 25. Title 22 of the Code of the Federated States  
25 of Micronesia, as amended, is hereby further amended by

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1 inserting under chapter 4 subchapter III a new section 421 to  
2 read as follows:

3 "Section 421. Consultation and outsourcing.

4 (1) Prior to exercising a power under this  
5 chapter that will or might affect matters within the  
6 responsibility of another government department or  
7 statutory authority (including but not limited to  
8 health, natural resources, environment, tourism,  
9 postal services, shipping, aviation, transport and  
10 trade) the Secretary must consult the relevant  
11 department, authority or officer, but failure to do  
12 so does not invalidate the exercise of the power.

13 (2) The Secretary may, for the effective  
14 implementation of this chapter, enter into memoranda  
15 of understanding or other agreements with State  
16 Governments, other National Government departments  
17 and statutory authorities, and with private  
18 organizations in the Federated States of Micronesia  
19 or elsewhere.

20 (3) The Department may:

21 (a) hire the services of a laboratory for  
22 testing of samples;

23 (b) hire consultants to perform biosecurity  
24 risk assessments and to carry out surveys authorized  
25 under this chapter;

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1                   (c) purchase any treatment or other service  
2                   deemed necessary for the effective implementation of  
3                   this chapter."

4           Section 26. Title 22 of the Code of the Federated States  
5 of Micronesia, as amended, is hereby further amended by  
6 inserting under chapter 4 subchapter III a new section 422 to  
7 read as follows:

8                   "Section 422. Duty to coordinate.

9                   (1) Biosecurity officers and other persons  
10                  administering this chapter should so far as possible  
11                  coordinate their functions with those of officers of  
12                  state governments, other national government  
13                  departments and statutory authorities, in respect of  
14                  border control, the movement of vessels and aircraft,  
15                  human health, biosecurity internal control and  
16                  compliance with the laws of the Federated States of  
17                  Micronesia generally.

18                  2) Without limiting subsection (1):

19                  (a) biosecurity officers should notify  
20                  officers of the customs and immigration services of  
21                  any breach of customs or immigration law that comes  
22                  to their notice;

23                  (b) officers of the customs and immigration  
24                  services and of the postal service should:

25                                  (i) notify a biosecurity officer of the

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1           importation or proposed exportation of any uncleared  
2           regulated article that comes to their notice;

3                       (ii) hand over to a biosecurity officer  
4           any such article which comes into their possession  
5           for inspection and treatment in accordance with this  
6           chapter;

7                       (c) police officers, customs officers,  
8           immigration officers, postal service officers,  
9           environmental officers, agriculture officers,  
10          livestock officers, forestry officers and fisheries  
11          officers of state governments and the National  
12          Government should co-operate with biosecurity  
13          officers in the performance of their functions under  
14          this chapter and render such assistance as they can  
15          lawfully do when called upon by the Secretary or a  
16          biosecurity officer.

17                      (3) The Secretary should seek so far as possible  
18          to coordinate the biosecurity functions of the  
19          National Government with those of state governments,  
20          other national government departments and statutory  
21          authorities dealing with policing, customs,  
22          immigration, marine, harbors, civil aviation, health,  
23          environment, fisheries, natural resources and similar  
24          services."

25          Section 27. Title 22 of the Code of the Federated States

1 of Micronesia, as amended, is hereby further amended by  
2 inserting under chapter 4 subchapter III a new section 423 to  
3 read as follows:

4 "Section 423. Facilities at biosecurity points of  
5 entry or departure.

6 (1) The operator of every biosecurity point  
7 of entry or departure in the Federated States of  
8 Micronesia must, to the extent possible, provide on  
9 the premises, for the purposes of this chapter and to  
10 the satisfaction of the Secretary:

11 (a) an area suitable for use as offices by  
12 biosecurity officers stationed at the point;

13 (b) adequate space for the display of  
14 notices regarding the biosecurity requirements of  
15 this chapter;

16 (c) areas for interview and, if necessary,  
17 physical examination of incoming passengers and  
18 crew, if required;

19 (d) biosecurity holding areas as designated  
20 under section 412;

21 (e) facilities and suitable containers for  
22 garbage collection and incineration or other  
23 disposal;

24 (f) facilities for the incineration or other  
25 disposal of regulated articles without creating an



1           unacceptable biosecurity risk;  
2                   (g) fencing of premises in which garbage  
3           holding and disposal equipment is situated;  
4                   (h) any other facilities the Secretary  
5           reasonably requests in writing as being needed for  
6           the performance of biosecurity functions at the point  
7           of entry or departure.

8                   (2) The operator of a biosecurity entry or  
9           departure point, whether or not a public officer,  
10          must keep the premises and facilities mentioned in  
11          subsection (1)(e), (f) and (g) free from weeds and  
12          vermin to the satisfaction of the Secretary. An  
13          operator who fails to do so commits a level one  
14          offense."

15           Section 28. Title 22 of the Code of the Federated States  
16 of Micronesia, as amended, is hereby further amended by  
17 inserting under chapter 4 subchapter III a new section 424 to  
18 read as follows:

19                   "Section 424. Compliance Agreements.

20                   (1) The Secretary may enter into a written  
21           agreement with an importer, exporter, producer or any  
22           other person in connection with:

23                   (a) the application of particular  
24           biosecurity measures in respect of any item;

25                   (b) the way in which any requirement under

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1           this chapter can be satisfied by the person; and

2                   (c) the supervision, monitoring and testing  
3           of the person's compliance with those measures or  
4           that requirement.

5           (2) A compliance agreement may provide that, in  
6           circumstances stated in the agreement, the Secretary  
7           may, by written notice, cancel or vary the agreement  
8           or suspend its operation for a period. The  
9           circumstances may include, but are not limited to,  
10          the person's failure to comply with specified  
11          measures or meet specified requirements.

12          (3) A biosecurity officer may release an article  
13          to which a compliance agreement applies, and if it is  
14          a regulated article grant biosecurity clearance in  
15          respect of it, on the basis of a written certificate,  
16          given by a person authorized under the agreement to  
17          give such a certificate, that all the measures to  
18          which the agreement refers have been complied with in  
19          respect of the article."

20          Section 29. Title 22 of the Code of the Federated States  
21 of Micronesia, as amended, is hereby further amended by  
22 inserting under chapter 4 subchapter III a new section 425 to  
23 read as follows:

24           "Section 425. Biosecurity approved premises.

25                   (1) The Secretary, on written application by the

1           owner or occupier of any premises and on payment of  
2           the prescribed fee, may in writing:

3                   (a) approve the premises as premises where  
4                   the inspection, testing and treatment of regulated  
5                   articles can take place; and

6                   (b) approve specified action being taken  
7                   under this chapter in relation to all regulated  
8                   articles, or specified articles, while they are in  
9                   the approved premises.

10           (2) In deciding whether to give approval under  
11           subsection (1), the Secretary, after inspection of  
12           the premises by a biosecurity officer, must take into  
13           account:

14                   (a) whether the specified action can be  
15                   taken in the premises without an unacceptable  
16                   biosecurity risk and without contravening this  
17                   chapter or the conditions of any permit;

18                   (b) whether the premises and facilities in  
19                   them are adequate to enable such action to be taken  
20                   efficiently and safely;

21                   (c) whether the location of the premises is  
22                   appropriate having regard to the nature of the  
23                   articles, the specified action and the level of  
24                   biosecurity risk;

25                   (d) whether the premises are located in a

1 place where biosecurity officers can conveniently  
2 check that this chapter and the regulations are being  
3 complied with in the premises; and

4 (e) any other matter the Secretary considers  
5 relevant.

6 (3) An approval under this section may be  
7 expressed to be subject to conditions stated in the  
8 approval and is of no effect if the conditions are  
9 not met.

10 (4) An approval under this section has effect for  
11 a period not exceeding 12 months but may be renewed  
12 by following the procedure for a new approval.

13 (5) An approval under this section may be  
14 cancelled if the Secretary is satisfied:

15 (a) that the premises or facilities or  
16 action taken do not comply with this chapter or the  
17 regulations; or

18 (b) that the premises are otherwise no  
19 longer suitable for approval.

20 (6) The provisions of this chapter relating to  
21 biosecurity quarantine stations apply to premises  
22 approved under this section."

23 Section 30. Title 22 of the Code of the Federated States  
24 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
25 is hereby further amended by inserting subchapter IV under

1 chapter 4 entitle: "Powers of Biosecurity Officers".

2 "Section 426. International Cooperation.

3 (1) In the interests of enhancing international  
4 cooperation in the field of biosecurity and to  
5 fulfill FSM's obligations under international  
6 agreements of relevance to biosecurity, the Secretary  
7 may:

8 (a) exchange information with other  
9 countries and international organizations;

10 (b) contribute to the development of  
11 international sanitary and phytosanitary standards.

12 (2) The Secretary must endeavor to implement in the  
13 Federated States of Micronesia international  
14 standards and requirements relating to biosecurity,  
15 and to that end should:

16 (a) designate one or more officers in the Department  
17 as the point of contact and notification authority  
18 for the purposes of the IPPC, the OIE and the PPPO;

19 (b) seek to ensure that notification and reporting  
20 requirements of the IPPC, the OIE , the PPPO and any  
21 other international agreement relating to biosecurity  
22 to which the Federated States of Micronesia belongs  
23 are met in a timely manner."

24 Section 31. Title 22 of the Code of the Federated States  
25 of Micronesia (Annotated), as amended by Public Law No. 18-86,

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1 is hereby further amended by inserting under chapter 4  
2 subchapter III a new section 427 to read as follows:

3 "Section 427. Notifications.

4 (1) The Secretary may at any time issue a notice:

5 (a) stating that a specified pest or disease  
6 is known to exist in the Federated States of  
7 Micronesia;

8 (b) stating that, to the best of the  
9 Secretary's knowledge, a specified pest or disease  
10 does not exist in the Federated States of Micronesia;

11 (c) specifying the classification, name or  
12 identity by which any animal, animal product, plant,  
13 plant product, pest or disease is known in the  
14 Federated States of Micronesia.

15 (2) A notice issued under subsection (1) is, for  
16 the purposes of this chapter, conclusive until  
17 revoked or amended under that subsection and is  
18 admissible in any court or other proceedings as  
19 evidence of the matters stated in it."

20 Section 32. Title 22 of the Code of the Federated States  
21 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
22 is hereby further amended by inserting new subchapter IV under  
23 chapter 4 entitled "Powers of Biosecurity Officers"

24 Section 33. Title 22 of the Code of the Federated States  
25 of Micronesia (Annotated), as amended by Public Law No. 18-86,

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1 is hereby further amended by adding a new section 428 of  
2 subchapter IV under chapter 4 to read as follows:

3 "Section 428. General rules as to exercise of  
4 powers.

5 (1) The powers conferred by this chapter on  
6 biosecurity officers may be exercised only for the  
7 purpose of ascertaining whether there is a  
8 biosecurity risk presented by a conveyance, container  
9 or item and eliminating or reducing the risk.

10 (2) A reference in this chapter to a biosecurity  
11 officer, when exercising powers, means a duly  
12 authorized biosecurity officer acting in the  
13 performance of his or her duties.

14 (3) A biosecurity officer may use only such force  
15 as is reasonably necessary when exercising a power  
16 under this chapter. If necessary, the biosecurity  
17 officer should obtain the assistance of a police  
18 officer to effect an arrest or enter premises.

19 (4) Before exercising a power to enter and search  
20 premises, to search a conveyance or container or to  
21 inspect or test any article, a biosecurity officer  
22 must, if practical, request the assistance of the  
23 person in control of the premises, conveyance,  
24 container or article.

25 (5) Except as otherwise provided in this chapter,

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1           a biosecurity officer may exercise a power under this  
2           chapter without a warrant or other order of a  
3           judicial officer, provided the action is taken in  
4           good faith for the purposes of this chapter.

5           (6) A biosecurity officer exercising powers under  
6           this subchapter must produce for inspection his or  
7           her identification as an officer, upon request by the  
8           person in charge of the conveyance, premises or area,  
9           or the importer, exporter, owner or custodian of the  
10          item, in respect of which the power is being  
11          exercised.

12          (7) Before exercising a power in a situation that  
13          involves shipping, civil aviation, human health, the  
14          environment or any other activity governed by another  
15          law, a biosecurity officer must if practicable  
16          consult public officials responsible for shipping,  
17          civil aviation, human health or the environment.

18          (8) The powers conferred on biosecurity officers  
19          by or under this chapter must be exercised subject  
20          to:

21                  (a) any regulations made by the Secretary  
22                  under this chapter in respect of those powers;

23                  (b) any biosecurity specifications made in  
24                  respect of regulated articles;

25                  (c) any written directions of the Secretary;



1                   (d) the provisions of:

2                   (i) the Vienna Convention on Diplomatic  
3                   Relations relating to the premises of a diplomatic  
4                   mission, diplomatic bags and the personal baggage of  
5                   diplomatic agents;

6                   (ii) the Vienna Convention on Consular  
7                   Relations relating to consular premises, archives and  
8                   documents."

9           Section 34. Title 22 of the Code of the Federated States  
10 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
11 is hereby further amended by adding a new section 429 of  
12 subchapter IV under chapter 4 to read as follows:

13                   "Section 429. Entry, search and seizure.

14                   (1) A biosecurity officer may:

15                   (a) search an incoming vessel or aircraft at  
16                   a biosecurity port holding area to ascertain whether  
17                   the vessel or aircraft has on board any regulated  
18                   article that might pose a biosecurity threat to the  
19                   Federated States of Micronesia;

20                   (b) search an outgoing vessel or aircraft if  
21                   the officer has reason to believe there are on board  
22                   any uncleared articles that require export clearance;

23                   (c) at any time enter and search any  
24                   premises, building or area, including a biosecurity  
25                   holding area, biosecurity quarantine station or

1 biosecurity approved premises and land adjacent to a  
2 dwelling house, but not a dwelling house, in order to  
3 ascertain the presence of uncleared regulated  
4 articles that have not received biosecurity import  
5 clearance;

6 (d) at any time with the consent of the  
7 owner, enter and search a dwelling house for purposes  
8 of this chapter;

9 (e) at any time, on a warrant issued under  
10 subsection (2), enter and search a dwelling house for  
11 uncleared regulated articles that the officer  
12 reasonably suspects to be in it.

13 (2) If a judicial officer is satisfied on  
14 affidavit evidence by a biosecurity officer that:

15 (a) there may be in a dwelling house  
16 uncleared regulated articles; and

17 (b) the consent of the owner or occupier to  
18 entry and search of the dwelling house cannot be  
19 obtained, the judicial officer may issue a warrant  
20 authorizing the officer to enter and search the  
21 dwelling house for uncleared regulated articles.

22 (3) A biosecurity officer may at any time enter  
23 and search any store, warehouse, silo, pen or similar  
24 premises, or any conveyance, in which regulated  
25 articles intended for importation to or exportation

1           from the Federated States of Micronesia are kept.

2           (4) A person who keeps regulated articles in or  
3           on any premises, or in a conveyance, prior to  
4           importation or exportation of them must make the  
5           premises or conveyance available for inspection by a  
6           biosecurity officer upon request at any reasonable  
7           time.

8           (5) Subsections (1), (3) and (4) apply to  
9           premises and conveyances outside the Federated States  
10          of Micronesia in respect of articles intended for  
11          importation to the Federated States of Micronesia.

12          (6) A person who contravenes subsection (4)  
13          commits a level two offense.

14          (7) During a search of premises or a conveyance  
15          under this section a biosecurity officer may seize  
16          anything which:

17                  (a) is an uncleared regulated article; or

18                  (b) may be used as evidence of the

19          commission of an offense under this chapter.

20          (8) A biosecurity officer who seizes anything  
21          from a person under subsection (7) must:

22                  (a) inform the person of the reason for the  
23          seizure;

24                  (b) give the person a receipt for the thing  
25          seized; and

1                   (c) remove the thing to a place of  
2                   safekeeping and deal with it in accordance with this  
3                   chapter.

4                   (9) A biosecurity officer may, at the expense of  
5                   the importer, submit to appropriate biosecurity  
6                   measures any regulated article seized pursuant to  
7                   this section."

8           Section 35. Title 22 of the Code of the Federated States  
9 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
10 is hereby further amended by adding a new section 430 of  
11 subchapter IV under chapter 4 to read as follows:

12                   "Section 430. Inspection of documents.

13                   (1) A biosecurity officer may:

14                   (a) call for and inspect documents on or in  
15                   incoming or outgoing vessels and aircraft;

16                   (b) open and inspect at a biosecurity point  
17                   of entry any incoming document, including mail, in  
18                   order to ascertain whether the document contains or  
19                   relates to a regulated article;

20                   (c) open and inspect at a biosecurity point  
21                   of departure any outgoing document, including mail,  
22                   if the officer reasonably suspects that the document  
23                   contains or relates to:

24                   (i) an uncleared regulated article that  
25                   requires biosecurity export clearance; or

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1                    (ii) a regulated article that could pose  
2                    a serious biosecurity threat to the country of  
3                    destination of the document.

4                    (2) The powers relating to mail in subsection  
5                    (1)(b) and (c) must only be exercised in respect of  
6                    personal letters if the officer reasonably suspects  
7                    that a letter contains or relates to a biosecurity  
8                    threat."

9                    Section 36. Title 22 of the Code of the Federated States  
10 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
11 is hereby further amended by adding a new section 431 of  
12 subchapter IV under chapter 4 to read as follows:

13                    "Section 432. Inspection of articles.

14                    (1) A biosecurity officer may at a biosecurity  
15                    holding area inspect any incoming regulated article,  
16                    and any conveyance, container or baggage in which the  
17                    article is carried, in order to assess the  
18                    biosecurity risk presented by the article,  
19                    conveyance, container or baggage.

20                    (2) A biosecurity officer may at a biosecurity  
21                    point of departure inspect any article, which  
22                    requires biosecurity export clearance, in order to  
23                    facilitate such clearance.

24                    (3) The powers of inspection in subsection (1)  
25                    and (2) are in addition to the powers of inspection

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1 provided elsewhere in this chapter or the  
2 regulations.

3 (4) For the purpose of exercising the powers of  
4 inspection under this chapter, a biosecurity officer  
5 may request an importer or exporter to unpack and/or  
6 break up a consignment, or to open a container, at  
7 the person's risk and expense.

8 (5) If an importer or exporter refuses to comply  
9 with a request under subsection (4):

10 (a) the person commits a level two offense;

11 (b) the biosecurity officer may break up the  
12 consignment or open the container or cause it to be  
13 broken or opened;

14 (c) the cost of action under paragraph (b)  
15 is a debt owing to the Government by the importer or  
16 exporter, as the case may be;

17 (d) no liability lies on the Government, the  
18 Secretary or any biosecurity officer and no  
19 compensation is payable, for the action of breaking  
20 up or opening, unless negligence or malice is proved.

21 (6) When conducting an inspection under this  
22 chapter, a biosecurity officer may seek access to,  
23 and take photographic, electronic or other copies of  
24 any evidence, information, records and things related  
25 to the regulated article or consignment that the

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1           officer reasonably requires in order to ensure  
2           compliance with this chapter or to investigate a  
3           possible offense under it.

4           (7) The regulations may specific procedures for  
5           the inspection of articles in transit."

6           Section 37. Title 22 of the Code of the Federated States  
7 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
8 is hereby further amended by adding a new section 432 of  
9 subchapter IV under chapter 4 to read as follows:

10           "Section 432. Detention of articles.

11           (1) If an incoming regulated article requires  
12           biosecurity measures to be taken in respect of it  
13           before biosecurity import clearance can be granted, a  
14           biosecurity officer may detain the article, and any  
15           conveyance, container or baggage in which the article  
16           is carried, for biosecurity measures to be taken.

17           (2) If an outgoing regulated article that  
18           requires biosecurity export clearance has not been  
19           cleared, a biosecurity officer may detain the  
20           article, and any conveyance, container or baggage in  
21           which the article is carried, until clearance or  
22           other disposition of the article under this chapter.

23           (3) An article detained under this section must  
24           be detained in a place specified by the officer,  
25           being a biosecurity holding area, biosecurity

1 quarantine station or biosecurity approved premises.

2 (4) If an article is to be detained under this  
3 section, a biosecurity officer may:

4 (a) direct the importer or exporter of the  
5 article to remove it to the specified place;

6 (b) if necessary (because the importer or  
7 exporter refuses to obey the direction, or because of  
8 the nature of the biosecurity threat,) arrange for  
9 the article to be removed to the specified place.

10 (5) If an article is detained under this section,  
11 a biosecurity officer must give to the importer or  
12 exporter a notice in writing stating the reasons for  
13 the detention and, if it was removed under subsection  
14 (4)(b), the specified place.

15 (6) The cost of removal of an article to and its  
16 detention in a specified place is to be borne by the  
17 importer or exporter, and no compensation is payable  
18 for any loss or destruction or consequential loss  
19 caused as a result of any such removal or detention,  
20 unless negligence or malice is proved.

21 (7) The fee, if any, for detention of an article  
22 under this section are as prescribed in regulations."

23 Section 38. Title 22 of the Code of the Federated States  
24 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
25 is hereby further amended by adding a new section 433 of



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1 subchapter IV under chapter 4 to read as follows:

2 "Section 433. Taking of samples.

3 (1) A biosecurity officer may, with the consent  
4 of the importer, owner or custodian, take samples  
5 from:

6 (a) any part of an incoming vessel or  
7 aircraft that has on board regulated articles;

8 (b) any warehouse containing regulated  
9 articles intended for importation;

10 (c) any consignment of incoming regulated  
11 articles, wherever located;

12 (d) any incoming container, baggage or thing  
13 that the officer reasonably suspects to be or include  
14 a regulated article.

15 (2) If an importer, owner or custodian refuses  
16 consent under subsection (1), the biosecurity officer  
17 may require the person to provide appropriate  
18 samples.

19 (3) An importer, owner or custodian who refuses  
20 either to allow samples to be taken or to provide  
21 samples, when required to do so under this section,  
22 commits a level three offense.

23 (4) A biosecurity officer may, with the consent  
24 of importer, owner or custodian, take samples of any  
25 outgoing regulated article if the taking of a sample

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1           is necessary for the issue of a sanitary or  
2           phytosanitary certificate.

3           (5) If the importer, owner or custodian refuses  
4           consent under subsection (4), the biosecurity officer  
5           may require the person to provide a sample, failing  
6           which the sanitary or phytosanitary certificate will  
7           not be issued.

8           (6) A biosecurity officer may request the  
9           importer, exporter, owner or custodian of a  
10          consignment to unpack it or break it up to facilitate  
11          sampling, at the risk and expense of the importer,  
12          exporter, owner or custodian.

13          (7) When exercising powers under subsection (1)  
14          or (2), a biosecurity officer must give the importer,  
15          exporter, owner or custodian a written notice,  
16          identifying the quantity of the sample and the place  
17          where the sample is to be analyzed.

18          (8) If, in the course of sampling, goods are  
19          destroyed or damaged, without negligence or malice,  
20          no compensation is payable to the importer, exporter,  
21          owner or custodian of the goods.

22          (9) The importer, exporter, owner or custodian of  
23          a regulated article from which samples are taken  
24          under subsection (1) must be notified in writing of  
25          the findings in respect of the samples as soon as

1           reasonably practicable.

2           (10) The fee for taking and analysis of samples  
3           under this section are as prescribed in regulations.”

4           Section 39. Title 22 of the Code of the Federated States  
5 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
6 is hereby further amended by adding a new section 434 of  
7 subchapter IV under chapter 4 to read as follows:

8           “Section 434. Testing of Articles.

9           (1) A biosecurity officer may test, or cause  
10          tests to be conducted on, any incoming regulated  
11          article, in order to ascertain whether the article  
12          meets the biosecurity import requirements in respect  
13          of it.

14          (2) Following a test of an incoming article, and  
15          on payment of the prescribed fee, if any, the article  
16          must be either released to the importer, and  
17          biosecurity import clearance granted in respect of  
18          it, or it must be treated in accordance with section  
19          435 or reconsigned or destroyed.

20          (3) A biosecurity officer may test, or cause  
21          tests to be conducted on, any outgoing regulated  
22          article that requires biosecurity export clearance if  
23          such tests are a condition for importation into the  
24          receiving country.

25          (4) Following tests on an outgoing article,

1           biosecurity export clearance must either be granted  
2           or refused in respect of the article.

3           (5) Section 432 applies to articles detained for  
4           testing under this section.

5           (6) The importer or exporter of a regulated  
6           article which is tested under subsection (1) or (3)  
7           must be notified in writing of the results of the  
8           test before the article is released or otherwise  
9           disposed of.

10          (7) If a test conducted under subsection (1) or  
11          (3) without negligence or malice destroys or damages  
12          an animal or other article being tested, no  
13          compensation is payable to the importer of the animal  
14          or other article.

15          (8) The fee for testing of an article under this  
16          section are as prescribed in regulations."

17          Section 40. Title 22 of the Code of the Federated States  
18 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
19 is hereby further amended by adding a new section 435 of  
20 subchapter IV under chapter 4 to read as follows:

21          "Section 435. Treatment of articles.

22          (1) If an incoming regulated article requires  
23          treatment in order to meet the biosecurity import  
24          requirements in respect of it, the article must be  
25          treated before biosecurity import clearance is

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1           granted in respect of it.

2           (2) If an incoming article is found to be  
3           infected, infested or contaminated by a regulated  
4           pest or disease, the article may be treated to reduce  
5           the biosecurity risk to an acceptable level, whether  
6           or not treatment is a specified requirement or a  
7           condition of an import permit.

8           (3) Section 432 applies to articles detained for  
9           treatment under this section.

10          (4) Once treatment has been administered to the  
11          satisfaction of the biosecurity officer, and on  
12          payment of any applicable charges, the article must,  
13          subject to subsection (4), be released to the  
14          importer and biosecurity import clearance granted in  
15          respect of it.

16          (5) The cost of treatment is to be borne by the  
17          importer of the item, but the importer may instead  
18          opt to have the article reconsigned or destroyed.

19          (6) If an importer fails to have an article which  
20          requires treatment under this section treated within  
21          a reasonable time, the biosecurity officer may  
22          require the article to be destroyed.

23          (7) If:

24                 (a) appropriate treatment is not available  
25                 in the Federated States of Micronesia;

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1                   (b) in the opinion of a biosecurity officer,  
2                   there would still be a biosecurity risk after  
3                   treatment; or

4                   (c) the importer chooses not to have the  
5                   article treated, the article must be reconsigned or,  
6                   if the importer chooses, or if section 438 applies,  
7                   destroyed.

8                   (8) Notice of action to be taken under subsection  
9                   (6) or (7) must be given to the importer in writing  
10                  before the action is taken, except for articles in  
11                  passenger baggage which are detained for destruction  
12                  in the presence of the owner or custodian.

13                  (9) If an outgoing regulated article requires  
14                  treatment as a condition of importation into the  
15                  receiving country, the article must be treated at the  
16                  expense of the exporter before biosecurity export  
17                  clearance is granted in respect of it.

18                  (10) If, in the course of treatment, goods are  
19                  destroyed or damaged, without negligence or malice,  
20                  no compensation is payable to the importer or  
21                  exporter of the goods.

22                  (11) Treatment of an article:

23                         (a) should be the minimum required to remove  
24                         or adequately reduce the biosecurity risk posed by  
25                         the article;

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1                   (b) may be administered by an appropriately  
2                   qualified biosecurity officer, or by any other  
3                   suitably qualified person at the request of the  
4                   officer or the importer.

5                   (12) The fees for treatment of an article under  
6                   this section are as prescribed in regulations."

7           Section 41. Title 22 of the Code of the Federated States  
8 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
9 is hereby further amended by adding a new section 436 of  
10 subchapter IV under chapter 4 to read as follows:

11                   "Section 436. Reconsignment of articles.

12                   (1) If an incoming regulated article which  
13                   requires an import permit or a sanitary or  
14                   phytosanitary certificate does not have the permit or  
15                   certificate attached to it, a biosecurity officer  
16                   may, after informing the importer, detain the article  
17                   for reconsignment or destruction.

18                   (2) An incoming article that is a prohibited  
19                   import must be reconsigned or destroyed.

20                   (3) Reconsignment is at the option and cost of  
21                   the importer, but:

22                   (a) reconsignment must be effected within a  
23                   time specified by the officer, which must be  
24                   reasonable in the circumstances;

25                   (b) if the biosecurity officer considers

1           that the biosecurity risk of reconsignment is  
2           unacceptable, the option is not available.

3           (4) The power to order reconsignment of an  
4           article under this section applies also to any  
5           container, crate, baggage, package or mail which  
6           carries it.

7           (5) If reconsignment is not effected within the  
8           time specified under subsection (3)(a), or is not  
9           acceptable, the article or consignment must be  
10          destroyed.

11          (6) No compensation is payable to the importer  
12          for the cost of reconsignment under this section.”

13          Section 42. Title 22 of the Code of the Federated States  
14 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
15 is hereby further amended by adding a new section 437 of  
16 subchapter IV under chapter 4 to read as follows:

17          “Section 437. Destruction of articles.

18          (1) If this chapter requires or authorizes an  
19          article to be destroyed, the destruction of the  
20          article must be in accordance with this section.

21          (2) If an article is found to be infected,  
22          infested or contaminated by a regulated pest or  
23          disease, and:

24                  (a) appropriate treatment is not available  
25                  in the Federated States of Micronesia;



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1                   (b) in the opinion of the Secretary, there  
2                   would still be a biosecurity risk after treatment; or

3                   (c) the importer, owner or custodian chooses  
4                   not to have the article treated,  
5                   the article must be reconsigned (if it is an imported  
6                   article) or, if the importer, owner or custodian  
7                   chooses, or if section 438 applies, destroyed.

8                   (3) The power of destruction of articles in  
9                   subsection (2) is in addition to any other power of  
10                   destruction in or under this chapter.

11                   (4) Destruction of an article under this chapter  
12                   may include any container, crate, baggage, package or  
13                   mail which carries it.

14                   (5) Packaging of an article may be considered as  
15                   not part of a consignment and may be destroyed, if  
16                   considered to pose a biosecurity risk, whether or not  
17                   the article is destroyed.

18                   (6) If the article to be destroyed appears to be  
19                   of or above the value of \$2,000, the biosecurity  
20                   officer must obtain the written approval of the  
21                   Secretary before arranging for its destruction.

22                   (7) The manner of destruction of articles under  
23                   this section is as specified or approved by the  
24                   Secretary and the importer, owner or custodian of the  
25                   article, if known, must be invited to witness the

1           destruction.

2           (8) The Secretary must give notice of an  
3           intention to destroy any article to the importer or  
4           owner in writing before the action is taken, if the  
5           importer, owner or custodian is known.

6           (9) No compensation is payable to the importer,  
7           owner or custodian for destruction of an article  
8           under this section.

9           (10) The fees for destruction of articles under  
10          this section are as prescribed in regulations."

11          Section 43. Title 22 of the Code of the Federated States  
12 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
13 is hereby further amended by adding a new section 438 of  
14 subchapter IV under chapter 4 to read as follows:

15          "Section 438. Post mortem examination of an animal.

16          (1) If a biosecurity officer examining an animal  
17          pursuant to this chapter suspects that the animal is  
18          diseased and considers a post mortem examination to  
19          be necessary to establish a diagnosis, the officer  
20          may, on the written authority of the Secretary, and  
21          without the consent of the owner:

22                  (a) take or cause to be taken the life of  
23          the animal;

24                  (b) cause a post mortem examination to be  
25          conducted to decide whether the animal is diseased;

1           and  
2           (c)obtain specimens from the animal for laboratory  
3           examination and diagnosis.

4           (2) If an examination is conducted pursuant to  
5           subsection (1), the results of the examination and of  
6           any laboratory reports resulting from the examination  
7           must be provided in writing to the Secretary and to  
8           the owner of the animal, if the owner can be  
9           identified and located."

10          Section 44. Title 22 of the Code of the Federated States  
11 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
12 is hereby further amended by adding a new section 439 of  
13 subchapter IV under chapter 4 to read as follows:

14          "Section 439. Powers in relation to people.

15           (1) If a biosecurity officer is of the opinion  
16           that any person:

17                   (a) seeking to enter or leave the Federated  
18                   States of Micronesia;

19                   (b) employed at a biosecurity point of entry  
20                   or departure, in a designated area or quarantine  
21                   station, or at approved premises; or

22                   (c) engaged in importing or exporting  
23                   regulated articles, is in possession or control of an  
24                   article that poses a biosecurity threat to the  
25                   Federated States of Micronesia, the officer may

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1           detain and question the person.

2           (2) If a biosecurity officer suspects that there  
3           may be upon a person seeking to enter the Federated  
4           States of Micronesia an article that would, if  
5           imported, constitute an offense under this chapter,  
6           the officer may cause the person and the person's  
7           baggage to be searched.

8           (3) If a biosecurity officer suspects that there  
9           may be upon a person seeking to leave the Federated  
10          States of Micronesia an article that would, if  
11          exported, constitute an offense under this chapter,  
12          the officer may cause the person and the person's  
13          baggage to be searched.

14          (4) A search of a person under this section must  
15          be carried out by an officer or officers of the same  
16          sex as the person searched.

17          (5) A person may be detained under this section  
18          only for as long as is required to question and  
19          search the person and the person's baggage and to  
20          arrange for biosecurity measures to be taken in  
21          respect of it.

22          (6) A person who refuses:

23                 (a) to answer to the best of his or her  
24                 knowledge and ability questions reasonably put by a  
25                 biosecurity officer; or

1                   (b) to submit to a search reasonably required  
2                   under this section, commits a level two offense.

3                   (7) In this section, "person" means an  
4                   individual."

5           Section 45. Title 22 of the Code of the Federated States  
6 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
7 is hereby further amended by inserting new subchapter V under  
8 chapter 4 entitled "Offenses and Penalties".

9           Section 46. Title 22 of the Code of the Federated States  
10 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
11 is hereby further amended by adding a new section 440 of  
12 subchapter IV under chapter 4 to read as follows:

13                   "Section 440. Dereliction of duty by officers.

14                   A biosecurity officer who:

15                   (a) fails without reasonable excuse to  
16                   perform any of his or her duties under this chapter  
17                   or the regulations;

18                   (b) disposes of a regulated article or other  
19                   item under the control of the officer other than in  
20                   accordance with this chapter;

21                   (c) discloses information of a confidential  
22                   or commercial nature which has come into the  
23                   officer's possession while performing functions under  
24                   this chapter, except for purposes of this chapter;

25                   (d) in the course of performing his or her

1 duties molests, intimidates or unlawfully assaults  
2 any person;

3 (e) in connection with his or her duties  
4 solicits or accepts a bribe; or

5 (f) knowingly or recklessly makes a false or  
6 misleading statement, or issues a false or misleading  
7 certificate or other document, while purporting to  
8 perform his or her duties,  
9 commits a level three offense."

10 Section 47. Title 22 of the Code of the Federated States  
11 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
12 is hereby further amended by adding a new section 441 of  
13 subchapter IV under chapter 4 to read as follows:

14 "Section 441. Obstruction, false information etc.

15 A person who:

16 (a) willfully fails to comply with a lawful  
17 request made or direction given by a biosecurity  
18 officer under this chapter;

19 (b) knowingly obstructs a biosecurity officer  
20 in the performance of his or her functions under this  
21 chapter;

22 (c) assaults, or threatens to assault a  
23 biosecurity officer performing functions under this  
24 chapter;

25 (d) bribes a biosecurity officer in relation

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1           to the performance of functions under this chapter;

2                   (e) makes a false or incomplete statement,  
3           whether orally or in writing, in relation to any  
4           matter under this chapter, intending to mislead a  
5           biosecurity officer in the performance of functions  
6           under this chapter;

7                   (f) for purposes of this chapter knowingly or  
8           recklessly:

9                           (i) makes a false or misleading  
10           biosecurity declaration; or

11                           (ii) issues any false or misleading  
12           certificate;

13                   (g) knowingly or recklessly gives false or  
14           misleading information to a biosecurity officer while  
15           the officer is performing functions under this  
16           chapter, commits a level three offense.”

17           Section 48. Title 22 of the Code of the Federated States  
18 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
19 is hereby further amended by adding a new section 442 of  
20 subchapter V under chapter 4 to read as follows:

21           “Section 442. Fraudulent use of official documents.

22                   (1) A person to whom a permit or other document  
23           is issued under this chapter who:

24                           (a) forges or unlawfully alters the document;

25                           (b) allows any other person to use or attempt

1           to use the document for any purpose of this chapter,  
2           commits a level four offense.

3           (2) A person who, for the purposes of this  
4           chapter, produces a document which is false or  
5           misleading, knowing it to be so and intending another  
6           person to rely on it, commits a level three offense.

7           (3) A person who uses or affixes an official  
8           stamp or seal required under this chapter, without  
9           lawful authority and with intent to defraud or  
10          deceive, commits a level three offense."

11          Section 49. Title 22 of the Code of the Federated States  
12 of Micronesia (Annotated), as amended by Public Law No. 18086,  
13 is hereby further amended by adding a new section 443 of  
14 subchapter V under chapter 4 to read as follows:

15          "Section 443. Levels of offenses and maximum  
16          penalties.

17          (1) An individual who commits a level one offense  
18          under a section of this chapter is liable on summary  
19          conviction to a maximum fine of \$5,000 or a one month  
20          period of imprisonment, or both.

21          (2) An individual who commits a level two offense  
22          under a section of this chapter is liable on summary  
23          conviction to a maximum fine of \$10,000 or a three  
24          month period of imprisonment, or both.

25          (3) An individual who commits a level three



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1           offense under a section of this chapter is liable on  
2           summary conviction to a maximum fine of \$20,000 or a  
3           six month period of imprisonment, or both.

4           (4) An individual who commits a level four  
5           offense under a section of this chapter is liable on  
6           summary conviction to a maximum fine of \$40,000 or a  
7           twelve month period of imprisonment, or both.

8           (5) An individual who commits a level five  
9           offense under a section of this chapter is liable on  
10          summary conviction to a maximum fine of \$50,000 or a  
11          fifteen month period of imprisonment, or both.

12          (6) An individual who commits a level six offense  
13          under a section of this chapter is liable on summary  
14          conviction to a maximum fine of \$100,000 or a thirty  
15          month period of imprisonment, or both.

16          (7) A body corporate that commits an offense is  
17          liable to a maximum fine of 5 times the maximum fine  
18          for the same offense if committed by an individual.”

19          Section 50. Title 22 of the Code of the Federated States  
20 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
21 is hereby further amended by adding a new section 444 of  
22 subchapter V under chapter 4 to read as follows:

23          “Section 444. Forfeiture.

24          (1) A court convicting a person of an offense  
25          under this chapter or the regulations may, in

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1 addition to any other penalty imposed, order that any  
2 article used in committing the offense, or, if the  
3 article has been sold, the proceeds of the sale, be  
4 confiscated.

5 (2) If an article or proceeds are confiscated  
6 under subsection (1):

7 (a) the article or proceeds are forfeited to  
8 the National Government;

9 (b) a forfeited article may be sold and the  
10 proceeds of sale paid into the Federated States of  
11 Micronesia General Fund; or

12 (c) if the article poses a biosecurity threat  
13 it must be destroyed as directed by the Secretary.

14 (3) For the purposes of subsection (1), "article  
15 used in committing the offense" includes equipment, a  
16 conveyance and any other movable thing owned by the  
17 offender which was used directly in the commission of  
18 the offense, but does not include land or buildings  
19 and fixtures on land.

20 (4) In deciding whether to order confiscation of  
21 any article or proceeds under this section, a court  
22 must have regard to the principle of  
23 proportionality."

24 Section 51. Title 22 of the Code of the Federated States  
25 of Micronesia (Annotated), as amended by Public Law No. 18-86,

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1 is hereby further amended by adding a new section 445 of  
2 subchapter V under Chapter 4 to read as follows:

3 "Section 445. Fixed penalty system.

4 (1) The Secretary, if of the opinion that a  
5 person has committed an offense under this chapter,  
6 may as an alternative to prosecuting the person:

7 (a) order the person to pay a fixed penalty  
8 as described in subsection (2); and

9 (b) order any goods liable to confiscation in  
10 connection with the offense to be forfeited to the  
11 National Government or, if they pose a biosecurity  
12 threat, to be destroyed.

13 (2) The fixed penalty referred to in subsection  
14 (1) are a fine of:

15 (a) \$100 for a level one offense;

16 (b) \$200 for a level two offense;

17 (c) \$400 for a level three offense;

18 (d) \$800 for a level four offense;

19 (e) \$1500 for a level five offense; and

20 (f) \$5000 for a level six offense.

21 (3) The fixed penalty for a body corporate is 5  
22 times that for an individual.

23 (4) Before imposing a fixed penalty order on a  
24 person for an offense, the Secretary must notify the  
25 person in writing, giving particulars of the offense,

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1           the maximum penalty that a court could impose, the  
2           fixed penalty that is proposed, and any item that  
3           will be confiscated.

4           (5) If a person on whom a notice is served under  
5           subsection (4):

6                   (a) within the time specified in the notice,  
7                   and in writing, admits the offense, requests the  
8                   Secretary to deal with it under this section and  
9                   consents to the confiscation of the item (if  
10                   appropriate) - the Secretary may impose a fixed  
11                   penalty order on the person;

12                   (b) does not respond as in paragraph (a)  
13                   within the time specified in the notice - the  
14                   Secretary may prosecute the offense.

15           (6) A fixed penalty order must:

16                   (a) be in writing and specify the offense  
17                   which the person has committed, the fixed penalty  
18                   that is imposed, the place where it is to be paid and  
19                   the date by which it is to be paid;

20                   (b) specify any item that is to be forfeited  
21                   or destroyed.

22           (7) A person against whom an order is made under  
23           this section is not liable to any further criminal  
24           proceedings in respect of the offense and if in  
25           custody must be discharged.

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1           (8) If a fixed penalty payable under this  
2           section, or any part of it, is not paid by the date  
3           specified in the order, the sum payable becomes a  
4           debt owing to the National Government and the  
5           Secretary must request the Secretary of the  
6           Department of Justice to place a stop order on the  
7           person leaving the country until the sum is paid; and  
8           either:

9           (a) send a copy of the order to a court of  
10          competent jurisdiction, which may enforce payment of  
11          the sum outstanding as if it were a fine imposed by  
12          the court, including imposing costs and confiscation  
13          as appropriate; or

14          (b) prosecute the offense.

15          (9) The Secretary's power to make regulations  
16          under section 469 includes the power to make  
17          regulations to supplement the provisions of this  
18          section in relation to fixed penalty notices,  
19          including the imposing of stop orders to prevent a  
20          person leaving the country until the sum is paid."

21          Section 52. Title 22 of the Code of the Federated States  
22 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
23 is hereby further amended by adding new section 446 of  
24 subchapter V under chapter 4 to read as follows:

25          "Section 446. Offenses by corporate bodies.

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1           (1) A corporate body cannot be imprisoned for an  
2           offense under this chapter or the regulations and the  
3           maximum fine for an offense by a corporate body is as  
4           stated in section 443.

5           (2) If a corporate body commits an offense  
6           against this chapter, every person who is a board  
7           member or director or otherwise concerned in the  
8           management of the body also commits the offense as an  
9           individual, unless the person proves:

10           (a) that the offense was committed without  
11           his or her consent or connivance; and

12           (b) that he or she exercised reasonable  
13           diligence to prevent the commission of the offense,  
14           having regard to the nature of his or her functions  
15           in the corporate body and to all the circumstances."

16           Section 53. Title 22 of the Code of the Federated States  
17 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
18 is hereby further amended by inserting new subchapter VI, under  
19 chapter 4 entitled: "Miscellaneous Provisions".

20           Section 54. Title 22 of the Code of the Federated States  
21 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
22 is hereby further amended by adding a new section 447 of  
23 subchapter VI under chapter 4 to read as follows:

24           "Section 447. Abandoned goods.

25           (1) An article may be treated as abandoned and

1 disposed of under this section if:

2 (a) any fee or charge payable by a person  
3 under this chapter or the regulations in respect of  
4 the article is not paid within 3 months of the notice  
5 of the fee or charge being served on the person;

6 (b) the article is in a biosecurity holding  
7 area and is not removed from the area within 14 days  
8 after biosecurity entry clearance has been granted in  
9 respect of it; or

10 (c) the article is in biosecurity quarantine  
11 and is not removed from a biosecurity quarantine  
12 station or biosecurity approved premises within 14  
13 days after the end of the quarantine period in  
14 respect of it.

15 (2) An article that has been abandoned may be  
16 destroyed, sold or otherwise disposed of in the  
17 prescribed manner, or, in the absence of regulations,  
18 in any manner the Secretary thinks fit that does not  
19 present a biosecurity risk.

20 (3) The cost of disposal of an abandoned article  
21 is a debt due to the National Government by the  
22 person who was the owner of it, and the proceeds of  
23 any sale or disposal of an abandoned article revert  
24 to the National Government."

25 Section 55. Title 22 of the Code of the Federated States

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1 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
2 is hereby further amended by adding a new section 448  
3 subchapter VI under chapter 4 to read as follows:

4 "Section 448. Compensation.

5 (1) Except as otherwise provided in or under this  
6 chapter, no compensation is payable for loss of or  
7 damage to any item as a result of any search,  
8 inspection, examination, sampling, testing,  
9 detention, treatment, quarantine or other  
10 biosecurity measure taken under this chapter or the  
11 regulations, unless negligence or malice on the part  
12 of the person taking the measure is proved.

13 (2) Compensation is not payable under this  
14 chapter if the biosecurity measures that caused the  
15 loss or damage were occasioned by a willful or  
16 negligent act or omission of the person claiming  
17 compensation.

18 (3) If this chapter provides for payment of  
19 compensation in any circumstances, the compensation  
20 must be:

21 (a) claimed in accordance with a the  
22 procedure prescribed in the regulations;

23 (b) if not agreed, determined by the  
24 Secretary in accordance with the procedure prescribed  
25 in the regulations and in any event not exceeding the



1           market value of the item plus consequential loss  
2           reflecting contemporary costs;

3                   (c) paid out of the funds of the Department.

4                   (4) Appeals against a determination under  
5                   subsection (3) may be made to the Supreme Court."

6           Section 56. Title 22 of the Code of the Federated States  
7 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
8 is hereby further amended by adding a new section 449 of  
9 subchapter VI of chapter 4 to read as follows:

10                   "Section 449. Appeals from decisions.

11                   (1) A person who is aggrieved by a decision of a  
12                   biosecurity officer under this chapter made at a  
13                   biosecurity point of entry or departure, in a  
14                   biosecurity holding area or at a biosecurity  
15                   quarantine station, may within 7 days of the decision  
16                   being made appeal in writing to the Secretary.

17                   (2) A person who is aggrieved by a decision of  
18                   the Secretary, including a decision on an appeal  
19                   under subsection (1), may within 21 days seek an  
20                   administrative hearing of the matter in accordance  
21                   with section 108 of title 17 of the Code of the  
22                   Federated States of Micronesia.

23                   (3) The lodging of an appeal in respect of an  
24                   article does not prevent biosecurity measures being  
25                   taken in respect of the article to reduce or

1 eliminate the biosecurity risk posed by the article.

2 (4) An appeal in respect of compensation is to be  
3 dealt with as provided in section 448(4)."

4 Section 57. Title 22 of the Code of the Federated States  
5 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
6 is hereby further amended by adding a new section 450 of  
7 subchapter VI under chapter 4 to read as follows:

8 "Section 450. Limitation of liability.

9 (1) Neither the Secretary nor any biosecurity  
10 officer or other public officer is personally liable  
11 for action taken under this chapter in good faith and  
12 without negligence.

13 (2) A breach of a duty imposed on the Secretary,  
14 a biosecurity officer or any other public officer by  
15 or under this chapter does not give rise to any civil  
16 liability except as provided by or under this  
17 chapter."

18 Section 58. Title 22 of the Code of the Federated States  
19 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
20 is hereby further amended by adding a new section 451 of  
21 subchapter VI under chapter 4 to read as follows:

22 "Section 451. Evidence.

23 (1) In any proceedings under this chapter:

24 (a) a document purporting to have been issued  
25 by the Secretary or by a biosecurity officer or other

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1 public officer for the purposes of this chapter is  
2 presumed, until the contrary is proved, to have been  
3 duly executed or signed by that person;

4 (b) a copy of or extract from a document  
5 issued by the Secretary or by a biosecurity officer  
6 or other public officer, and certified by the  
7 Secretary to be true and correct is, unless the  
8 contrary is proved:

9 (i) presumed to be a true and correct copy  
10 or extract;

11 (ii) on its production in court be *prima*  
12 *facie* proof of any matter contained in it.

13 (2) In any proceedings under this chapter:

14 (a) a certificate, in a form approved by the  
15 Secretary, of the results of any test conducted on an  
16 article by the person who conducted the test may be  
17 tendered in evidence and is *prima facie* evidence of  
18 the facts stated in it;

19 (b) a certificate of analysis of a sample of  
20 any article or thing may be tendered in evidence and  
21 is *prima facie* evidence of the facts stated in it if  
22 the procedure prescribed in relation to the sample  
23 has been substantially followed.

24 (3) Section 419 governs the evidential status of  
25 the biosecurity register and records kept under this

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1           chapter."

2           Section 59. Title 22 of the Code of the Federated States  
3 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
4 is hereby further amended by adding a new section 452 of  
5 subchapter VI of chapter 4 to read as follows:

6           "Section 452. Specifications.

7           (1) The Secretary may in writing specify:

8                   (a) documents and forms for use in connection  
9 with this chapter, including the format of documents  
10 transmitted by electronic means;

11                   (b) the procedures for applying for and  
12 issuing permits and other documents;

13                   (c) all other matters that can or must be  
14 specified, as provided for in this chapter.

15           (2) If a matter is prescribed by regulations or  
16 an order, the regulations or order take precedence  
17 over a specification on the same matter.

18           (3) Specifications must be entered in the  
19 biosecurity register and do not take effect until so  
20 entered.

21           (4) Section 419 governs the evidential status of  
22 a specification contained in a biosecurity register."

23           Section 60. Title 22 of the Code of the Federated States  
24 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
25 is hereby further amended by adding a new section 453 of

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1 subchapter VI under chapter 4 to read as follows:

2 "Section 453. Regulations.

3 (1) The Secretary may make regulations not  
4 inconsistent with this chapter for the effective  
5 implementation of this chapter and the performance of  
6 the biosecurity functions of the National Government.

7 (2) Without limiting subsection (1) or affecting  
8 any other regulation-making power in this chapter,  
9 regulations made by the Secretary may:

10 (a) prescribe biosecurity procedures and  
11 requirements for vessels and aircraft entering and  
12 departing FSM, including for the management of  
13 quarantine areas;

14 (b) prescribe biosecurity import procedures  
15 including for the inspection and clearance of  
16 regulated articles, biosecurity import specifications  
17 and access arrangements, and for the application,  
18 issuance and revocation of biosecurity import  
19 permits;

20 (c) prescribe biosecurity export procedures  
21 including for the inspection and clearance of  
22 regulated articles, biosecurity export specifications  
23 and access arrangements, and for the application,  
24 issuance and revocation of biosecurity export  
25 permits;

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1                   (d) prescribe procedures and requirements for  
2                   biosecurity quarantine, including for the management  
3                   of biosecurity quarantine stations;

4                   (e) prescribe fees and charges for the  
5                   biosecurity services provided by the Department;

6                   (f) prescribe the method of taking and  
7                   analyzing samples, recording the results and  
8                   disposing of the samples;

9                   (g) prescribe the manner of disposal of  
10                  abandoned goods under regulation;

11                  (h) prescribe the procedure for claiming  
12                  compensation, and the rates payable, pursuant to  
13                  regulation;

14                  (i) provide for the de-ratting of vessels,  
15                  and the form of de-ratting certificate;

16                  (j) regulate the disposal of garbage and  
17                  waste and second-hand clothing and bedding so as to  
18                  minimize any biosecurity risk;

19                  (k) provide for the electronic filing of  
20                  declarations and applications required by this  
21                  chapter and the electronic keeping of registers;

22                  (l) prescribe the manner and language of  
23                  markings on containers of incoming and outgoing  
24                  regulated articles;

25                  (m) prescribe the methods of handling,

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1           sealing, treating and disposing of containers of  
2           regulated articles;

3           (n) provide for the placing and use of  
4           amnesty bins or other containers for regulated  
5           articles at points of entry;

6           (o) subject to the approval of the civil  
7           aviation and maritime authorities, require a video  
8           film about biosecurity to be shown on all aircraft  
9           and vessels arriving in the Federated States of  
10          Micronesia and carrying passengers;

11          (p) require treatment to be applied in  
12          respect of a vessel or aircraft before it arrives in  
13          the Federated States of Micronesia;

14          (q) prescribe additional measures, consistent  
15          with this chapter, to implement in the Federated  
16          States of Micronesia the standards and requirements  
17          relating to biosecurity of the IPPC, the OIE and the  
18          PPPO;

19          (r) prescribe any other matter which this  
20          chapter requires to be prescribed or which is  
21          necessary for carrying out or giving effect to this  
22          chapter.

23          (3) Regulations made under this section must be  
24          adopted in accordance with the procedure set out in  
25          section 102 of title 17 of the Code of the Federated

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1           States of Micronesia.

2                   (4) Regulations made under this section may  
3                   create level one, two, three, four, and five  
4                   offenses.”

5           Section 61. Title 22 of the Code of the Federated States  
6 of Micronesia (Annotated), as amended by Pubic Law No. 18-86,  
7 is hereby further amended by adding a new section 454 of  
8 subchapter VI under chapter 4 to read as follows:

9                   “Section 454. Transitional provisions.

10                   (1) Permits equivalent to import permits issued  
11                   under any provision of the laws repealed upon  
12                   commencement of this chapter remain in force until  
13                   they expire in accordance with their terms, or until  
14                   revoked under this chapter.

15                   (2) Any bond, agreement, instrument or arrangement  
16                   to which the National Government is a party  
17                   subsisting immediately before the commencement of  
18                   this chapter and relating to the biosecurity  
19                   functions of the National Government continues to  
20                   have effect after that date and is enforceable by or  
21                   against the National Government as if it had been  
22                   entered into under the provisions of this chapter.

23                   (3) Subject to subsection (4), any action,  
24                   arbitration, proceeding or cause of action that  
25                   relates to a biosecurity function of the National



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1           Government and that immediately before the  
2           commencement of this chapter is pending or existing  
3           by, against, or in favor of the National Government,  
4           or to which the National Government is a party, may  
5           be continued and enforced under the provisions of  
6           this chapter.

7           (4) A prosecution for an offense committed against  
8           a repealed law before the commencement of this  
9           section must be brought and continued under that  
10          law.”

11          Section 62. Title 22 of the Code of the Federated States  
12 of Micronesia (Annotated), as amended by Public Law No. 18-86,  
13 is hereby further amended by adding a new section 455 of  
14 subchapter VI under chapter 4 to read as follows:

15          “Section 455. Consequential amendments.

16          (1) A reference in another law to any of the laws  
17          repealed upon commencement of this chapter, to the  
18          extent possible, is to be read as a reference to this  
19          chapter.

20          (2) A reference in another law to a quarantine  
21          officer, plant protection officer or animal health  
22          officer is, to the extent possible, to be read as a  
23          reference to the Secretary or a biosecurity officer  
24          exercising equivalent functions under this chapter.”

25

