

## AN ACT

To provide for the protection and enhancement of the environmental quality of the air, land, and water of the Federated States of Micronesia; to provide for the establishment of the Federated States of Micronesia Environmental Protection Board; to provide for the delegation and transition of functions of the Trust Territory Environmental Protection Board to the Federated States of Micronesia Environmental Protection Board; to provide for cooperation between the new Board and the States in protecting the environment; and for other purposes.

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

1           Section 1. Short title. This act may be cited as the Federated  
2 States of Micronesia Environmental Protection Act.

3           Section 2. Public policy.

4                   (1) The Federated States of Micronesia, recognizing the pro-  
5 found impact of man's activity on the interrelations of all components  
6 of the natural environment, particularly the profound influences of  
7 population growth and redistribution, cultural change, resource exploi-  
8 tation, and new expanding technological advances, and recognizing  
9 further the critical importance of restoring and maintaining environ-  
10 mental quality for the overall welfare and development of man, declares  
11 that it is the continuing policy of the Federated States of Micronesia,  
12 in cooperation with State and municipal governments, and other concerned  
13 public and private organizations, to use all practicable means and  
14 measures, including financial and technical assistance, in a manner  
15 calculated to foster and promote the general welfare, to create and  
16 maintain conditions under which man and nature can exist in productive  
17 harmony, and fulfill the social, economic, and other requirements of  
18 present and future generations of the Federated States of Micronesia.

19                   (2) In order to carry out the policy set forth in this act,  
20 it is the continuing responsibility of the Federated States of Micro-  
21 nesia to use all practicable means, consistent with other essential  
22 considerations of National policy, to improve and coordinate governmental



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1 plans, functions, programs, and resources to the end that the inhab-  
2 itants of the Federated States of Micronesia may:

3 (a) Fulfill the responsibilities of each generation  
4 as trustee of the environment for succeeding generations;

5 (b) Assure for all Micronesians safe, healthful,  
6 productive, and esthetically and culturally pleasing surroundings;

7 (c) Attain the widest range of beneficial uses of the  
8 environment without degradation, risk to health or safety, or other  
9 undesirable or unintended consequences; and

10 (d) Preserve important historic, cultural, and natural  
11 aspects of our Micronesian heritage, and maintain, wherever possible,  
12 an environment which supports diversity and variety of individual  
13 choice.

14 (3) The effort to protect and preserve the environment will  
15 be carried forward in close cooperation with the States in the formula-  
16 tion of policy, enforcement, and other activities.

17 (4) The Federated States of Micronesia recognizes that each  
18 person has a responsibility to contribute to the preservation and  
19 enhancement of the environment.

20 Section 3. Definitions. The following words, for the purpose of  
21 this act, shall have the following meanings:

22 (1) "Board" means the Federated States of Micronesia Environ-  
23 mental Protection Board;

24 (2) "Chairman of the Environmental Protection Board" or  
25 "chairman" means the chairman personally or his duly authorized

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1 representative;

2           (3) "Person" means the Federated States of Micronesia, a  
3 State, municipality, political subdivision, a public or private insti-  
4 tution, corporation, partnership, joint venture, association, firm,  
5 or company organized or existing under the laws of the Federated  
6 States of Micronesia or any State or country, lessee or other occupant  
7 of property, or individual, acting singly or as a group;

8           (4) "Pollutant" means one or more substances or forms of  
9 energy which, when present in the air, land, or water, are or may be  
10 harmful or injurious to human health, welfare, or safety, to animal  
11 or plant life, or to property, or which unreasonably interfere with  
12 the enjoyment by the people of life or property.

13           (5) "Primary drinking water regulation" means a regulation  
14 which:

15                   (a) Applies to public water systems;

16                   (b) Specifies contaminants which, in the judgment of  
17 the Board, may have any adverse effect on the health of persons; and

18                   (c) Specifies for each such contaminant either:

19                           (i) A maximum contaminant level, if, in the judg-  
20 ment of the Board, it is economically and technologically feasible to  
21 ascertain the level of such contaminant in water in public water  
22 systems; or

23                           (ii) If, in the judgment of the Board, it is not  
24 economically or technologically possible to so ascertain the level of  
25 such contaminant, each treatment technique known to the Board which



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1 leads to a reduction in the level of such contaminant;

2 (d) Contains criteria and procedures to assure a supply  
3 of drinking water which dependably complies with such maximum contami-  
4 nant levels, including quality control and testing procedures to ensure  
5 compliance with such levels and to ensure proper operation and mainte-  
6 nance of the system and requirements as to:

7 (i) The minimum quality of water which may be  
8 taken into the system; and

9 (ii) Siting for new facilities for public water  
10 systems.

11 (6) "Secondary drinking water regulation" means a regulation  
12 which applies to public water systems and which specifies the maximum  
13 contaminant level which in the judgment of the Board is requisite to  
14 protect the public welfare. Such regulations may apply to any contami-  
15 nant in drinking water:

16 (a) Which may adversely affect the odor or appearance  
17 of such water and consequently may cause a substantial number of persons  
18 served by the public water system providing such water to discontinue  
19 its use; or

20 (b) Which may otherwise adversely affect the public  
21 welfare. Such regulations may vary according to geographic or other  
22 circumstances.

23 (7) "Trust Territory Environmental Protection Board" means  
24 the board established pursuant to 25 F.S.M.C. 2.

25 Section 4. Federated States of Micronesia Environmental Protection

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1 Board created; Membership; Terms; Vacancies; Chairman; Vice chairman;  
2 Records; Qualifications.

3           (1) There is hereby established in the Office of the  
4 President a board to be known as the Federated States of Micronesia  
5 Environmental Protection Board to be composed of five members as  
6 follows: one member from each of the four States of the Federated  
7 States of Micronesia and one member to be appointed by the President.  
8 Each member shall be appointed for a term of 2 years, and may be  
9 reappointed for one additional 2-year term. Vacancies shall be filled  
10 in the same manner as the original appointment was made, for the  
11 unexpired term.

12           (2) The Board shall elect from among its members a chairman  
13 and a vice chairman. The President shall designate a member to serve  
14 as temporary chairman of the Board until such time as the Board shall  
15 elect a chairman.

16           (3) The Board shall provide for the keeping of all of its  
17 records and actions. These records shall be open to the public for  
18 public inspection.

19           (4) The President shall make his appointment based upon the  
20 appointee's ability to aid the work of the Board and to inspire the  
21 highest degree of cooperation and confidence in carrying out the policy  
22 and purpose of this act.

23           Section 5. Meetings; Quorum.

24           (1) The Board shall meet at least twice each calendar year.  
25 Meetings may be held at any time or place to be determined by the Board



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1 upon the call of the chairman or upon written request of any three  
2 members. All announcements of meetings shall be posted in public  
3 places and shall be announced on the radio throughout the Federated  
4 States of Micronesia.

5 (2) Three members of the Board shall constitute a quorum  
6 for the transaction of business.

7 Section 6. Compensation. Members of the Board who are employed  
8 by either the State or National Government shall serve without compen-  
9 sation as such, but shall be entitled to receive reasonable travel  
10 costs and per diem at standard Federated States of Micronesia rates  
11 when engaged in the performance of the duties of the Board. Any  
12 employee of the National Government shall be granted leave with pay  
13 while engaged in the performance of the duties of the Board.

14 Section 7. Technical assistance. The President shall provide  
15 the Board with necessary technical and legal assistance through the  
16 departments, offices, and agencies of the National Government.

17 Section 8. Officers; Staff.

18 (1) The President shall designate an executive officer who  
19 shall administer the functions of the Board and shall have such duties  
20 and responsibilities as may be delegated to him by the Board. The  
21 executive officer shall not be a member of the Board and shall not have  
22 the right to vote.

23 (2) The executive officer shall be assisted in his duties  
24 by supporting staff as the Board deems necessary in light of fiscal  
25 considerations.

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1 Section 9. Reports. The Board shall transmit to the President  
2 and Congress, no later than September 30 of each year, an environ-  
3 mental quality report for the preceding calendar year, which shall  
4 set forth:

5 (1) The status and conditions of the major natural, manmade,  
6 or altered environmental classes of the Federated States of Micronesia,  
7 including, but not limited to, the air, the waters, including marine,  
8 estuarine, and fresh water, and the terrestrial environment, including,  
9 but not limited to, the forest, mangrove areas, beaches, reefs, dry-  
10 lands, wetlands, and urban and rural environments;

11 (2) Current and foreseeable trends in the quality, manage-  
12 ment, and utilization of such environments and the effects of those  
13 trends on the social, economic, and other requirements of the Federated  
14 States of Micronesia;

15 (3) The adequacy of available natural resources for fulfill-  
16 ing human and economic requirements of the Federated States of Micro-  
17 nesia in the light of expected population pressures;

18 (4) A review of the programs and activities (including  
19 regulatory activities) of the National Government, State governments,  
20 local governments, and nongovernmental entities or individuals, with  
21 particular reference to their effect on the environment, the conser-  
22 vation, development, and utilization of natural resources, and the  
23 social and economic requirements of the Federated States of Micronesia;  
24 and

25 (5) A program for remedying the deficiencies of existing



1 programs and activities, together with recommendations for legislation.

2 Section 10. General powers and duties of the Board. The Board  
3 shall have the power and duty to protect the environment, human health,  
4 welfare, and safety and to abate, control, and prohibit pollution or  
5 contamination of air, land, and water in accordance with this act and  
6 with the regulations adopted and promulgated pursuant to this act.

7 The Board shall balance the needs of economic and social development  
8 against those of environmental quality and shall adopt regulations  
9 and pursue policies which, to the maximum extent possible, promote both  
10 these needs and the policies set forth in section 2 of this act.

11 Section 11. Specific powers and duties of the Board. For the  
12 purposes set forth in section 10 of this act, the Board is authorized  
13 and empowered to:

14 (1) Adopt, approve, amend, revise, promulgate, and repeal  
15 regulations, in the manner which is or may be provided by law, to  
16 effect the purposes of this act, and enforce such regulations which  
17 shall have the force and effect of law;

18 (2) Adopt, approve, amend, revise, promulgate, and repeal  
19 primary and secondary drinking water regulations;

20 (3) Accept appropriations, loans, and grants from the United  
21 States government or any agency thereof and other sources, public or  
22 private, which loans, grants, and appropriations shall not be expended  
23 for other than the purposes of this act;

24 (4) Adopt and provide for the continuing administration of  
25 Federated-States-of-Micronesia-wide programs for the protection of the



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1 environment, human health, welfare, and safety, and for the preven-  
2 tion, control, and abatement of pollution of the air, land, and water,  
3 including programs for the abatement or prevention of the contamina-  
4 tion of drinking water systems of the Federated States of Micronesia,  
5 and from time to time review and modify such programs as necessary;

6 (5) Establish criteria for classifying air, land, and  
7 water in accordance with present and future uses;

8 (6) Establish and provide for the continuing administration  
9 of a permit system whereby a permit shall be required for the dis-  
10 charge by any person of any pollutant in the air, land, or water, or  
11 for the conduct by any person of any activity, including, but not  
12 limited to, the operation, construction, expansion, or alteration of  
13 any installation, which results in or may result in the discharge of  
14 any pollutant in the air, land, or water, provide for the issuance,  
15 modification, suspension, revocation, and termination of such permits,  
16 and for the posting of an appropriate bond;

17 (7) Collect information and establish record keeping,  
18 monitoring, and reporting requirements as necessary and appropriate  
19 to carry out the purposes of this act; and

20 (8) Conduct a study of those United States environmental  
21 protection laws which contain standards applicable to the Government  
22 of the Federated States of Micronesia, pursuant to section 161(b) of  
23 the Compact of Free Association, and make recommendations as to any  
24 necessary modifications of those laws in light of the particular  
25 circumstances of the Federated States of Micronesia.

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1       Section 12. National and State cooperation in policy-making,  
2 enforcement, and other activities.

3           (1) The Board is authorized to enter into written cooper-  
4 ative agreements with the States or State agencies for the purpose of:

5                   (a) Collecting data and any information relative to  
6 identifying the local needs with respect to controlling, protecting,  
7 and enhancing the environmental quality of the State;

8                   (b) Acting as an agent of the Board in implementing  
9 programs at the State level;

10                   (c) Providing funds from the Board for the purpose of  
11 implementing environmental protection program activities within each  
12 State;

13                   (d) Conducting investigations, making studies,  
14 reviewing local grievances, and making recommendations as needed to  
15 the Board; and

16                   (e) Performing any other activities within the juris-  
17 diction of the Board.

18           (2) Such function or functions delegated to the States  
19 pursuant to subsection (1) of this section may be reassumed and performed  
20 by the Board if such delegation will result in the actual termination  
21 of any financial grant received by the Board. Notice of such reassump-  
22 tion shall be by written notice to each State or State agency involved.

23       Section 13. Environmental impact statements.

24           (1) The National Government and its agencies shall submit  
25 an environmental impact statement to the Board, in accordance with



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1 regulations established by the Board, prior to taking any major action  
2 significantly affecting the quality of the human environment. This  
3 requirement shall apply to any such action funded in any part by the  
4 National Government or its agencies; PROVIDED that in such case the  
5 recipient of the funds may be required to submit the environmental  
6 impact statement as a condition to its receipt of funds.

7 (2) The environmental impact statement required by sub-  
8 section (1) shall be a public document, and shall include a detailed  
9 statement on:

10 (a) The environmental impact of the proposed action;

11 (b) Any adverse environmental effects which cannot be  
12 avoided should the proposal be implemented;

13 (c) The alternatives to the proposed action;

14 (d) The relationship between local short-term uses of  
15 the environment and the maintenance and enhancement of long-term  
16 productivity; and

17 (e) Any irreversible and irretrievable commitments of  
18 resources which would be involved in the proposed action should it be  
19 implemented.

20 Section 14. Right of entry. Whenever it is necessary for the  
21 purposes of this act, the Board, or any member, agent, or employee  
22 when duly authorized by the Board or by court order, may, at reasonable  
23 times, enter any establishment or upon any property.

24 Section 15. Violations subject to enforcement. Any person who  
25 violates any provision of this title, or of any permit, regulation,

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1 standard, or order issued or promulgated hereunder, shall be subject  
2 to enforcement action by the Board. Such enforcement action may  
3 include, but is not limited to:

4 (1) An order to cease and desist from the violation, or  
5 to comply within a specific time period;

6 (2) An order to clean up or abate the effects of any  
7 pollutant;

8 (3) The imposition of a civil penalty up to \$10,000 for  
9 each day of the violation. Penalties collected hereunder shall be  
10 paid to the Treasury of the Federated States of Micronesia for credit  
11 to the General Fund of the Federated States of Micronesia;

12 (4) A civil action commenced in the Trial Division of the  
13 Federated States of Micronesia Supreme Court to enjoin the violation;

14 (5) A civil action for damages commenced in the Trial  
15 Division of the Federated States of Micronesia Supreme Court. Such  
16 action may be in addition to any civil penalties imposed hereunder.  
17 In determining such damages, the Court shall take into consideration  
18 all relevant circumstances, including, but not limited to, the extent  
19 of harm caused by the violation, the nature and persistence of the  
20 violation, the length of time over which the violation occurred, and  
21 corrective action, if any, taken by the violator. Damages collected  
22 hereunder shall be paid to the Treasury of the Federated States of  
23 Micronesia for credit to the General Fund of the Federated States of  
24 Micronesia; and

25 (6) Conducting a public hearing to determine the authenticity



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1 of the facts upon which the alleged violation is based, adequate  
2 notice of which and opportunity to appear and be heard at which shall  
3 be afforded to all interested persons.

4 Section 16. Administrative procedure applicable. The provisions  
5 of sections 15 and 17 of this act shall be interpreted consistently  
6 with the provisions of any law concerning administrative procedure  
7 which is or may hereafter become Federated States of Micronesia law.  
8 In the event of conflict between the two, the provisions of the latter  
9 shall supersede and be controlling.

10 Section 17. Judicial review.

11 (1) Any person who is or will be adversely affected by the  
12 enforcement of any standard, policy, regulation, permit, order, or  
13 penalty of the Board and who alleges its invalidity may file a petition  
14 for a declaratory judgment thereon in the Trial Division of the Feder-  
15 ated States of Micronesia Supreme Court.

16 (2) The Court shall declare the standard, policy, regula-  
17 tion, permit, order, or penalty invalid if it finds that it exceeds  
18 the statutory authority of the Board, or that it is arbitrary and  
19 capricious.

20 Section 18. False statements. Any person who knowingly makes  
21 any false statement, representation, or certification in any applica-  
22 tion, record, report, plan, or other document filed or required to be  
23 maintained under this act, or by any permit, regulation, or order  
24 issued under this act, or who falsifies, tampers with, or knowingly  
25 renders inaccurate any monitoring device or method required to be

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1 maintained under this act or by any permit, regulation, or any order  
2 issued under this act, shall be guilty of a misdemeanor, and upon  
3 conviction thereof, shall be punished by a fine of not more than  
4 \$10,000, or by imprisonment for not more than 6 months, or by both.

5       Section 19. Transition. In order to ensure continued compliance  
6 with the requirements of the Trust Territory Environmental Quality  
7 Protection Act (title 25 of the Code of the Federated States of  
8 Micronesia) and all regulations adopted pursuant thereto, said act  
9 and regulations shall remain in effect and shall control in the event  
10 of any conflict with this act, except as follows:

11               (1) The Trust Territory Environmental Protection Board  
12 (TTEPB) may delegate through memorandum of understanding any of its  
13 functions to the Board consistent with the requirements of the appli-  
14 cable United States law upon a finding by the TTEPB that such delega-  
15 tion will not jeopardize any grant of financial assistance. Such  
16 delegated function or functions may be reassumed and performed by the  
17 TTEPB, pursuant to written notice to the Board, if such delegation will  
18 result in the actual termination of any financial grant;

19               (2) Chapter 4 of title 25 of the Code of the Federated  
20 States of Micronesia is repealed in its entirety with respect to the  
21 National Government of the Federated States of Micronesia. The District  
22 Advisory Board of each State, created pursuant to chapter 4 of title 25  
23 of the Code of the Federated States of Micronesia, shall remain unaf-  
24 fected by this repeal or the repeal under subsection (3) of this section.  
25 Each District Advisory Board is within the jurisdiction and control of



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1 its respective State. This act shall not be construed to prevent a  
2 State legislature from creating a State board or other agency for  
3 the purpose of assuming the functions of the existing District  
4 Advisory Board.

5 (3) The remainder of title 25 of the Code of the Federated  
6 States of Micronesia shall be repealed in its entirety upon:

7 (a) The amendment of Secretarial Order No. 3039,  
8 section 3(a)(3), to permit the Federated States of Micronesia to become  
9 a direct grantee of funds available under applicable United States law;  
10 and

11 (b) The amendment of applicable United States law to  
12 permit the Federated States of Micronesia to become a direct grantee.

13 (4) Upon repeal under subsection (3) of this section, all  
14 regulations adopted pursuant to title 25 of the Code of the Federated  
15 States of Micronesia shall continue to remain in effect until amended  
16 or repealed. All references in said regulations to officials, boards,  
17 and agencies of the Trust Territory Government shall refer to the  
18 functionally equivalent official, board, or agency of the National  
19 Government.

20 (5) Upon repeal under subsection (3) of this section, valid  
21 permits and certificates issued for activities within the Federated  
22 States of Micronesia pursuant to title 25 of the Code of the Federated  
23 States of Micronesia shall continue to remain in effect in accordance  
24 with the terms and conditions thereof until amended, suspended, or  
25 revoked pursuant to law.

1 Section 20. Severability and savings clause. If any provision  
2 of this act or any regulation or order promulgated hereunder, or  
3 the application of any such provision, regulation, or order to any  
4 person or circumstance shall be held invalid, the remainder of this  
5 act, or any regulations or orders promulgated pursuant thereto, or  
6 the application of such provisions, regulations, or orders to persons  
7 or circumstances other than those to which it is held invalid shall  
8 not be affected thereby, and to this extent the provisions of this  
9 act are severable.

10 Section 21. Effective date. This act shall become law upon  
11 approval by the President of the Federated States of Micronesia or  
12 upon its becoming law without such approval.

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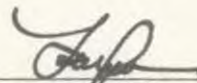
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December 27, 1984

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Tosiwo Nakayama  
President  
Federated States of Micronesia

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