
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

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

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

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

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

Public Law No. 3-83
CONGRESSIONAL BILL NO. 3-222

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.

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

Public Law No. 3-83

CONGRESSIONAL BILL NO. 3-222

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.

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

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,

Public Law No. 3-83
CONGRESSIONAL BILL NO. 3-222

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

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

Public Law No. 3-83
CONGRESSIONAL BILL NO. 3-222

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

Public Law No. 3-83

CONGRESSIONAL BILL NO. 3-222

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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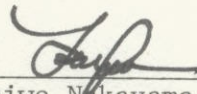
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December 27, 1984

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Tosiwo Nakayama
President
Federated States of Micronesia

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