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 States of Micronesia Environmental Protection Act.

2. Section 2. Public policy.

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

   (2) In order to carry out the policy set forth in this act, it is the continuing responsibility of the Federated States of Micronesia to use all practicable means, consistent with other essential considerations of National policy, to improve and coordinate governmental
plans, functions, programs, and resources to the end that the inhab-
itants of the Federated States of Micronesia may:

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

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

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

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

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

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

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

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

(2) "Chairman of the Environmental Protection Board" or
"chairman" means the chairman personally or his duly authorized
(3) "Person" means the Federated States of Micronesia, a State, municipality, political subdivision, a public or private institution, corporation, partnership, joint venture, association, firm, or company organized or existing under the laws of the Federated States of Micronesia or any State or country, lessee or other occupant of property, or individual, acting singly or as a group;

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

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

(a) Applies to public water systems;

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

(c) Specifies for each such contaminant either:

(i) A maximum contaminant level, if, in the judgment of the Board, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems; or

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

(d) Contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels, including quality control and testing procedures to ensure compliance with such levels and to ensure proper operation and maintenance of the system and requirements as to:

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

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

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

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

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

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

Section 4. Federated States of Micronesia Environmental Protection
Board created; Membership; Terms; Vacancies; Chairman; Vice chairman; Records; Qualifications.

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

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

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

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

Section 5. Meetings; Quorum.

(1) The Board shall meet at least twice each calendar year. Meetings may be held at any time or place to be determined by the Board
upon the call of the chairman or upon written request of any three members. All announcements of meetings shall be posted in public places and shall be announced on the radio throughout the Federated States of Micronesia.

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

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

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

Section 8. Officers; Staff.

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

(2) The executive officer shall be assisted in his duties by supporting staff as the Board deems necessary in light of fiscal considerations.
Section 9. **Reports.** The Board shall transmit to the President and Congress, no later than September 30 of each year, an environmental quality report for the preceding calendar year, which shall set forth:

1. The status and conditions of the major natural, manmade, or altered environmental classes of the Federated States of Micronesia, including, but not limited to, the air, the waters, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest, mangrove areas, beaches, reefs, dry-lands, wetlands, and urban and rural environments;
2. Current and foreseeable trends in the quality, management, and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Federated States of Micronesia;
3. The adequacy of available natural resources for fulfilling human and economic requirements of the Federated States of Micronesia in the light of expected population pressures;
4. A review of the programs and activities (including regulatory activities) of the National Government, State governments, local governments, and nongovernmental entities or individuals, with particular reference to their effect on the environment, the conservation, development, and utilization of natural resources, and the social and economic requirements of the Federated States of Micronesia; and
5. A program for remedying the deficiencies of existing
Section 10. General powers and duties of the Board. The Board shall have the power and duty to protect the environment, human health, welfare, and safety and to abate, control, and prohibit pollution or contamination of air, land, and water in accordance with this act and with the regulations adopted and promulgated pursuant to this act. The Board shall balance the needs of economic and social development against those of environmental quality and shall adopt regulations and pursue policies which, to the maximum extent possible, promote both these needs and the policies set forth in section 2 of this act.

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

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

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

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

(4) Adopt and provide for the continuing administration of Federated-States-of-Micronesia-wide programs for the protection of the
environment, human health, welfare, and safety, and for the preven-
tion, control, and abatement of pollution of the air, land, and water,
including programs for the abatement or prevention of the contamina-
tion of drinking water systems of the Federated States of Micronesia,
and from time to time review and modify such programs as necessary;

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

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

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

(8) Conduct a study of those United States environmental
protection laws which contain standards applicable to the Government
of the Federated States of Micronesia, pursuant to section 161(b) of
the Compact of Free Association, and make recommendations as to any
necessary modifications of those laws in light of the particular
circumstances of the Federated States of Micronesia.
Section 12. **National and State cooperation in policy-making, enforcement, and other activities.**

(1) The Board is authorized to enter into written cooperative agreements with the States or State agencies for the purpose of:

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

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

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

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

(e) Performing any other activities within the jurisdiction of the Board.

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

Section 13. **Environmental impact statements.**

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

(2) The environmental impact statement required by subsection (1) shall be a public document, and shall include a detailed statement on:

(a) The environmental impact of the proposed action;
(b) Any adverse environmental effects which cannot be avoided should the proposal be implemented;
(c) The alternatives to the proposed action;
(d) The relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity; and
(e) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

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

Section 15. Violations subject to enforcement. Any person who violates any provision of this title, or of any permit, regulation,
standard, or order issued or promulgated hereunder, shall be subject
to enforcement action by the Board. Such enforcement action may
include, but is not limited to:

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

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

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

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

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

(6) Conducting a public hearing to determine the authenticity
of the facts upon which the alleged violation is based, adequate
notice of which and opportunity to appear and be heard at which shall
be afforded to all interested persons.

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

Section 17. Judicial review.

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

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

Section 18. False statements. Any person who knowingly makes
any false statement, representation, or certification in any applica-
tion, record, report, plan, or other document filed or required to be
maintained under this act, or by any permit, regulation, or order
issued under this act, or who falsifies, tampers with, or knowingly
renders inaccurate any monitoring device or method required to be
maintained under this act or by any permit, regulation, or any order
issued under this act, shall be guilty of a misdemeanor, and upon
conviction thereof, shall be punished by a fine of not more than
$10,000, or by imprisonment for not more than 6 months, or by both.

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

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

(2) Chapter 4 of title 25 of the Code of the Federated
States of Micronesia is repealed in its entirety with respect to the
National Government of the Federated States of Micronesia. The District
Advisory Board of each State, created pursuant to chapter 4 of title 25
of the Code of the Federated States of Micronesia, shall remain unaf-
fected by this repeal or the repeal under subsection (3) of this section.
Each District Advisory Board is within the jurisdiction and control of
its respective State. This act shall not be construed to prevent a
State legislature from creating a State board or other agency for
the purpose of assuming the functions of the existing District
Advisory Board.

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

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

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

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

(5) Upon repeal under subsection (3) of this section, valid
permits and certificates issued for activities within the Federated
States of Micronesia pursuant to title 25 of the Code of the Federated
States of Micronesia shall continue to remain in effect in accordance
with the terms and conditions thereof until amended, suspended, or
revoked pursuant to law.
Section 20. Severability and savings clause. If any provision of this act or any regulation or order promulgated hereunder, or the application of any such provision, regulation, or order to any person or circumstance shall be held invalid, the remainder of this act, or any regulations or orders promulgated pursuant thereto, or the application of such provisions, regulations, or orders to persons or circumstances other than those to which it is held invalid shall not be affected thereby, and to this extent the provisions of this act are severable.

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