
AN ACT

To implement Section 1, Article IV of the State Constitution by providing for the protection and enhancement of environmental quality of the air, land, and water of Chuuk State; to provide for the establishment of Chuuk State Environmental Protection Agency; to provide for cooperation between the Agency and other entities in protecting the environment, and for other purposes.

BE IT ENACTED BY THE CHUUK STATE LEGISLATURE:

1 Section 1. Short Title. This Act may be cited as the
2 Chuuk State Environmental Protection Act.

3 Section 2. Public Policy. The Chuuk State Government,
4 recognizing the impact of man's activity on the
5 inter-relations of all components of the natural
6 environment, particularly the profound influence of
7 population growth and distribution, cultural change,
8 resource exploitation, and technological advances, and
9 recognizing further the critical importance of restoring and
10 maintaining environmental quality to the overall welfare and
11 development of man, declares that it is the continuing
12 policy of the State of Chuuk, in cooperation with the FSM
13 National Government, municipal governments, and other
14 concerned public and private organizations, to use all
15 practical means and measures, including financial and
16 technical assistance, to foster and promote the general
17 welfare, to create and maintain conditions under which man
18 and nature can exist in productive harmony, and fulfill the
19 social, economic, and other requirements of present and
20 future generations of Chuuk State.

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

3 1) "Agency" shall mean the Chuuk State
4 Environmental Protection Agency.

5 2) "Chairman" means chairman of the Board of
6 Directors of the Agency.

7 3) "Person" means a natural person, Chuuk State,
8 the Federated States of Micronesia, municipality, a
9 political subdivision, a public or private institution,
10 corporation, partnership, joint venture, association,
11 firm or company, lessee or other occupant of property,
12 acting singly or as a group organized or existing under
13 the laws of Chuuk State or any state, or Country.

14 4) "Public Water System" means a system for the
15 provision to the public of piped water for human
16 consumption, if such system has at least 15 service
17 connections or regularly serves at least 50 individuals
18 and such term includes:

19 (a) Any collection, treatment, storage, and
20 distribution facilities under control of the
21 operator of such system and used primarily in
22 connection with such system; and

23 (b) Any collection or pretreatment storage
24 facilities not under such control which are used
25 primarily in connection with such system.

26 5) "Pollutant" means one or more matters or forms
27 of energy which, when present in the air, land and
28 water are or may be harmful or injurious to the health,

1 welfare or safety of humans, animals, plants, or
2 property, or which unreasonably interferes with the
3 enjoyment by the people of life or property.

4 6) "Primary Drinking Water Regulations" means a
5 regulation which:

6 (a) Applies to Public Water System;

7 (b) Specifies contaminant levels which in
8 the judgment of the Agency, may have an adverse
9 effect on the health of persons; and

10 (c) Specifies for each of such contaminant
11 level, either:

12 (i) A maximum contaminant level, if, in
13 the judgment of the Agency, it is
14 economically and technologically feasible to
15 ascertain the level of such contaminant in
16 water system; or

17 (ii) If, in the judgment of the Agency,
18 it is not economically possible to ascertain
19 the level of such contaminant, each treatment
20 known to the Agency which leads to a
21 reduction in the level of such contaminant;
22 and

23 (d) Contains criteria and procedures to
24 assure a supply of drinking water which complies
25 with established maximum contaminant level,
26 including quality control and testing procedures
27 to insure compliance with such levels and to
28 insure proper operation and maintenance of the
29 system, and requirements as to:

-
-
- 1 (i) The minimum quality of water which
2 may be taken into the system; and
3 (ii) Siting for new facilities for
4 public water systems.

5 7) "Secondary Drinking Water Regulation" means a
6 regulation which applies to public water system and
7 which specifies the maximum contaminant levels which in
8 the judgement of the Agency are requisite to protect
9 the public welfare. Such regulations may apply to any
10 contaminant in drinking water:

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

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

19 (8) "State Plan" means an individual plan for:

20 (a) The certification of applicators of
21 pesticides; and

22 (b) Issuance of pesticide registration to
23 meet special local needs.

24 Section 4. Chuuk State Environmental Protection Agency
25 Created; Membership; Vacancies; Chairman; Records;
26 Qualifications.

27 1) Establishment of Agency/Board memberships.

28 There is hereby established an independent agency to be

1 known as the Chuuk State Environmental Protection
2 Agency to be composed of five members one from each of
3 the five senatorial regions of the State of Chuuk. All
4 five members shall be appointed by the Governor with
5 the advice and consent of the Senate. The Governor in
6 his appointment shall select persons who are citizens
7 of the Federated States of Micronesia and residents of
8 Chuuk, to carry out the policies and purposes of this
9 Act. Members shall serve for four years. The first
10 appointments under this Section shall be made as
11 follows:

- 12 (a) One member for a period of 4 years;
13 (b) Two members for a period of 3 years; and
14 (c) Two members for a period of 2 years.

15 Vacancies shall be filled in the same manner as the
16 original appointment was made, for the unexpired terms
17 only. Any member of the Board of Directors may be
18 removed by the majority of all members of the Board for
19 inefficiency, neglect of duty, or misconduct in office.

20 2) Officers. The Board of Directors shall elect
21 from among its members a Chairman and a Vice-Chairman.
22 The oldest member shall serve as Acting Chairman until
23 such time the Board shall elect a Chairman.

24 3) Compensation. Any member of the Board of
25 Directors who is an employee of the State Government
26 shall be granted administrative leave with pay while

1 engaged in the performance of the duties of the Agency.
2 Non-State Government members of the Board of Directors
3 shall receive compensation of not more than \$25.00 per
4 day when engaged in the performance of the duties of
5 the Board. Any member of the Board who is an
6 employee of the State whose daily base salary or wages
7 is less than \$25.00, shall be entitled to the
8 difference of his daily base salary or wages and the
9 maximum daily board allowance of \$25.00. Members shall
10 also be entitled to receive reasonable travel costs and
11 per diem at standard Chuuk State rates when engaged in
12 the performance of the duties of the Board.

13 4) Meeting. The Board shall meet once during
14 the first part of the calendar year and once during
15 the latter part of the calendar year. Special meetings
16 may be held at any time and at such places as
17 determined by the Board, or upon the call of the
18 chairman or upon written request of any three members.
19 All meetings shall be opened to the public, and public
20 notice of time and place of such meetings shall be
21 posted in public places and shall be announced on the
22 radio to the general public throughout Chuuk State.

23 (a) Three members of the Board shall
24 constitute a quorum for transaction of
25 business.

26 (b) The Agency may seek independent counsel.

27 (c) The Agency shall submit to the Governor
28 and the State Legislature, not later than January
29 30 of each year a report on its activities for the
30

1 preceding calendar year.

2 (5) Records. The Agency shall provide for the
3 keeping of all of its records and actions. These
4 records shall be open to the public for inspection.

5 (6) Staff. The Board shall designate a full time
6 executive director who shall be administrator of the
7 functions of the Agency and shall have such duties and
8 responsibilities as may be delegated to him by the
9 Board. The executive director shall not be a member of
10 the Board of Directors and shall not have the right to
11 vote. The executive director shall be assisted in the
12 performance of his duties by supporting staff as the
13 Agency deems necessary to implement the functions of
14 the Agency. Employees thereof shall be governed under
15 the Public Services System, or may join a merit System
16 created by the Board therefor.

17 7) Technical Assistance. The Board may request
18 for the Agency with the necessary technical assistance
19 from the departments, offices, and agencies of the
20 State Government.

21 Section 5. Powers and Duties of the Agency.

22 1) The Agency shall have the powers and duties to
23 control and prohibit pollution of air, land, and water
24 in accordance with this Act and with regulations
25 adopted and promulgated pursuant to this Act, and for
26 this purpose, is further empowered to:

27 a) Adopt, approve, amend, revise,
28 promulgate, and repeal regulations or effect the
29 purpose of this Act and enforce such regulations
30 which shall have the force and effect of law;

1 b) Accept appropriations, loans and grants
 2 from the Chuuk State Legislature, FSM Congress,
 3 the FSM National Government, or any Agency thereof
 4 and other sources, public or private, which loans,
 5 grants and appropriations shall not be expended
 6 for other than the purpose of this Act except as
 7 limited by the nature of the loan, grant or
 8 appropriation;

9 c) Adopt and provide for the continuing
 10 administration of a State-wide program for the
 11 prevention, control, and abatement of pollution
 12 of the air, land and water of Chuuk State, and
 13 from time to time review and modify such programs
 14 as necessary;

15 d) Establish criterias for classifying air,
 16 land and water in accordance with their present
 17 and future uses;

18 e) Adopt and implement plans for the
 19 certification of importers and applicators of
 20 restricted pesticides, for the issuance of
 21 experimental use permits for pesticides and a plan
 22 to meet special local needs, and such other
 23 measures as may be necessary to carry out the
 24 purpose of this Act;

25 f) Establish and provide for the continuing
 26 administration of a permit system whereby a permit
 27 shall be required before the discharge by any
 28 person of any pollutant in the air, lands and
 29

1 water or for the conduct by any person of any
 2 activity, including but not limited to, the
 3 operation, construction, expansion, alteration of
 4 any facilities; modification, suspension,
 5 revocation, and termination of such permit and/or
 6 the posting of an appropriate bond;

7 g) Collect information and establish record
 8 keeping, monitoring, and reporting requirements as
 9 necessary and appropriate to carry out the purpose
 10 of this Act; and

11 h) Prepare a budget of the Agency and submit
 12 it to the Governor for inclusion in the State
 13 Budget to be submitted to the Legislature.

14 2) The Agency is authorized to enter into
 15 cooperative arrangements with the National Government,
 16 municipalities, and other agencies for the protection
 17 of the Chuuk State Environment.

18 3) The Agency, in order to effectively implement
 19 the provisions of this Act, shall have the power to
 20 issue subpoena deuces tecum and subpoena ad
 21 testificandum and shall have quasi-judicial powers of
 22 contempt, issuance of orders, and enforcement of the
 23 provisions of this Act.

24 Section 6. Environment Impact Statement. A person
 25 shall submit an environment impact statement to the Agency,
 26 in accordance with regulations established by the Agency,
 27 prior to taking any major action which may substantially
 28 affect the quality of the environment.

1 Section 7. Right of Entry. Whenever it is necessary
 2 for the purpose of this Act, the Agency, or any member,
 3 agent, or employee thereof when duly authorized by the
 4 Agency or by Court Order, may within reasonable times, enter
 5 any establishment or upon any property to make inspection or
 6 to do other acts as directed by the Agency or the Court.

7 Section 8. Violation Subject to Enforcement. Any person
 8 who violates any provision of this Act, or of any permit,
 9 regulation, standard, or order issued or promulgated
 10 hereunder, shall be subject to enforcement action by the
 11 Agency. Such enforcement action may include, but is not
 12 limited to:

13 1) The imposition of a civil penalty up to
 14 \$100,000.00 for each day of the violation. Penalty
 15 collected hereunder shall be paid to the Treasury of
 16 Chuuk State for credit to the Chuuk Environmental
 17 Protection Agency. The Agency shall provide by
 18 regulation minimum due process requirements to apply
 19 before it exercises the powers pursuant to this
 20 subsection;

21 2) A civil action may be commenced in the
 22 Trial Division of the Chuuk State Supreme Court to
 23 enjoin the violation;

24 3) A civil action for damages may be
 25 commenced in the Trial Division of the Chuuk State
 26 Supreme Court. Such action may be in addition to any
 27 civil penalties imposed hereunder. In determining such
 28 damages, the Court shall take into consideration all
 29 relevant circumstances, including, but not limited to,

1 the extent of harm caused by the violation, the nature
2 and persistence of the violation, the length of time
3 during which such violation occurred, and corrective
4 action, if any taken by the violator. Damages
5 collected hereunder shall be paid to the Treasury of
6 Chuuk State and credited to the accounts of the
7 Agency. The Agency shall apportion any monetary
8 damages collected pursuant to this section among any
9 private landowners or property owners actually affected
10 by the violation, in accordance with its regulations;

11 4) A person who intentionally, knowingly, or
12 recklessly violates any provision of this Act shall
13 be guilty of an offense, and upon conviction, may be
14 imprisoned for a period of up to ten years, or fined up
15 to \$500,000 or both. A criminal conviction may be in
16 addition to any civil penalty herein provided; and

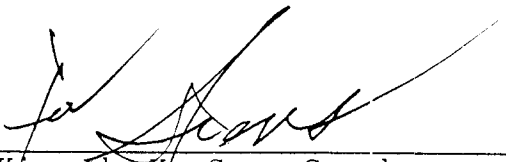
17 5) A person who is affected by any violation of
18 this Act retains the right to seek civil remedies in
19 the appropriate court irrespective of whether any claim
20 or suit has been instituted pursuant to the other
21 provisions of this section.

22 Section 9. Transition. All employees in the
23 present Environmental Protection Agency of the Department of
24 Health Services, who are responsible for environmental
25 matters shall be transferred to and become employees of the
26 Agency upon the effective date of this Act, and shall retain
27 their salary levels until a specific law determines
28 otherwise. The number of employees of the Agency shall be
29 the maximum number of employees of the Agency as of the
30 effective date of this Act, and no hiring of employees is

1 permitted until specifically provided for by law.

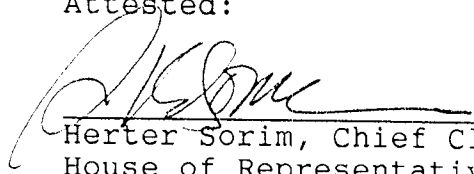
2 Section 10. Appropriation. The sum of \$10,000.00 is
3 hereby appropriated from the General Fund of the State for
4 the fiscal year ending September 30, 1994 as initial
5 operating cost of the Agency. This appropriation shall be
6 allotted to and administered by the Board, which shall be
7 responsible to the Legislature in ensuring that this fund is
8 used only for the purposes specified herein and in
9 accordance with the Financial Management Act. The Board
10 shall submit to the Legislature no later than six months
11 after the Agency begins to operate, a report detailing the
12 use and status of this fund as of the reporting date;
13 PROVIDED, however, that a supplemental report shall be
14 submitted to the Legislature within thirty days after the
15 end of the fiscal year. Funds not obligated by September
16 30, 1994 shall revert back to the General Fund of the State.

17 Section 11. Effective Date. This Act shall take
18 effect upon approval by the Governor, or upon its becoming
19 law without such approval.

20
21 Signed by: 

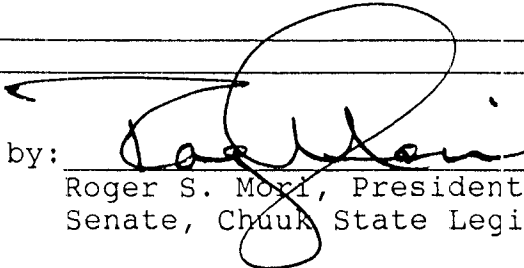
Kisande K. Sos, Speaker
House of Representatives
Chuuk State Legislature

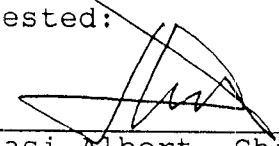
22
23 Attested:

24 
25 Herter Sorim, Chief Clerk
House of Representatives
26 Chuuk State Legislature

27 Date: 12/08/93

1
2
3
4
5
6
7
8
9
10
11
12

Signed by: 
Roger S. Mori, President
Senate, Chuuk State Legislature

Attested: 
Datasi Albert, Chief Clerk
Senate, Chuuk State Legislature

Date: 12/08/93

Approved by: 
Sasao H. Gouland, Governor
Chuuk State Government

Date: 1/4/94

HISTORY: H.B.NO.2-58;HD1;SD3
H.C.R.No: 1-11
S.S.C.R.No: 2-1-02