

**Comparative Analysis of Micronesia’s Legal Framework<sup>1</sup> and Environment Safeguards in the ADB Safeguard Policy Statement**

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>2</sup>	(C) Extent of Equivalence <sup>3</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
<b>Environmental Safeguards Objectives: To ensure the environmental soundness and sustainability of projects and to support the integration of environmental considerations into the project decision-making process</b>			
<b>Key Element (1)</b> Ensure the environmental soundness and sustainability of projects	<b>Federated States of Micronesia Environmental Protection Act 1999 (FSMEPA 1999)</b> § 502. Public policy. ... (2) In order to carry out the policy set forth in this Subtitle, 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 inhabitants of the Federated States of Micronesia may: (a) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations; ... (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	<b>Partial Equivalence.</b>	Amend the FSMEPA 1999 to explicitly state that ensuring the environmental soundness and sustainability of projects is a matter of public policy.

<sup>1</sup> This analysis covers only national policies, laws and regulations. There are four states in the Federated States of Micronesia. As far as it has been possible to ascertain, Chuuk, Pohnpei, and Yap have state environmental protection/quality laws; Kosrae has state EIA regulations and guidelines; and Pohnpei has state EIA guidelines for diesel generating plants. “The responsibility for environmental issues is shared between the FSM National Government and the individual FSM State governments. The sharing of responsibility has at times resulted in legislation that appears duplicated at the State and National levels. It has also resulted in gaps in legislation and areas in which the location of responsibility between the State and National Governments has been less than clear. Each State has made efforts to control development and manage natural resources through the creation of land use plans, coastal zone plans, legislation and regulations. The National Government provides guidance and technical assistance to the States when needed and requested on matters related to planning, economic development, natural resources, fisheries, and the environment.” *Federated States of Micronesia State-Wide Assessment and Resource Strategy 2010-2015+*. Undated. p. 10. <http://www.wflccenter.org/islandforestry/fsm.pdf>

<sup>2</sup> All text in Column B is direct citation from the official versions of the legal instruments. Citations to non-legally-binding policies are in footnotes to recommendations in Column D. In this analysis, the words “shall” and “must” are interpreted to mean that an action is mandatory; the word “may” is interpreted to mean that an action is discretionary.

<sup>3</sup> “Full Equivalence” denotes that the national legal instruments are in complete harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element thereof. “Partial Equivalence” denotes that the national legal instruments are in partial harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element; and “No Equivalence” denotes that no legal requirement can be found that corresponds to the particular ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element. It is intended that the referenced text of the national legal instruments be sufficiently clear to demonstrate the findings of Full Equivalence or No Equivalence without further explanation, except in those instances where an explanation would appear necessary and is given. A finding of Partial Equivalence normally requires the explanation provided.

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	<p>environment which supports diversity and variety of individual choice.</p> <p><b>Environmental Impact Assessment Regulations 1989 (EIA Regulations 1989)</b>                      2.2 ...The Secretary shall only authorize commencement of projects or release of funds for the proposed project if he determines that the EIA Statement is sufficient. No permits shall issue until approval of the EIA Statement by the Secretary.</p>		
<p><b>Key Element (2)</b>                      Support the integration of environmental considerations into the project decision-making process</p>	<p><b>FSMEPA 1999</b>  <b>§ 702. Environmental impact statements.</b>                      (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.</p> <p><b>EIA Regulations 1989</b>                      1.2 Purpose.                      ...The Environmental Impact Assessment (EIA) process is intended to help the general public and government officials make decisions with the understanding of the environmental consequences of their decisions, and take actions consistent with the goal of protecting, restoring, and enhancing the environment.</p> <p>3.1 <u>Timing.</u>                      ...The EIA shall be conducted early enough to insure that the decision making process reflects environmental values, and that alternatives will not be foreclosed prior to completion of the EIA process. The EIA Statement shall not be used to rationalize or justify decisions already made.</p> <p>6.6 <u>Standards of Adequacy of the EIA Statement.</u>                      The EIA Statement shall be prepared with a degree of analysis sufficient to enable the project proponent to make a decision which takes account of environmental consequences....</p>	<p><b>Full Equivalence.</b></p>	<p>None required</p>
<p><b>Scope and Triggers: Environmental safeguards are triggered if a project is likely to have potential environmental risks and impacts.</b></p>			

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	<p><b>EIA Regulations 1989</b></p> <p>1.2 Purpose. ...these regulations are designed to:...</p> <p>(b) Identify at an early stage the significant environmental issues requiring further study and de-emphasize insignificant issues, thereby defining the scope of the EIA.</p> <p>1.3 <u>Definition.</u> (b)(2)...Effects and impacts as used in these regulations have the same meaning.... (m) "Scope" means the range of actions, alternatives, and impacts to be considered in an environmental impact assessment. Scoping is a process whereby the range of impact and alternatives to be considered in an EIA is defined.</p> <p>3.2 <u>Components of the EIA Process.</u> The environmental impact assessment process is made up of three sequential elements: Identification, Prediction, and Evaluation. (a) Identification. This involves the initial work of characterizing the proposed project and its alternatives, characterizing the existing environment, and developing a reasonable scope for the study.</p> <p>3.3 <u>Two Levels of Study in EIA Process – Description.</u> ...The degree of EIA detail for a project depends upon the significance of its potential environmental impacts. An initial assessment...shall be conducted for projects that do not appear to have significant environmental effects. If it becomes apparent that a project may cause significant environmental impacts, either as a result of findings in the initial study or otherwise, a comprehensive EIA must be conducted and an EIA Statement prepared...</p> <p>Appendix A <u>Examples of Significant Impacts</u> [Appendix A lists 24 circumstances. If one or more are present, a project will normally have a significant impact on the environment.]</p>	<b>Full Equivalence.</b>	None required
<b>Policy Principle 1:</b> Use a screening process for each proposed project, as early as possible, to determine the appropriate extent and type of environmental assessment so that appropriate studies are undertaken commensurate with the significance of potential impacts and risks.			
<b>Key element (1)</b>	<b>EIA Regulations 1989</b>	<b>Full Equivalence.</b>	None required

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Screen as early as possible	<p>1.2 Purpose. ...these regulations are designed to:</p> <p>(a) Integrate the EIA process into early planning of projects to insure timely consideration of environmental factors and to avoid delays;...</p> <p>Part IV. Initial Assessment. 4.1 Applicability. For all projects subject to the requirements of these regulat[i]ons, the project proponent shall conduct an Initial Assessment of the project, following the checklist format provided in appendix B....If it is found that any aspects of the project, either individually or cumulatively, may cause a significant impact on the environment, then a more comprehensive EIA shall be undertaken as set forth in Part V of these regulations. All phases of project planning, implementation, and operation shall be considered in the initial assessment of the project.</p> <p>4.2 Purposes. ...The purposes of an initial study are to:...</p> <p>(c) Facilitate environmental assessment early in the design of project;...</p> <p>4.3 Content. An initial assessment shall contain in brief form:</p> <p>(a) A description of project including the location of the project; (b) An identification of the environmental setting; (c) An identification of environmental impact by use of the checklist provided in appendix B; (d) A discussion of ways to mitigate the significant impacts identified, if any; (e) An examination of whether the project is compatible with zoning requirements or plans, if any; (f) A determination by the project proponent (1) as to whether the project was found to have no significant impacts; (2) was found to have potentially significant impacts that will be mitigated to the point of insignificance; or (3) was found to have potentially significant impacts requiring a more in-depth EIA....</p>		
<b>Key element (2)</b> Determine the	<b>EIA Regulations 1989</b> 4.4 Determination.	<b>Full Equivalence.</b>	None required

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<p>appropriate extent and type of environmental assessment so that appropriate studies are undertaken commensurate with the significance of potential impacts and risks.</p>	<p>The Initial Assessment shall be submitted to the Secretary for review. The determination of whether a project may have a significant impact on the environment calls for careful judgment on the part of the project proponent, based to the extent possible on scientific and factual data....Where there is a difference of opinion on whether a particular impact should be considered significant, the Secretary shall determine whether the impact is sufficiently significant to require a comprehensive EIA.</p> <p>Part V. Comprehensive Environmental Impact Assessment. 5.1 <u>Decision to Conduct EIA.</u> If the project proponent or Secretary finds after an initial assessment that a project may have a significant impact on the environment, the project proponent shall conduct or cause to be conducted a comprehensive environmental impact assessment, and prepare or cause to be prepared an EIA Statement. An EIA Statement shall be prepared whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant impact on the environment, or when there is serious public controversy concerning potential environmental impacts of a project. Controversy not related to an environmental issue does not require the preparation of an EIA Statement.</p>		
<p><b>Policy Principle 2:</b> Conduct an environmental assessment for each proposed project to identify potential direct, indirect, cumulative, and induced impacts and risks to physical, biological, socioeconomic (including impacts on livelihood through environmental media, health and safety, vulnerable groups, and gender issues), and physical cultural resources in the context of the project's area of influence. Assess potential trans-boundary and global impacts, including climate change. Use strategic environmental assessment where appropriate.</p>			
<p><b>Key element (1):</b> Identify indirect as well as direct impacts</p>	<p><b>EIA Regulations 1989</b> 1.3 <u>Definition.</u> (b) "Effects" means: (1) Direct effects, which are caused by the action and occur at the same time and place; (2) Indirect effects, which are caused by the actions and are later in time or further removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.... Effects may be ecological, aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative.</p>	<p><b>Full Equivalence.</b></p>	<p>None required</p>

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	<p>Part VI. Contents of Environmental Impact Assessment Statement.</p> <p>6.4 <u>Environmental Consequences [sic] of Alternatives Including the Proposed Project.</u>                      ...The discussion shall include direct and indirect significant impacts of the proposed project on the environment...</p>		
<p><b>Key element (2)</b> Identify cumulative impacts</p>	<p><b>EIA Regulations 1989</b>                      1.3 <u>Definition.</u>                      (a) "Cumulative Impact" means the impact on the environment, which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.</p> <p>Part VI. Contents of Environmental Impact Assessment Statement.</p> <p>6.3 <u>Description of the Environmental Setting.</u>                      ...Specific reference to related projects in the region, both public and private, both existent and planned, shall also be included, for purposes of examining the possible cumulative impacts of such projects.</p>	<p><b>Full Equivalence.</b></p>	<p>None required</p>
<p><b>Key element (3)</b> Identify induced impacts<sup>4</sup></p>	<p><b>EIA Regulations 1989</b>                      1.3 <u>Definition.</u>                      (b) "Effects" means:....                      (2) ...Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems..</p> <p>Part VI. Contents of Environmental Impact Assessment Statement.</p> <p>6.4 <u>Environmental Consequences [sic] of Alternatives Including the Proposed Project.</u>                      ...The discussion shall include...changes induced in population...</p>	<p><b>Full Equivalence.</b></p>	<p>None required</p>

<sup>4</sup> ADB defines induced impacts as adverse and/or beneficial impacts on areas and communities from unintended but predictable developments caused by a project, which may occur later or at a different location.

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<p><b>Key element (4)</b> Identify physical impacts</p>	<p><b>EIA Regulations 1989</b> Part VI. Contents of Environmental Impact Assessment Statement. 6.4 <u>Environmental Consequences [sic] of Alternatives Including the Proposed Project.</u> ...The discussion shall include...physical changes...</p> <p>Appendix B <u>Initial Assessment Environmental Checklist</u> 1. <u>EARTH.</u> Will the proposed project result in: a. Destruction, covering or modification of any unique...physical features?</p>	<p><b>Full Equivalence.</b></p>	<p>None required</p>
<p><b>Key element (5)</b> Identify biological impacts</p>	<p><b>EIA Regulations 1989</b> Part VI. Contents of Environmental Impact Assessment Statement. 6.3 <u>Description of the Environmental Setting.</u> ...Special emphasis shall be placed on...endangered species.</p> <p>6.4 <u>Environmental Consequences [sic] of Alternatives Including the Proposed Project.</u> ...The discussion shall include...alterations to ecological systems...</p>	<p><b>Full Equivalence.</b></p>	<p>None required</p>
<p><b>Key element (6)</b> Identify socioeconomic impacts (including on livelihood through environmental health and safety, vulnerable groups, and gender issues)</p>	<p><b>EIA Regulations 1989</b> Part VI. Contents of Environmental Impact Assessment Statement. 6.4 <u>Environmental Consequences [sic] of Alternatives Including the Proposed Project.</u> ...The discussion shall include...the human uses of the land, and other aspects of the resource base...</p> <p>Appendix A <u>Examples of Significant Impacts</u> A project will normally have a significant impact on the environment if it will: 1. Conflict with adopted plans and established uses of the community where it is to be located... 15. Induce substantial growth or concentration of population. 16. Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system.</p>	<p><b>Partial Equivalence.</b></p> <p>The EIA Regulations 1989 do not explicitly require assessment of impacts on vulnerable groups or gender issues associated with a proposed project.</p>	<p>Amend the EIA Regulations 1989 to explicitly require assessment of gender issues as well as economic and social impacts on vulnerable groups.</p>

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	<p>17. Displace a large number of people....                      20. Expose people...to major geological hazards.                      21. Create a potential public health hazard or involve the use, production or disposal of materials which pose a hazard to people...in the areas affected.</p> <p>Appendix B  <u>Initial Assessment Environmental Checklist</u>                      ...6. <u>NOISE</u>. Will the proposed project result in:                      a. Increase in existing noise levels or exposure of people to severe noise levels?...</p> <p>10. <u>POPULATION</u>. Will the proposed project result in:                      a. Relocation or altered, distribution, density, or growth rate of the human population of an area?                      11. <u>HOUSING</u>. Will the proposed project result in:                      a. Changes in existing housing or create a demand for additional housing?                      12. <u>TRANSPORTATION</u>. Will the proposed project result in:...</p> <p>c. Alteration to present patterns of movement of people and/or goods?...</p> <p>15. <u>HUMAN HEALTH</u>. Will the proposed project result in:                      a. Creation of any health hazard or potential health hazard?                      b. Improvement of human health?                      16. <u>AESTHETICS</u>. Will the proposed result in:                      a. Obstruction of any scenic vista?                      17. <u>RECREATION</u>. Will the proposed project result in:                      a. Changes in the quality or amount of existing recreational opportunities?</p>		
<p><b>Key element (7)</b>                      Identify impacts on physical cultural resources</p>	<p><b>EIA Regulations 1989</b>                      1.3 <u>Definition</u>.                      (b) "Effects" means:....                      (2) ... Effects may be...historic, cultural,...</p> <p>Part VI. Contents of Environmental Impact Assessment Statement.                      6.3 <u>Description of the Environmental Setting</u>.                      ...Special emphasis shall be placed on...historical sites....</p> <p>Appendix A</p>	<p><b>Full Equivalence.</b></p>	<p>None required</p>



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	<p><u>Examples of Significant Impacts</u> A project will normally have a significant impact on the environment if it will:...</p> <p>14. Disrupt or adversely affect an archaeological site or a property of historic or cultural significance.</p> <p>Appendix B <u>Initial Assessment Environmental Checklist</u> 18. <u>CULTURAL RESOURCES</u>. Will the proposed project result in:</p> <p>a. Alteration or destruction of archaeological sites? b. Adverse physical or aesthetic effects to a historic site? c. Potential to cause a physical change which would affect unique cultural values? d. Restriction of existing religious or sacred uses within the affected area?...</p>		
<p><b>Key element (8)</b> Identify impacts in the context of the project's area of influence</p>	<p><b>EIA Regulations 1989</b> Part VI. Contents of Environmental Impact Assessment Statement. 6.3 <u>Description of the Environmental Setting</u>. The EIA Statement shall include a description of the environment in the vicinity of the project, as it exists before the commencement of the project, from both a local and regional perspective. Special emphasis shall be placed on environmental resources to the region, including historical sites and endangered species....</p> <p>6.4 <u>Environmental Consequences [sic] of Alternatives Including the Proposed Project</u>. ...The discussion shall include...relevant specifics of the areas the resources involved [sic]...</p>	<p><b>Full Equivalence.</b></p>	<p>None required</p>
<p><b>Key element (9)</b> Assess potential trans-boundary impacts</p>	<p>No corresponding legal provision.</p>	<p><b>Irrelevant in the context of Micronesia.</b></p>	<p>None required</p>
<p><b>Key element (10)</b> Assess potential global impacts, including climate</p>	<p>No corresponding legal provision.</p>	<p><b>Irrelevant in the context of Micronesia.</b></p>	<p>None required</p>

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change			
<b>Key element (11)</b> Use strategic environmental assessment where appropriate	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the FSMEPA 1999 to introduce and require strategic environmental assessment where appropriate.
<b>Policy Principle 3.</b> Examine alternatives to the project's location, design, technology, and components and their potential environmental and social impacts and document the rationale for selecting the particular alternative proposed. Also consider the no project alternative.			
<b>Key element (1)</b> Examine alternatives to the project's location, design, technology, and components and their potential environmental and social impacts	<p><b>FSMEPA 1999</b> § 702. Environmental impact statements. ...(2) The environmental impact statement required by Subsection (1) of this Section shall be a public document, and shall include a detailed statement on:...</p> <p>(c) the alternatives to the proposed action;...</p> <p><b>EIA Regulations 1989</b> Part VI. Contents of Environmental Impact Assessment Statement. 6.4 <u>Environmental Consequences [sic] of Alternatives Including the Proposed Project.</u> The EIA Statement shall present the environmental impacts of the proposal and the alternatives in comparative form...The section shall: (a) Rigorously explore and objectively evaluate all reasonable alternatives...; (b) Describe each alternative in detail so that the reviewers can evaluate their comparative merits;...</p>	<b>Full Equivalence.</b>	None required
<b>Key element (2)</b> Document the rationale for selecting the particular alternative proposed	<p><b>EIA Regulations 1989</b> Part VI. Contents of Environmental Impact Assessment Statement. 6.4 <u>Environmental Consequences [sic] of Alternatives Including the Proposed Project.</u> The EIA Statement shall present the environmental impacts of the proposal and the alternatives in comparative form...The section shall:...</p> <p>(c) Identify the project proponent's preferred alternative or</p>	<b>Full Equivalence.</b>	None required

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	alternatives;...		
<b>Key element (3)</b> Also consider the no project alternative	<b>EIA Regulations 1989</b> Part VI. Contents of Environmental Impact Assessment Statement. 6.4 <u>Environmental Consequences [sic] of Alternatives Including the Proposed Project.</u> The EIA Statement shall present the environmental impacts of the proposal and the alternatives in comparative form... The section shall: (a) Rigorously explore and objectively evaluate all reasonable alternatives, including the alternative of no action;...	<b>Full Equivalence.</b>	None required
<b>Policy Principle 4:</b> Avoid, and where avoidance is not possible, minimize, mitigate, and/or offset adverse impacts and enhance positive impacts by means of environmental planning and management. Prepare an environmental management plan (EMP) that includes the proposed mitigation measures, environmental monitoring and reporting requirements, related institutional or organizational arrangements, capacity development and training measures, implementation schedule, cost estimates, and performance indicators. Key considerations for EMP preparation include mitigation of potential adverse impacts to the level of no significant harm to third parties, and the polluter pays principle.			
<b>Key element (1)</b> Avoid adverse impacts where possible	<b>EIA Regulations 1989</b> 1.3 <u>Definition.</u> (j) "Mitigation" means: (1) Avoiding the impact altogether by not taking a certain action or parts of an action....  Part V. Comprehensive Environmental Impact Assessment. 5.3 <u>Project Approval.</u> When an EIA Statement has been prepared for a project, agencies having authority for its funding or approval shall not approve the project as proposed if the agency or agencies finds any practicable alternative or practicable mitigation measures, within its powers or the powers of the project proponent, that would substantially lessen any significant impact the project would have on the environment to an acceptable level. As used in this section, the term "acceptable level" means that: (a) All significant environmental effects that can feasibly be avoided have been eliminated or substantially lessened....	<b>Full Equivalence.</b>	None required
<b>Key element (2)</b> Where avoidance is not possible, minimize and/or,	<b>FSMEPA 1999</b> § 702. Environmental impact statements. ... (2) The environmental impact statement required by Subsection (1) of this Section shall be a public document, and shall include a detailed statement on:...	<b>Full Equivalence.</b>	None required

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mitigate adverse impacts to the level of no significant harm to third parties	<p>(b) any adverse environmental effects which cannot be avoided should the proposal be implemented;...</p> <p><b>EIA Regulations 1989</b> Part V. Comprehensive Environmental Impact Assessment. 5.3 <u>Project Approval</u> (b) The agencies have found that any remaining, unavoidable significant impacts are acceptable considering the balance of the benefits of a proposed project against its unavoidable environmental risks; (c) Where the decision of the agency allows the occurrence of significant impacts which are identified in the final EIA Statement but are not mitigated to a level of insignificance, the agency must state in writing the reasons to support its action based on the final EIA Statement and/or other information in the record....</p> <p>Part VI. Contents of Environmental Impact Assessment Statement. 6.4 <u>Environmental Consequences [sic] of Alternatives Including the Proposed Project.</u> The EIA Statement shall present the environmental impacts of the proposal and the alternatives in comparative form...The section shall:...</p> <p>(e) Identify any significant environmental impacts that cannot be avoided;...</p>		
<b>Key element (3)</b> Offset adverse impacts	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 1989 to provide for offsets as an option for mitigating adverse environmental impacts.
<b>Key element (4):</b> Enhance positive impacts	<p><b>FSMEPA 1999</b> § 702. Environmental impact statements. ...(2) The environmental impact statement required by Subsection (1) of this Section shall be a public document, and shall include a detailed statement on:...</p> <p>(d) the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity;...</p>	<b>Full Equivalence.</b>	None required

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	<p><b>EIA Regulations 1989</b> Part VI. Contents of Environmental Impact Assessment Statement. 6.4 <u>Environmental Consequences [sic] of Alternatives Including the Proposed Project.</u> The EIA Statement shall present the environmental impacts of the proposal and the alternatives in comparative form...The section shall:...</p> <p>(f) Describe the relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity;...</p>		
<p><b>Key element (5)</b> Prepare an environmental management plan (EMP) that includes the proposed mitigation measures</p>	<p><b>EIA Regulations 1989</b> Part VI. Contents of Environmental Impact Assessment Statement Environmental Impact Assessment Statements shall contain the information outlined in this part. The recommended format for EIA Statements is as follows: 6.1 <u>Summary.</u> ...The summary shall stress...how to mitigate the significant impacts....</p> <p>6.4 <u>Environmental Consequences [sic] of Alternatives Including the Proposed Project.</u> ...The section shall:...</p> <p>(d) Include appropriate mitigation measures to minimize the significant environmental impacts;...</p>	<p><b>Partial Equivalence.</b>  Although the FSMEPA 1999 and the EIA Regulations 1989 do not require an EMP, the Regulations do require EIA statements to include mitigation measures.</p>	<p>Amend the FSMEPA 1999 to require an EMP.</p> <p>Amend the EIA Regulations 1989 to stipulate that an EMP must include proposed mitigation measures.</p>
<p><b>Key element (6)</b> Prepare an environmental management plan (EMP) that includes the proposed monitoring requirements</p>	<p>No corresponding legal provision.</p>	<p><b>No Equivalence.</b></p>	<p>See Policy Principle 4, Key element 5.</p> <p>Amend the EIA Regulations 1989 to stipulate that an EMP must include proposed monitoring requirements.</p>
<p><b>Key element (7)</b> Prepare an environmental management plan (EMP) that</p>	<p>No corresponding legal provision.</p>	<p><b>No Equivalence.</b></p>	<p>See Policy Principle 4, Key element 5.</p> <p>Amend the EIA Regulations 1989 to stipulate that an EMP</p>

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includes the proposed reporting requirements			must include proposed reporting requirements.
<b>Key element (8)</b> Prepare an environmental management plan (EMP) that includes related institutional or organizational arrangements	No corresponding legal provision.	<b>No Equivalence.</b>	See Policy Principle 4, Key element 5.  Amend the EIA Regulations 1989 to stipulate that an EMP must include proposed institutional or organizational arrangements.
<b>Key element (9)</b> Prepare an environmental management plan (EMP) that includes related capacity development and training measures	No corresponding legal provision.	<b>No Equivalence.</b>	See Policy Principle 4, Key element 5.  Amend the EIA Regulations 1989 to stipulate that an EMP must include proposed capacity development and training measures.
<b>Key element (10)</b> Prepare an environmental management plan (EMP) that includes an implementation schedule	No corresponding legal provision.	<b>No Equivalence.</b>	See Policy Principle 4, Key element 5.  Amend the EIA Regulations 1989 to stipulate that an EMP must include an implementation schedule.
<b>Key element (11)</b> Prepare an environmental management plan (EMP) that includes cost	No corresponding legal provision.	<b>No Equivalence.</b>	See Policy Principle 4, Key element 5.  Amend the EIA Regulations 1989 to stipulate that an EMP must include cost estimates.

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estimates			
<b>Key element (12)</b> Prepare an environmental management plan (EMP) that includes performance indicators	No corresponding legal provision.	<b>No Equivalence.</b>	See Policy Principle 4, Key element 5.  Amend the EIA Regulations 1989 to stipulate that an EMP must include performance indicators.
<b>Key element (13)</b> Consider the polluter pays principle in environmental management planning	<b>FSMEPA 1999</b> § 704. Violation - Enforcement action. Any person who violates any provision of this Subtitle, or any permit, regulation, standard, or order issued or promulgated under this Subtitle, shall be subject to enforcement action by the Board. Such enforcement action may include, but is not limited to: ... (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 under this Subsection shall be paid to the Treasury of the Federated States of Micronesia for credit to the General Fund of the Federated States of Micronesia; ... (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.	<b>Full Equivalence.</b>	None required
<b>Policy Principle 5:</b> Carry out meaningful consultation with affected people and facilitate their informed participation. Ensure women's participation in consultation. Involve stakeholders, including affected people and concerned nongovernment organizations, early in the project preparation process and ensure that their views and concerns are made known to and understood by decision makers and taken into account. Continue consultations with stakeholders throughout project implementation as necessary to address issues related to environmental assessment. Establish a grievance redress mechanism to receive and facilitate resolution of the affected people's concerns and grievances regarding the project's environmental performance.			
<b>Key element (1)</b> Carry out meaningful consultation with affected people and facilitate their informed participation.	<b>EIA Regulations 1989</b> Part V. Comprehensive Environmental Impact Assessment. 5.2 <u>EIA Procedures and Public Involvement.</u> ...(a) Upon determining that an ETA [ <i>sic</i> ] will be required for a project, the project proponent shall send a notice that an ETA [ <i>sic</i> ] is being conducted to all public agencies responsible for resources affected by the project, and/or having jurisdiction by law with respect to the project, or to any person or organization that may be concerned with the impacts of the project. This notice shall request comments on the proposed scope for the ETA [ <i>sic</i> ].	<b>Partial Equivalence.</b>  The EIA Regulations 1989 do not require a project proponent or government authorities to facilitate the participation of affected people in consultations during the EIA process.	Amend the EIA Regulations 1989 to require a project proponent and/or government authorities to facilitate the participation of affected people in consultations during the EIA process.

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>2</sup>	(C) Extent of Equivalence <sup>3</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
	<p>Part VI. Contents of Environmental Impact Assessment Statement.</p> <p>6.5 <u>Organizations and Persons Consulted.</u> The EIA Statement shall contain a list of names of the persons who organized and prepared the report, their qualifications, and a listing of organizations and persons who were consulted.</p>		
<p><b>Key element (2)</b> Ensure women's participation in consultation</p>	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 1989 to stipulate that women must be included in consultations during the EIA process.
<p><b>Key element (3)</b> Involve stakeholders, including affected people and concerned nongovernment organizations</p>	<p><b>EIA Regulations 1989</b> Part V. Comprehensive Environmental Impact Assessment. 5.2 <u>EIA Procedures and Public Involvement.</u> ...(a) Upon determining that an ETA [<i>sic</i>] will be required for a project, the project proponent shall send a notice that an ETA [<i>sic</i>] is being conducted to...any person or organization that may be concerned with the impacts of the project. This notice shall request comments on the proposed scope for the ETA [<i>sic</i>].</p> <p>Part VI. Contents of Environmental Impact Assessment Statement. 6.5 <u>Organizations and Persons Consulted.</u> The EIA Statement shall contain a list of names of the persons who organized and prepared the report, their qualifications, and a listing of organizations and persons who were consulted.</p>	<b>Partial Equivalence.</b>	Amend the EIA Regulations 1989 to specify that concerned non-governmental organizations must be involved in consultations during the EIA process.
<p><b>Key element (4)</b> Involve stakeholders early in the project preparation process</p>	<p><b>EIA Regulations 1989</b> Part V. Comprehensive Environmental Impact Assessment. 5.2 <u>EIA Procedures and Public Involvement.</u> ...(a) Upon determining that an ETA [<i>sic</i>] will be required for a project, the project proponent shall send a notice that an ETA [<i>sic</i>] is being conducted to all public agencies responsible for resources affected by the project, and/or having jurisdiction by law with respect to the project, or to any person or organization that may be concerned with the impacts of the project. This notice shall request comments on the proposed scope for the ETA [<i>sic</i>].</p>	<b>Full Equivalence.</b>	None required



(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>2</sup>	(C) Extent of Equivalence <sup>3</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
<p><b>Key element (5)</b> Ensure that stakeholder views and concerns are made known to and understood by decision makers and taken into account.</p>	<p><b>EIA Regulations 1989</b> Part V. Comprehensive Environmental Impact Assessment. 5.2 <u>EIA Procedures and Public Involvement.</u> ...(h) The project proponent and Secretary shall evaluate comments received from persons who reviewed the draft EIA Statement or attended a public hearing.</p>	<p><b>Full Equivalence.</b></p>	<p>None required</p>
<p><b>Key element (6)</b> Continue consultations with stakeholders throughout project implementation as necessary to address issues related to environmental assessment</p>	<p>No corresponding legal provision.</p>	<p><b>No Equivalence.</b></p>	<p>Amend the FSMEPA 1999 to stipulate that consultations with stakeholders continue after preparation of an EIA, throughout project implementation.</p> <p>Amend the EIA Regulations 1989 to require project proponents to establish a mechanism for consultation with stakeholders throughout project implementation.</p>
<p><b>Key element (7)</b> Establish a grievance redress mechanism to receive and facilitate resolution of the affected people's concerns and grievances regarding the project's environmental performance.</p>	<p>No corresponding legal provision.</p>	<p><b>No Equivalence.</b></p>	<p>Amend the FSMEPA 1999 to establish a grievance redress mechanism to facilitate resolution of affected people's concerns and grievances concerning environmental issues.</p> <p>Amend the EIA Regulations 1989 to require project proponents to establish a grievance redress mechanism to facilitate resolution of stakeholders' concerns and grievances concerning a</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>2</sup>	(C) Extent of Equivalence <sup>3</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
			project's environmental performance throughout project implementation.
<b>Policy Principle 6:</b> Disclose a draft environmental assessment (including the EMP) in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected people and other stakeholders. Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders.			
<b>Key element (1)</b> Disclose a draft environmental assessment including the EMP	<b>EIA Regulations 1989</b> Part V. Comprehensive Environmental Impact Assessment. 5.2 <u>EIA Procedures and Public Involvement.</u> ... (d) After completing the draft ETA [ <i>sic</i> ] Statement, copies shall be provided to the Secretary, public agencies having jurisdiction by law with respect to the project, and persons having special interest or expertise with respect to any environmental impact involved and any others notified pursuant to subpart 5.2(a).	<b>Full Equivalence.</b> The EIA Regulations 1989 are fully equivalent with disclosing a draft EIA even though they do not require preparation of an EMP.	None required
<b>Key element (2)</b> Disclose a draft environmental assessment in a timely manner prior to appraisal.	<b>EIA Regulations 1989</b> Part V. Comprehensive Environmental Impact Assessment. 5.2 <u>EIA Procedures and Public Involvement.</u> ... (f) The project proponent shall provide at least a 30 day period for public agencies and the general public to review and comment on a draft ETA [ <i>sic</i> ] Statement. The project proponent shall grant a reasonable extension of the comment period if the request is justified and received before the close of the comment period. (g)... Adequate notice shall be given of all public hearings in a timely manner....	<b>Full Equivalence.</b>	None required
<b>Key element (3)</b> Disclose a draft environmental assessment in an accessible place	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 1989 to specify that draft EIAs must be made available in a place that is accessible to all stakeholders.
<b>Key element (4)</b> Disclose a draft environmental assessment in a form and language(s) understandable to affected	<b>EIA Regulations 1989</b> Part VI. Contents of Environmental Impact Assessment Statement. 6.1 <u>Summary.</u> Each statement shall contain a brief summary of the proposed action and its consequences in language sufficiently simple that the issues can be understood by the average person.	<b>Full Equivalence.</b>	None required

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>2</sup>	(C) Extent of Equivalence <sup>3</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
people and other stakeholders			
<b>Key element (5)</b> Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 1989 to require disclosure of final EIAs to all stakeholders.
<b>Policy Principle 7:</b> Implement the EMP and monitor its effectiveness. Document monitoring results, including the development and implementation of corrective actions, and disclose monitoring reports.			
<b>Key element (1)</b> Implement the EMP	No corresponding legal provision.	<b>No Equivalence.</b>	See Policy Principle 4, Key element 5.
<b>Key element (2)</b> Monitor effectiveness of EMP	No corresponding legal provision.	<b>No Equivalence.</b>	See Policy Principle 4, Key element 5.  Amend the EIA Regulations 1989 to require monitoring the effectiveness of an EMP.
<b>Key element (3)</b> Document monitoring results, including the development and implementation of corrective actions	No corresponding legal provision.	<b>No Equivalence.</b>	See Policy Principle 4, Key element 5.  Amend the EIA Regulations 1989 to require documenting monitoring results and corrective actions.
<b>Key element (4)</b> Disclose monitoring reports	No corresponding legal provision.	<b>No Equivalence.</b>	See Policy Principle 4, Key element 5.  Amend the EIA Regulations 1989 to require disclosure of monitoring reports.
<b>Policy Principle 8:</b> Do not implement project activities in areas of critical habitats, unless (i) there are no measurable adverse impacts on the critical habitat that could impair its ability to function,			

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>2</sup>	(C) Extent of Equivalence <sup>3</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
(ii) there is no reduction in the population of any recognized endangered or critically endangered species, and (iii) any lesser impacts are mitigated. If a project is located within a legally protected area, implement additional programs to promote and enhance the conservation aims of the protected area. In an area of natural habitats, there must be no significant conversion or degradation, unless (i) alternatives are not available, (ii) the overall benefits from the project substantially outweigh the environmental costs, and (iii) any conversion or degradation is appropriately mitigated. Use a precautionary approach to the use, development, and management of renewable natural resources.			
<b>Key element (1)</b> Do not implement project activities in areas of critical habitats <sup>5</sup> , unless (i) there are no measurable adverse impacts on the critical habitat that could impair its ability to function	No corresponding legal provision.	<b>No Equivalence.</b>	If constitutionally feasible, amend the EIA Regulations 1989 to: <ul style="list-style-type: none"> <li>▪ define ‘critical habitat’;</li> <li>▪ provide for conserving critical habitats outside of legally protected areas; and</li> <li>▪ prohibit activities in any area of critical habitat unless there are no measurable adverse impacts on the critical habitat that could impair its ability to function.</li> </ul> Amend the EIA Regulations 1989 to stipulate that areas of critical habitats must be included in the factors to be taken into account in the EIA process.  If it is not possible to regulate development in critical habitats at the national level, amend state laws and regulations governing natural resources and EIA to do so.

<sup>5</sup> ADB’s Safeguard Policy Statement defines ‘critical habitat’ as “[a] subset of both natural and modified habitat that deserves particular attention. Critical habitat includes areas with high biodiversity value, including habitat required for the survival of critically endangered or endangered species; areas having special significance for endemic or restricted-range species; sites that are critical for the survival of migratory species; areas supporting globally significant concentrations or numbers of individuals of congregatory species; areas with unique assemblages of species or that are associated with key evolutionary processes or provide key ecosystem services ; and areas having biodiversity of significant social, economic, or cultural importance to local communities.”

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>2</sup>	(C) Extent of Equivalence <sup>3</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
<p><b>Key element (2)</b> Do not implement project activities in areas of critical habitats, unless... (ii) there is no reduction in the population of any recognized endangered or critically endangered species</p>	<p>No corresponding legal provision.  See Policy Principle 8, Key element 1.</p>	<p><b>No Equivalence.</b>  See Policy Principle 8, Key element 1.</p>	<p>See Policy Principle 8, Key element 1.  In addition, if constitutionally feasible, amend the EIA Regulations 1989 to prohibit activities in areas of critical habitats unless there is no reduction in the population of any recognized endangered or critically endangered species.</p>
<p><b>Key element (3)</b> Do not implement project activities in areas of critical habitats, unless... (iii) any lesser impacts are mitigated.</p>	<p>No corresponding legal provision.  See Policy Principle 8, Key element 1.</p>	<p><b>No Equivalence.</b>  See Policy Principle 8, Key element 1.</p>	<p>See Policy Principle 8, Key element 1.  In addition, if constitutionally feasible, amend the EIA Regulations 1989 to prohibit activities in areas of critical habitats unless any lesser impacts are mitigated.</p>
<p><b>Key element (4)</b> If a project is located within a legally protected area, implement additional programs to promote and enhance the conservation aims of the protected area.</p>	<p>No corresponding legal provision.</p>	<p><b>No Equivalence.</b>  See Policy Principle 8, Key element 1.  Micronesia is a Party to the Convention Concerning the Protection of the World Cultural and Natural Heritage.</p>	<p>If constitutionally feasible, amend the EIA Regulations 1989 to require any activity located within a legally protected area to implement additional programs to promote and enhance the conservation aims of the protected area.  Amend the EIA Regulations 1989 to stipulate that protected areas must be included in the factors to be taken into account in the EIA process.  If it is not possible to regulate</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>2</sup>	(C) Extent of Equivalence <sup>3</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
			development in protected areas at the national level, amend state laws and regulations governing natural resources and EIA to do so.
<p><b>Key element (5)</b> In an area of natural habitats, there must be no significant conversion or degradation, unless (i) alternatives are not available</p>	<p>No corresponding legal provision.</p>	<p><b>No Equivalence.</b> It is not clear whether state laws define habitat and declare areas of natural habitats.  The Marine Resources Act 2002 does not mention habitat.</p>	<p>If constitutionally feasible, amend the EIA Regulations 1989 to: provide for conserving natural habitats outside protected areas and, in particular, stipulate that, if an activity is implemented within an area of natural habitats, the decision to approve it must impose the condition there must be no significant conversion or degradation unless alternatives are not available.</p> <p>Amend the EIA Regulations 1989 to stipulate that areas of natural habitats must be included in the factors to be taken into account in the EIA process.</p> <p>If it is not possible to regulate development in natural habitats at the national level, amend state laws and regulations governing natural resources and EIA to do so.</p>
<p><b>Key element (6)</b> In an area of natural habitats, there must be no significant conversion or</p>	<p>No corresponding legal provision.  See Policy Principle 8, Key element 5.</p>	<p><b>No Equivalence.</b>  See Policy Principle 8, Key element 5.</p>	<p>See Policy Principle 8, Key element 5.  In addition, if constitutionally feasible, amend the EIA Regulations 1989 to stipulate</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>2</sup>	(C) Extent of Equivalence <sup>3</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
degradation, unless...(ii) the overall benefits from the project substantially outweigh the environmental costs			that, if any activity is implemented within a an area of natural habitats, the decision to approve the activity must impose the condition there must be no significant conversion or degradation unless the overall benefits from the activity substantially outweigh the environmental costs.
<b>Key element (7)</b> If a project is located within a legally protected area, there must be no significant conversion or degradation, unless...(iii) any conversion or degradation is appropriately mitigated.	No corresponding legal provision.  See Policy Principle 8, Key element 4.	<b>No Equivalence.</b>  See Policy Principle 8, Key element 4.	See Policy Principle 8, Key element 4.  In addition, if constitutionally feasible, amend the EIA Regulations 1989 to stipulate that, if a project is located within a legally protected area, there must be no significant conversion or degradation, unless any conversion or degradation is appropriately mitigated.
<b>Key element (8)</b> Use a precautionary approach to the use, development, and management of renewable natural resources.	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the FSMEPA 1999 and state environmental laws and EIA regulations and guidelines to incorporate the precautionary principle into development planning and environmental planning.
<b>Policy Principle 9:</b> Apply pollution prevention and control technologies and practices consistent with international good practices as reflected in internationally recognized standards such as the World Bank Group’s Environmental, Health and Safety Guidelines. Adopt cleaner production processes and good energy efficiency practices. Avoid pollution, or, when avoidance is not possible, minimize or control the intensity or load of pollutant emissions and discharges, including direct and indirect greenhouse gases emissions, waste generation, and release of hazardous materials from their production, transportation, handling and storage. Avoid the use of hazardous materials subject to international bans or phaseouts. Purchase, use, and manage pesticides based on			

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>2</sup>	(C) Extent of Equivalence <sup>3</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
integrated pest management approaches and reduce reliance on synthetic chemical pesticides.			
<b>Key element (1)</b> Apply pollution prevention and control technologies and practices consistent with international good practices	No corresponding legal provision.	<b>No Equivalence.</b>	Use the powers of the Environmental Protection Board to prohibit pollution to issue regulations applying pollution prevention and control technologies and practices consistent with international good practices.
<b>Key element (2)</b> Adopt cleaner production processes	No corresponding legal provision.	<b>No Equivalence.</b>	Use the powers of the Environmental Protection Board to protect the environment and prohibit pollution to issue regulations requiring all persons to reduce all forms of pollution at the source, including by adopting cleaner production processes..
<b>Key element (3)</b> Adopt good energy efficiency practices.	<b>An Act to further amend title 25 of the Code of the Federated States of Micronesia, as amended, by creating a new Chapter 8 under subsection II, to implement certain provisions of the FSM's Nationwide Integrated Disaster Risk Management and Climate Change Policy (Climate Change Act 2014)</b> Section 1. Purpose. This act is in furtherance of the provisions on climate change of the Federated States of Micronesia's Nationwide Integrated Disaster and Climate Change Policy (hereinafter the "CC Policy") by introducing certain legal	<b>Full Equivalence.</b>	None required <sup>6</sup>

<sup>6</sup> Nation Wide Integrated Disaster Risk Management and Climate Change Policy 2013  
Strategic Objectives  
Greenhouse Gas Emissions Reduction  
10. Reduce dependence on, and use of, fossil fuels.  
11. Increase investment in the development of renewable energy sources.  
12. Conserve energy consumption and improve energy efficiency across all sectors of society  
Enabling Environment  
15. Strengthen governance and management arrangements for Disaster Risk Management, Climate Change Adaptation and Greenhouse Gas Emissions Reduction including policy, compliance, legislative and regulatory frameworks, data management, performance monitoring and reporting frameworks that enable the ongoing assessment and management of disaster and climate risks and impacts.



(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>2</sup>	(C) Extent of Equivalence <sup>3</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
	<p>obligations for departments and agencies of the National Government....</p> <p>Section 4. Title 25 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by inserting a new section 802 under chapter 8 to read as follows:</p> <p>"Section 802. Mainstreaming of obligations.</p> <p>(1) By October 1, 2014, the following departments and agencies shall prepare plans and policies on climate change consistent with the provisions of the CC Policy:</p> <p>Department of Resources and Development; Office of Environment and Emergency Management;...</p>		
<p><b>Key element (4)</b></p> <p>Avoid pollution, or, when avoidance is not possible, minimize or control the intensity or load of pollutant emissions and discharges, including direct and indirect greenhouse gases emissions</p>	<p><b>Climate Change Act 2014</b></p> <p>... "Section 802. Mainstreaming of obligations.</p> <p>(1) By October 1, 2014, the following departments and agencies shall prepare plans and policies on climate change consistent with the provisions of the CC Policy:</p> <p>Department of Resources and Development; Office of Environment and Emergency Management;...</p> <p><b>EIA Regulations 1989</b></p> <p>1.3 <u>Definition</u>.</p> <p>(j) "Mitigation" means:</p> <p>(1) Avoiding the impact altogether by not taking a certain action or parts of an action....</p> <p>Part V. Comprehensive Environmental Impact Assessment.</p> <p>5.3 <u>Project Approval</u>.</p> <p>When an EIA Statement has been prepared for a project, agencies</p>	<b>Full Equivalence.</b>	None required <sup>4</sup>

<sup>7</sup> Nation Wide Integrated Disaster Risk Management and Climate Change Policy 2013  
Strategic Objectives  
Greenhouse Gas Emissions Reduction  
10. Reduce dependence on, and use of, fossil fuels.  
11. Increase investment in the development of renewable energy sources.  
12. Conserve energy consumption and improve energy efficiency across all sectors of society  
Enabling Environment  
15. Strengthen governance and management arrangements for Disaster Risk Management, Climate Change Adaptation and Greenhouse Gas Emissions Reduction including policy, compliance, legislative and regulatory frameworks, data management, performance monitoring and reporting frameworks that enable the ongoing assessment and management of disaster and climate risks and impacts.

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>2</sup>	(C) Extent of Equivalence <sup>3</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
	having authority for its funding or approval shall not approve the project as proposed if the agency or agencies finds any practicable alternative or practicable mitigation measures, within its powers or the powers of the project proponent, that would substantially lessen any significant impact the project would have on the environment to an acceptable level. As used in this section, the term "acceptable level" means that: (a) All significant environmental effects that can feasibly be avoided have been eliminated or substantially lessened....		
<b>Key element (5)</b> Avoid pollution, or, when avoidance is not possible, minimize or control waste generation	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the FSMEPA 1999 to implement the provisions of the National Biodiversity Strategy and Action Plan 2002 on minimizing and controlling waste generation. <sup>8</sup>
<b>Key element (6)</b> Avoid pollution, or, when avoidance is not possible, minimize or control release of hazardous materials from their production, transportation, handling, and storage	No corresponding legal provision.	<b>No Equivalence.</b>  Micronesia is a Party to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.	Implement Micronesia's obligations under the Basel Convention in national law and regulations.  Use the powers of the Environmental Protection Board to regulate to control pollution to issue regulations on minimizing and controlling release of hazardous materials from their production, transportation, handling, and storage.
<b>Key element (7)</b> Avoid the use of	No corresponding legal provision.	<b>No Equivalence.</b>	Implement Micronesia's obligations under the:

<sup>8</sup> The Federated States of Micronesia National Biodiversity Strategy and Action Plan 2002  
Objective 1: Solid Wastes and Sewage. Provide an environmentally safe mechanism for the collection, storage and disposal of solid wastes and sewage within the nation to prevent further degradation of the environment and loss of biodiversity within the nation.

Actions:  
Develop and implement programs for reuse and recycling of wastes, both within and outside the country.

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>2</sup>	(C) Extent of Equivalence <sup>3</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
hazardous materials subject to international bans or phaseouts	<p><b>FSMEPA 1999</b>                      § 603 (609). General powers and duties of the [Environmental Protection] Board.                      The Board shall have the power and duty to protect the environment...and prohibit pollution or contamination of air, land, and water in accordance with this Subtitle and with the regulations adopted and promulgated pursuant to this Subtitle.</p>	<p>Micronesia is a Party to the:</p> <ul style="list-style-type: none"> <li>▪ Stockholm Convention on Persistent Organic Pollutants (POPs);</li> <li>▪ Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;</li> <li>▪ Vienna Convention for the Protection of the Ozone Layer; and</li> <li>▪ Montreal Protocol on Substances that Deplete the Ozone Layer.</li> </ul> <p>Kosrae State has regulations on pesticides, POPs, and pollutants generally.</p>	<ul style="list-style-type: none"> <li>▪ Stockholm Convention on Persistent Organic Pollutants (POPs);</li> <li>▪ Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.</li> </ul> <p>in national law and regulations.<sup>9</sup></p> <p>Use the powers of the Environmental Protection Board to protect the environment to issue regulations on avoiding the use of hazardous materials subject to international bans or phaseouts.</p>
<p><b>Key element (8)</b>                      Purchase, use, and manage pesticides based on integrated pest management</p>	No corresponding legal provision.	<b>No Equivalence.</b>	National and state agriculture agencies may consider adopting and implementing integrated pest management practices that are feasible for subsistence and semi-subsistence agriculture.

<sup>9</sup> Federated States of Micronesia’s Strategic Development Plan (2004-2023)  
 7.2.2 Strategic Goal 2: Improve and Enhance the Human Environment (Improve waste management (reduce, recycle, reuse) and pollution control)  
 ... d Outcome measures, justification, and linkages

72 The most effective way to deal with POPs in a small island nation like the FSM is to never allow them into the country in the first place. Therefore, the frontline of defense against pollution is to reduce imports of these substances. Both the National and State governments must strengthen and enforce laws and regulations controlling transboundary pollution and transport of hazardous substances. Also, in keeping with the nation’s obligations under the UNFCCC, all imports of ozone-depleting substances (CFCs, etc.) should [be] prohibited as soon as possible, including all motor vehicles manufactured before 1996. National and State legislation is needed to ban the further import of POPs.

The Federated States of Micronesia National Biodiversity Strategy and Action Plan 2002  
 Objective 3: Hazardous Chemicals. Provide an environmentally safe mechanism to prevent or eliminate the use and abuse of hazardous chemicals and to develop and implement correct storage and disposal programs to prevent the degradation of the environment and loss of biodiversity within the nation.

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>2</sup>	(C) Extent of Equivalence <sup>3</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
approaches			
<b>Key element (9)</b> Reduce reliance on synthetic chemical pesticides	No corresponding legal provision.	<b>No Equivalence.</b>	<p>Implement obligations under the:</p> <ul style="list-style-type: none"> <li>▪ Stockholm Convention on Persistent Organic Pollutants (POPs);</li> <li>▪ Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.</li> </ul> <p>in national law and regulations.</p> <p>Use the powers of the Environmental Protection Board to protect the environment to issue regulations on reducing reliance on synthetic chemical pesticides.</p>
<b>Policy Principle 10:</b> Provide workers with safe and healthy working conditions and prevent accidents, injuries, and disease. Establish preventive and emergency preparedness and response measures to avoid, and where avoidance is not possible, to minimize, adverse impacts and risks to the health and safety of local communities.			
<b>Key element (1)</b> Provide workers with safe and healthy working conditions and prevent accidents, injuries, and disease	No corresponding legal provision.	<b>No Equivalence.</b>  The International Labour Organization has no Micronesian laws in its database.	Amend national labor laws to introduce provisions to ensure safe and healthy working conditions and prevent accidents, injuries and disease.
<b>Key element (2)</b> Establish preventive and emergency preparedness and response	No corresponding legal provision.	<b>No Equivalence.</b>  The FSMEPA 1999 states that avoiding risks to health and safety is a matter of public policy but does not include any substantive provisions to implement that aspect of public policy.	Implement in national law and regulations the national policies that are stated in the FSMEPA 1999 and the Nation Wide Integrated Disaster Risk Management and Climate

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measures to avoid, and where avoidance is not possible, to minimize, adverse impacts and risks to the health and safety of local communities.			Change Policy 2013. <sup>10</sup>
<p><b>Policy Principle 11:</b> Conserve physical cultural resources and avoid destroying or damaging them by using field-based surveys that employ qualified and experienced experts during environmental assessment. Provide for the use of “chance find” procedures that include a pre-approved management and conservation approach for materials that may be discovered during project implementation.</p>			
<p><b>Key element (1)</b> Conserve physical cultural resources and avoid destroying or damaging them</p>	<p><b>EIA Regulations 1989</b> Appendix A <u>Examples of Significant Impacts</u> A project will normally have a significant impact on the environment if it will:...</p> <p>14. Disrupt or adversely affect an archaeological site or a property of historic or cultural significance....</p> <p>Appendix B <u>Initial Assessment Environmental Checklist</u> 18. <u>CULTURAL RESOURCES</u>. Will the proposed project result in:</p> <p>a. Alteration or destruction of archaeological sites? b. Adverse physical or aesthetic effects to a historic site? c. Potential to cause a physical change which would affect unique cultural values?</p>	<p><b>Partial Equivalence.</b></p> <p>As far as could be ascertained, there do not appear to be any national laws that govern cultural resources. The EIA Regulations 1989 specify that a project will have significant impact if it adversely affects a cultural site and that the EIA process must consider physical cultural resources, but there does not appear to be any national law that requires conserving physical cultural resources and avoiding their destruction or damage.</p> <p>Pohnpei adopted a state Historic and Cultural Preservation Act in 2002 which provides only generally for conserving cultural resources.</p>	<p>Amend the EIA Regulations 1989 to define ‘physical cultural resources’ and specify that the EIA process must avoid damaging or destroying physical cultural resources.</p> <p>Consider adopting national law and/or regulations that specifically govern conservation of physical cultural resources.</p>

<sup>10</sup> Nation Wide Integrated Disaster Risk Management and Climate Change Policy 2013

Strategic Objectives

Disaster Risk Management

4. Use existing and new policy and planning instruments, resources and capacities to *reduce*, or eliminate, the risks associated with the adverse effects of hazards through activities and measures for prevention, (hazard) mitigation and preparedness, response, recovery and reconstruction.

Regional and International Policy Integration

...It is further recognized that under the amended Article X of the Federal Programs and Services Agreement [the Compact of Free Association] between the Government of the Federated States of Micronesia and the Government of the United States, the U.S. Agency for International Development (USAID) is currently responsible for providing disaster assistance and coordinating the United States Government response to declared disasters in the FSM.

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>2</sup>	(C) Extent of Equivalence <sup>3</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
	d. Restriction of existing religious or sacred uses within the affected area?...		
<b>Key element (2)</b> Use field-based surveys that employ qualified and experienced experts during environmental assessment.	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 1989 to stipulate that field-based surveys during environmental assessment must employ qualified and experienced experts in all fields that require assessment for a particular project.
<b>Key element (3)</b> Provide for the use of “chance find” procedures that include a pre-approved management and conservation approach for materials that may be discovered during project implementation	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 1989 to require that a mandatory EMP provides for the use of “chance find” procedures for physical cultural resources, which include a pre-approved management and conservation approach for materials that may be discovered during project implementation.