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## CODE OF THE FEDERATED STATES OF MICRONESIA

[1999 FSM Code Annotated]

### CHAPTER 4 (Repealed by PL 3-83 § 19)

#### Subtitle II

### Federated States of Micronesia Environmental Protection

#### CHAPTER 5

#### General Provisions

Sections:

- § 501. Short Title.
- § 502. Public policy.
- § 503. Definitions.

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#### § 501. Short Title.

This Subtitle may be cited as the Federated States of Micronesia Environmental Protection Act.

Source: PL 3-83 § 1.

#### Annotations

Acts that do not provide for a private citizen's cause of action for monetary damages cannot be used to create a duty for the breach of which damages may be awarded.

**Pohnuei v M/V Mivo Maru No. 11, 8 FSM Intrm 281, 292 (Pon 1998).**

Claims for damages for violation of the FSM Environmental Protection Act and for damage based on an alleged property interest in the reef and lagoon adjoining plaintiffs' land will be dismissed for failure to state a claim for which relief may be granted. **Damarlane v FSM, 8 FSM Intrm 119, 121 (Pon 1997).**

The FSM Environmental Protection Act does not provide for a citizen's claim for damages. **Damarlane v FSM, 8 FSM Intrm 119, 121 (Pon 1997).**

#### § 502. 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 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;
- (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 the formulation 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.

Source: PL 3-83 § 2.

### **§ 503. Definitions.**

The following words, for the purpose of this Subtitle, shall have the following meanings:

- (1) "Board" means the Secretary of Health Services.
- (2) "Chairman of the Board" or "chairman" means the Secretary of Health Services or his designee.
- (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 FSMC 201.

Source: PL 5-21 § 10.

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