



FEDERATED STATES OF MICRONESIA

REVIEW OF NATURAL RESOURCE AND ENVIRONMENT RELATED LEGISLATION



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INTRODUCTORY NOTE

The following review, prepared jointly by the Secretariat of the Pacific Regional Environmental Programme (SPREP) and the Environmental Defenders Office Ltd (EDO NSW), updates and builds on the reviews conducted in the early 2000s under the International Waters Project.

The review offers a brief overview of environmental legislation in force in each Pacific Island country identified and is current as of January 2018.

A number of sources were referenced for this update, including:

- Prior reviews prepared by SPREP;
- Pacific Islands Legal Information Institute – Paclii;
- ECOLEX - an information service on environmental law, operated jointly by FAO, IUCN and UNEP; and
- Government websites.

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This review is for information purposes only. It is not intended to be a complete source of information on the matters it deals with. Individuals and organisations should consult a local lawyer for legal advice on specific environmental matters.

If you have any feedback in relation to this review, please forward your comments to: registry@sprep.org.

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TABLE OF KEY ENVIRONMENTAL LEGISLATION

ENVIRONMENTAL LAW, PLANNING AND ASSESSMENT

Environmental Protection [Title 25] including:

Federated States of Micronesia Environmental Protection Act [Title 25, Chapter 5 (renamed as Subtitle 1)].

Federated States of Micronesia Environmental Protection Board [Title 25, Chapter 6 (renamed as FSM Environmental Protection Office: Subtitle 2)]

Federated States of Micronesia Environmental Protection Enforcement [Title 25, Chapter 7 (renamed as subtitle 3)]

BIODIVERSITY CONSERVATION AND NATURAL RESOURCES

Admiralty and Maritime, Wreck and Salvage [Title 19, Chapter 9]

Marine Resources [Title 24]

Resource Conservation [Title 23] including:

Marine Species Preservation (Chapter 1) and

Trust Territory Endangered Species Act of 1975 (Chapter 3)

Territory, Economic Zones and Ports of Entry [Title 18]

Agriculture and Livestock [Title 22]

Resource Conservation [Title 23]

Taxation and Customs [Title 54]

WASTE MANAGEMENT AND POLLUTION

Trust Territory Environmental Protection Enforcement [Title 25, Chapter 3]

Admiralty and Maritime [Title 19]

Environmental Protection Act Environmental Protection Board [Title 25, Chapter 6]

Marine Resources Act 2002

CONSTITUTIONAL AND ADMINISTRATIVE STRUCTURE

Spain ruled the Federated States of Micronesia (Micronesia) from around 1500 until the late nineteenth century. At this time Germany established rule over the Marshall Islands and the Spanish-American War led to the cession of Guam to the United States. In 1899, Spain sold its other Pacific Island possessions (that form modern Micronesia) to Germany. The Japanese, with assistance from Great Britain, took hold of the Marshall, Caroline and Mariana Islands. Japan obtained a League of Nations mandate over the islands in 1920. The United States captured and administered the islands by military rule from 1944 to 1947. The United Nations Security Council approved an agreement in 1947 for the United States to administer Micronesia as a strategic trust. This gave the United States absolute control but simultaneously allowed Micronesia to work towards self-determination.

The Inter-District Advisory Committee (also known as the Council of Micronesia) was created in 1956. This was an advisory committee to the High Commissioner. In 1964, the Advisory Committee became a de facto authoritative legislative body due to the establishment of the Congress of Micronesia, a bicameral legislature. The decolonisation process began in 1976. In 1982, representatives from the Marshall Islands, Palau and the Federated States of Micronesia signed a Compact of Free Association.

1.1. The Constitution

Constitution

The *Constitution of the Federated States of Micronesia* (Constitution) came into force on 10 May 1979. The Constitution is the supreme law of Micronesia and includes a bill of rights (Art IV). The Constitution acknowledges and protects the role and functions of traditional leaders as recognised by custom and tradition, as well as the traditions of the Micronesian people (Art V).

The Constitution establishes national, state and local level governments (Art VII). Micronesia has four states: Yap, Truk, Ponape and Kosrae.

Article IX of the Constitution establishes the legislature. Micronesia's legislature is unicameral with members elected for districts in each state according to population. The legislature selects the President. The states elect their own legislature and governor. The National legislature has the power to make legislation on a wide range of topics. For example, they may make laws "to regulate the ownership, exploration, and exploitation of natural resources within the marine space of the Federated States of Micronesia beyond 12 miles from island baselines". Legislative [Title 3] provides further details about the legislature.

Article X of the Constitution vests Micronesia's executive power in an elected President as the Head of State. The Executive [Title 2] addresses matters relating to the Executive in greater detail. Article XI of the Constitution establishes the judiciary of Micronesia as comprised of the Supreme Court and inferior courts established by statute. The *Judiciary Act of 1979* (otherwise referred to as *Judiciary of the FSM*) [Title 4] provides further guidance about the judiciary of Micronesia.

The Constitution contains several references to the environment, including the following:

- | | |
|--------------|---|
| Preamble | States, in part, "[t]o make one nation of many islands, we respect the diversity of our cultures. Our differences enrich us. The seas bring us together, they do not separate us. Our islands sustain us, our island nation enlarges us and makes us stronger." |
| Article XIII | Contains additional provisions, including some that relate to the environment. |

- Section 2 Provides that “radioactive, toxic chemical, or other harmful substances may not be tested, stored, used, or disposed of within the jurisdiction of the Federated States of Micronesia without the express approval of the national government of the Federated States of Micronesia.”
- Section 4 In terms of land use, “[a] noncitizen, or a corporation not wholly owned by citizens, may not acquire title to land or waters in Micronesia.”
- Section 5 Prohibits a lease agreement for the use of land for an indefinite term by a noncitizen, a corporation not wholly owned by citizens, or any government is prohibited.
- Section 113 of the General Provisions [Title 1]
Empowers the High Commissioner to restrict or forbid non-citizens from acquiring interests in real property and in business enterprises.

State Constitutions

Chuuk Constitution

Article XI of the Chuuk Constitution requires the legislature to “provide by law for the development and enforcement of standards of environmental quality, and for the establishment of an independent state agency vested with responsibility for environmental matters.” Article XI of the Chuuk Constitution also gives the State Government the power to take an interest in land for public interest purposes subject to negotiations and the payment of compensation.

Kosrae Constitution

Article XI of the Kosrae Constitution addresses land and environment matters. It grants the people the right to “a healthful, clean and stable environment”. The State government is required to “by law protect the State’s environment, ecology, and natural resources from impairment in the public interest.” The Constitution prohibits nuclear, chemical, gas or biological weapons and hazardous radioactive material being in the State. The Constitution provides “[t]he waters, land, and other natural resources within the marine space of the State are public property, the use of which the State Government shall regulate by law in the public interest...” Rivers and streams may be designated by law as public property for use in the public interest. The State Government may acquire land for public purposes without the interested parties’ consent, subject to the payment of fair compensation and good faith attempt at negotiation. Title to State land may only be acquired by Micronesian citizens who are Kosraean by descent.

Pohnpei Constitution

Under the *Pohnpei Constitution*, the State Governor must establish and administer “comprehensive plans for the conservation of natural resources and the protection of the environment”. Article 12 states that only Ponapean citizens, who are also pwilidak of Pohnpei, may acquire a permanent interest in real property. The Constitution also prohibits leases of more than 25 years and indefinite land-use agreements. The Government of Pohnpei may acquire land for public purposes following consultation with local government, owners and an offer for payment of a purchase price or compensation. Article 13 of the *Pohnpei Constitution* prohibits the introduction, storage, use, test and disposal of nuclear, chemical, gas and biological weapons, nuclear power plants and related waste materials from Pohnpei.

Yap Constitution

The *Yap Constitution* states that the “state Government may provide for the protection, conservation and sustainable development of agricultural, marine, mineral, forest, water, land and other natural resources.” It also prohibits testing, storing, using or disposing of radioactive and nuclear substances within the State. Land ownership and uses are restricted under the *Yap Constitution*. The State recognises traditional rights and

ownership of natural resources and areas within the marine space of the State up to 12 miles from island baselines.

1.2. Local Government and Customary Law

State and Municipal Government

Article VII of the Constitution establishes three levels of government for Micronesia: national, state and local governments. The four states are Chuuk, Kosrae, Pohnpei and Yap. Each state has its own constitution that creates an executive, a judiciary and a legislature.

Chuuk	Article XIII of the Chuuk Constitution establishes two levels of government for Chuuk, State and municipal. The mayor is the chief executive of each municipality.
Kosrae	Article VIII of the Kosrae Constitution provides that the two levels of government for Kosrae are State and municipal. Municipalities are granted powers and functions in relation to local affairs, property and government so far as they are not limited by law.
Pohnpei	Article 14 prescribes the local governments for Pohnpei with all the authority not prohibited under either Pohnpei law or Constitution.
Yap	Article VII of the Yap Constitution empowers the legislature to establish political subdivisions for which the people may organise and operate local governments.

Customary law

Section 114 of the General Provisions [Title 1] in the national Constitution requires due recognition to be given to local customs in the system of law. Section 202 of the General Provisions [Title 1] provides that customs not in conflict with other laws in Micronesia are preserved.

Article IV of the *Chuuk Constitution* recognises and protects customary law and the role of tradition leaders in Chuuk.

The *Kosrae Constitution* requires the State Government to “protect the State’s traditions as may be required by the public interest” (Art II).

Article 5 of the *Pohnpei Constitution* states “[t]his Constitution upholds, respects, and protects the customs and traditions of the traditional kingdoms of Pohnpei” and that the Pohnpei Government shall respect and protect customs and traditions.

The *Yap Constitution* grants due recognition to the Dalip pi Nguchol and their traditional and customary roles, and to traditions and customs in providing a system of law (Art III). In Yap, Traditional leaders who serve in the Council of Pilung and the Council of Tamol carry out traditional and customary functions. Land in Yap may only be acquired in a manner consistent with traditions and customs (Art XIII).

ENVIRONMENTAL PLANNING AND ASSESSMENT

2.1. National Environmental Law

Environmental Protection [Title 25]

The *Environmental Protection [Title 25]* has many subtitles. Chapters 1-4 were repealed but chapters 5-7 (renumbered chapters 1-3) remain.

The Federated States of Micronesia Environmental Protection Act [Title 25 Chapter 5 (renamed as Subtitle 1)]

This subtitle sets out Micronesia's public policy on the environment. Section 102 provides:

"It is the policy of the Federated States of Micronesia to use all practicable means, consistent with other 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) fulfil the responsibilities for each generation as trustee of the environment for succeeding generations;*
- (b) enjoy safe, healthful, productive, and aesthetical 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;*
- (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; and*
- (e) remain responsible members of the global community by complying with the international legal obligations accepted by the Federated States of Micronesia upon ratifying or acceding to international environment agreements."*

Federated States of Micronesia Environmental Protection Board [Title 25, Chapter 6 (renamed as FSM Environmental Protection Office: Subtitle 2)]

Section 208 states that the Director of the Office of Environment and Emergency Management must provide an annual environmental quality report to the President and Congress. This Act establishes the Environmental Protection Office with the following roles as set out in section 209:

"The Office shall have the power and duty to protect the environment, human health, welfare, and safety and to abate, control, and prohibit pollution or contamination of air, land, and water in accordance with this subtitle and with the regulations adopted and promulgated pursuant to this subtitle, including measures undertaken to prohibit or regulate the testing, storage, use, disposal, import and export of radioactive, toxic chemical, or other harmful substances. The Office shall balance the needs of economic and social development with those of environmental quality and shall adopt regulations and pursue policies which, to the maximum extent possible, promote both these needs and the policies set forth in section 102 of this subtitle".

Section 210 grants the Environmental Protection Office a number of powers and duties in order to achieve the purposes set out in section 209. For example, the Environmental Protection Office may create regulations to implement international environment treaties, collect fees for permits or licences, administer nationwide programs "for the protection of the environment, human health, welfare and safety" of Micronesia.

Federated States of Micronesia Strategic Development Plan 2004-2023

The *Federated States of Micronesia Strategic Development Plan 2004-2023* identifies the following nine strategic goals to improve Micronesia's environment:

1. Mainstream environmental considerations, including climate change, in national policy and planning as well as in all economic development activities;
2. Improve and Enhance the Human Environment (Improve waste management (reduce, recycle, reuse) and pollution control);
3. Reduce energy use and convert to renewable energy sources / Minimise emission of greenhouse gases;
4. Enhance the benefits of the sustainable use of the FSM's genetic resources and ensure benefits derived are fairly shared amongst stakeholders;
5. Manage and Protect the Nation's Natural Environment/Protect, conserve, and sustainably manage a full and functional representation of the FSM's marine, freshwater, and terrestrial ecosystems;

6. Improve environmental awareness and education and increase involvement of citizenry of the FSM in conserving their country's natural resources;
7. Establish effective biosecurity (border control, quarantine and eradication) programs to effectively protect the FSM's biodiversity from impacts of alien invasive species;
8. Create sustainable financing mechanisms for environmental and sustainable resource initiatives; and
9. Enhance and Employ In-Country Technical Capacity to Support Environmental Programs.

Earth Moving Regulations

The *Earth Moving Regulations* are made under Title 25 of the Code. The regulations address erosion and sedimentation control, permits, right of entry and enforcement.

2.2. Environmental Impact Assessment

The Federated States of Micronesia Environmental Protection Enforcement [Title 25, Chapter 7 (renamed as subtitle 3)]

This deals with enforcement and environmental impact assessment. Importantly, section 302 states that:

“(1) Any person, prior to taking any action that may significantly affect the quality of the environment within the Exclusive Economic Zone of the Federated States of Micronesia, or within the boundaries of the National Capital Complex at Palikir, must submit an environmental impact statement to the Director, in accordance with regulations established by the Director.

(2) The environmental impact statements required by subsection (1) of this section are public documents, and must include a detailed statement on:

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

Environmental Impact Assessment Regulations

The *Environmental Impact Assessment Regulations* provide comprehensive guidelines for environmental impact assessments (EIA). The regulations address responsibilities, the EIA process, the contents of an EIA statement and appeals.

The State of Kosrae also has *Resource Management Regulations* which deal with a range of matters including environmental impact assessments. The State of Pohnpei has EPA Hearing Regulations that regulate hearings by the Environmental Protection Agency. The State of Yap has *Environmental Impact Assessment Regulations*, *Oil Spill Reporting Regulations*, and *Earth Moving & Sedimentation Control Regulations*.

2.3. Land Management, Zoning and Planning

Land Use Act

General Provisions [Title 1]

Section 205 of the *General Provisions [Title 1]* provides that “[t]he law concerning ownership, use, inheritance, and transfer of land in effect in any part of the Trust Territory on December 1, 1941, shall remain in full force

and effect to the extent that it has been or may hereafter be changed by express written enactment made under authority of the Trust Territory.”

Government Property Acquisition [Title 56]

The Government Property Acquisition [Title 56] deals with eminent domain (Chapter 1), real property acquisition (Chapter 2), relocation assistance (Chapter 3) and alien property (Chapter 4). The Act provides that no private corporations will have the right of eminent domain in Micronesia. “Eminent domain” means “the right of the central Government or a district legal entity... to condemn property for public use or purposes and to appropriate the ownership and possession of such property for such public use upon paying the owner a just compensation to be ascertained according to the law.”

Chapter 2 sets out the procedures for Government when acquiring property, including the payment of a purchase price and compensation. Chapter 3 addresses the relocation assistance with the purpose “to establish a uniform policy for the fair and equitable treatment of persons displaced by the acquisition of real property by Trust Territory Government and district land acquisition programs, or by programs of rehabilitation of buildings or other improvements conducted pursuant to governmental supervision.” The provisions in Chapter 4 set out how land formerly owned by the Japanese Government or Japanese citizens is to be dealt with. The Attorney General shall act as alien property custodian.

BIODIVERSITY CONSERVATION

3.1. Conservation of Natural Resources, Protected Areas and Endangered Species

Conservation Act

Resource Conservation [Title 23]

The *Resource Conservation [Title 23]* covers marine species preservation (Chapter 1) and endangered species protection (Chapter 3). Chapter 1 prohibits the use of explosives, poisons, chemicals or other substances which kills fish or marine life for catching or killing fish, unless authorised by a permit. This Chapter of the Act also introduces limitations on taking hawksbill turtles and sea turtles, cultivated sponges, black-lip mother-of-pearl oyster shell, *trochus* and marine mammals.

Protected Areas

There is no legislation dedicated solely to protected areas. However, there are laws regulating closed marine areas, discussed below.

Endangered Species

Resource Conservation [Title 23]

Chapter 3 of *Resource Conservation* is also referred to as the *Trust Territory Endangered Species Act of 1975*. It provides:

“The indigenous plants and animals of the Trust Territory are of esthetic, ecological, historical, recreational, scientific, and economic value and it is the policy of the government of the Trust Territory to foster the well-being of these plants and animals by whatever means necessary to prevent the extinction of any species or subspecies from our islands or the water surrounding them.”

This Act is administered by the Director of Resources and Development, who is authorised to establish conservation programs including research programs. This chapter prohibits persons from taking, engaging in commercial activity with, possessing or exporting threatened or endangered species of plant or animal prescribed in the Act or regulations. Exceptions to this prohibition include scientific uses, public nuisance and

public safety, controlled farming, subsistence uses, innocent possession and prior possession. The Act prohibits the import of endangered or threatened plants or animals listed on the Convention for International Trade in Endangered Species of Wild Fauna and Flora.

3.2. Marine and Coastal Resources

Marine Resources

In addition to the *Resource Conservation [Title 23]* mentioned above, which covers marine species preservation, the following laws also regulate marine resources.

Admiralty and Maritime, Wreck and Salvage [Title 19, Chapter 9]

Section 905 imposes liability on vessel owners and masters for “the wrecked vessel and all damages to persons, property and the environment accruing from the wreck, its removal and any environmental clean-up operations”. Under section 905, the salvor of a wrecked vessel owes a duty to the owner of a vessel that requires salvage or property in danger, “to carry out the salvage operation with due care, including preventing or minimising danger to the environment”. The owner and master of vessel or other property that requires salvage operations within the waters of Micronesia owes a duty to the salvor to cooperate. In cooperating they must exercise due care to prevent or minimise damage to the environment, as required by section 916.

When admitting vessels in distress into a Micronesian port, the Receiver (Secretary) shall consider a range of matters listed at section 917, including the prevention of environmental damage. The skills and efforts of the salvors in preventing or minimising environmental damage is one of the criteria by which their reward is fixed as per section 919. Section 920 also allows special compensation to be awarded to salvors who carried out salvage operations on a vessel that threatened environmental damage in Micronesia’s waters where the Supreme court believes the reward was inadequate. Section 920 provides that if the salvor has been negligent and failed to prevent and minimise environmental damage, the salvor may not be given part or any of their reward.

Marine Resources [Title 24]

Chapter 1 of the *Marine Resources [Title 24]* is the *Marine Resources Act 2002*. The purpose of this chapter is “to ensure the sustainable development, conservation and use of the marine resources in the exclusive economic zone by promoting development of, and investment in, fishing and related activities in the context of effective stewardship.” The Act requires persons to hold a permit or licence before engaging in domestic fishing, commercial pilot fishing, foreign fishing and other fishing related prescribed activities. A fishing permit is also required for marine scientific research, training and foreign recreational fishing. Foreign fishing vessels must have an access agreement for fishing in the exclusive economic zone. The National Oceanic Resource Management Authority (Authority) is authorised to enter into fisheries management agreements to implement multilateral access agreements, which may include establishing closed areas, closed seasons and other management measures.

Further key provisions include:

- | | |
|-----------|--|
| Chapter 1 | Certain activities may not be authorised under a fishing permit, including drift net fishing. The Act protects the coral reef by limiting the circumstances in which fishing is permitted near coral reefs within the exclusive economic zone. Other regulatory measures in the Act include reporting obligations. |
| Chapter 2 | Establishes a National Oceanic Resource Management Authority to oversee Micronesia’s exclusive economic zone. The Authority may adopt regulations for a range of purposes, including “for the management, development and sustainable use |

of fisheries resources in the exclusive economic zone”, “fisheries monitoring and control”, and “to implement access agreements and fisheries management agreements”. The Authority has many duties and functions under this Act to regulate fishing and related activities. The Act also creates a Fisheries Management and Surveillance Working Group.

- Chapter 3 Relates to permits for fishing on the high seas or in an area designated by a Fisheries Management Agreement by Flag Vessels.
- Chapter 4 Makes provision for access agreements for foreign fishing and related activities.
- Chapter 5 Contains provisions about the conservation, management and sustainable use of fishery resources. The Authority is required to adopt management measures that promote the following objectives:
- Utilising the fishery resources of the Federated States of Micronesia in a sustainable way;
 - obtaining maximum, sustainable economic benefits from these resources; and
 - promoting national economic security through optimum utilisation of resources.

The Act mandates using the best scientific evidence available with the aim of maintaining or restoring stocks to levels capable of producing maximum sustainable yield, and the precautionary approach. The Act sets out numerous functions for the Authority including to “adopt, where necessary, conservation and management measures for species belonging to the same ecosystem or associated with or dependent upon the target stocks, with a view to maintaining or restoring population of such species above the level at which their reproduction may become seriously threatened”, “protect biodiversity in the marine environment”, and “take measures to prevent or eliminate over fishing and excess fishing capacity...”. The Authority must determine the total allowable level of fishing and allocate rights to those limits. The Act creates both civil and criminal liability. For example, it is a contravention of the Act to fish without a valid permit, to engage in driftnet fishing activities, or to contaminate the exclusive economic zone.

- Chapter 10 Relates to State entities for development of marine resources. State Governments are able to create an entity for their state “to promote, develop, and support commercial utilisation of living marine resources within its jurisdiction.”
- Chapter 11 Is also referred to as the *Federated States of Micronesia National Fisheries Corporation Act 1983* as it creates the National Fisheries Corporation. The purpose of this Chapter is “to establish a public corporation to promote the development of pelagic fisheries and related industries within the extended fishery zone, as defined under 18 F.S.M.C. 104, for the benefit of the people of the Federated States of Micronesia.”

The National Oceanic Resource Management Authority has created the *Vessel Monitoring System Regulations* under Title 24.

Territory, Economic Zones and Ports of Entry [Title 18]

Chapter 1 relates to Territorial Boundaries and Economic Zones. It defines the territorial sea and internal waters of Micronesia and recognises Micronesia’s sovereignty over these areas. The Act defines the exclusive economic zone and gives the National Government:

- “(1) Sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or nonliving, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone.*
- (2) Jurisdiction with regard to the establishment and use of artificial islands, installations, and structures; marine scientific research; and the protection and preservation of the marine environment; and*
- (3) Other rights and duties provided for in international law.”*

The Act preserves traditional fishing rights in submerged reef areas. Chapter 2 deals with ports of entry and Chapter 3 with the regulation of foreign vessels.

3.3. Biosafety

Agriculture and Livestock [Title 22]

Chapter 4 of the *Agriculture and Livestock [Title 22]* addresses quarantine. Section 402 empowers the Secretary of Resources and Development to issue national regulations relating to plant and animal quarantines, subject to the President’s approval. Under section 403, State Governors have the power to make Emergency State Orders. Agricultural quarantine inspectors and the Secretary of Resources and Development may make emergency quarantine measures under section 409. The Act also provides for quarantine processes.

Title 22 also contains the *Plant and Animal Quarantine Regulations*. The regulations set out general provisions, the powers of inspector, and specific requirements and prohibitions in relation to plant and animal quarantine. It provides that:

“The purpose of the Plant and Animal Quarantine Regulations is to protect the agricultural activities and general well-being of the people of the Federated States of Micronesia. These regulations are promulgated as a method of preventing the introduction and further spread of injurious insects, pests, and diseases into and within the Federated States of Micronesia, to provide procedures and conditions to ensure the safe movement of plants and animals and plant and animal products into, out of, and within the Federated States of Micronesia; and to fulfill [sic] international obligations to prevent the movement of pests in international trade and traffic.”

Resource Conservation [Title 23]

Chapter 3 of the *Resource Conservation [Title 23]* (also referred to as the *Trust Territory Endangered Species Act of 1975*) includes the following provision on biosecurity at section 315:

“since exotic plants and animals not already established in the Trust Territory can cause ecological upsets, compete with, prey upon, and introduce serious or devastating diseases which could further endanger our indigenous plants and animals or drive them to extinction, it is prohibited to import such exotic plants and animals or parts thereof into the Trust Territory except under permit by the director as defined in the regulations authorised by this chapter, except that beneficial insects and biological control microorganisms may be imported in accordance with the Trust Territory plant and animal quarantine laws.”

Taxation and Customs [Title 54]

Under Chapter 2, Subchapter III, the Division of Customs must assist in the enforcement of National or State law, including laws on community, social, environmental and antiquities protection.

WASTE MANAGEMENT AND POLLUTION

4.1. Waste

Trust Territory Environmental Protection Enforcement [Title 25, Chapter 3]

Under this chapter, the Board can prescribe requirements for the disposal of waste. Where the Board finds that these requirements are not met, they must require the discharger to apply for a schedule of actions to correct the violation. The Board must issue a cease and desist order where they find that waste discharge is taking place or is threatened to take place in violation of the discharge requirements. Further, persons who discharge a pollutant into water, air or land in violation of a discharge permit, requirement or other order must clean up the pollutant or abate the pollution. Persons who willfully or negligently discharge pollutants are subject to civil penalties.

4.2. Pollution

Marine Water Pollution

Admiralty and Maritime [Title 19]

The *Admiralty and Maritime [Title 19]* requires all seamen on foreign vessels operating in a Micronesian port to hold a certificate of competency. The absence of a person qualified to operate equipment essential to safe navigation and the prevention of pollution is a deficiency in the obligation to hold a certificate of competency and must be remedied. Under section 917, the Receiver is not prevented by the Act from taking “appropriate measures in accordance with generally accepted and recognised principles of international law to protect the coastline or any related interest within the Federated States of Micronesia from pollution or the threat of pollution following a casualty or acts relating to such casualty which may reasonably be expected to result in major harmful consequences”. The Receiver of a vessel in distress must take into account a number of matters including the prevention of damage to the environment in general.

Environmental Protection Act Environmental Protection Board [Title 25, Chapter 6]

Section 603 provides that “the Board shall have the power and duty to protect the environment, human health, welfare, and safety and to abate, control, and prohibit pollution or contamination of air, land, and water in accordance with this Subtitle and with the regulations adopted and promulgated pursuant to this Subtitle”. One of the Board’s duties as outlined at section 604, is to “adopt and provide for the continuing administration of nationwide programs for the protection of the environment, human health, welfare, and safety, and for the prevention, control, and abatement of pollution of the air, land, and water, including programs for the abatement or prevention of the contamination of drinking water systems of the Federated States of Micronesia, and from time to time review and modify such programs as necessary”.

Marine Resources Act 2002

One of the Authority’s functions under the *Marine Resources Act 2002* is to “minimise pollution, waste, discards, catch by lost or abandoned gear, and impact on associated or dependent species, in particular endangered species, through measures including, to the extent practical, the development and use of selective, environmentally safe and cost effective fishing gear and techniques”. The Act prohibits the contamination of the exclusive economic zone, including the discharge of substances or acts or omissions that will or are likely to damage or deteriorate the quality of marine resources. The Act deems the following as damaging for the purposes of the prohibition on contamination: the disposal of non-biodegradable trash or debris; and the discharge of a poison, chemical or noxious substance. Contravention of this prohibition results in a civil penalty.

OTHER

5.1. Disaster Risk Management

Micronesia does not have any disaster risk management legislation. However, a Nationwide Climate Change Policy was created in 2009.

MULTILATERAL ENVIRONMENTAL AGREEMENTS

INTERNATIONAL ENVIRONMENTAL INSTRUMENT	STATUS
BIODIVERSITY	
Convention on Biological Diversity (CBD)	R
<ul style="list-style-type: none"> • Cartagena Protocol on Biosafety • Nagoya Protocol on Access and Benefit-Sharing 	- R
Convention on International Trade in Endangered Species (CITES)	-
Convention on Migratory Species (CMS)	-
Convention on Wetlands (Ramsar)	-
World Heritage Convention (WHC)	Ac
WASTE AND POLLUTION	
Hazardous waste and pollution	
Basel Convention	A
Rotterdam Convention	-
Stockholm Convention	R
Atmospheric Pollution	
Vienna Convention	A
<ul style="list-style-type: none"> • Montreal Protocol 	A
Ship-based pollution	
UNCLOS (Part XII : Protection and Preservation of the Marine Environment)	A
London Convention - Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter	-
<ul style="list-style-type: none"> • London Protocol 	-
CLIMATE CHANGE	
UNFCCC	R
<ul style="list-style-type: none"> • Kyoto Protocol • Paris Agreement 	R R
LAND DEGRADATION	
UNCCD	R
REGIONAL AGREEMENTS	
Waigani Convention	R
Noumea Convention	R
<ul style="list-style-type: none"> • Dumping Protocol • Emergencies Protocol 	R R

Ratification (R), Acceptance (Ac), Accession (A), Signed (S)