

YSC, Title 18. Conservation & Resources

DIVISION 4: ENVIRONMENTAL PROTECTION

Chapter 15: Environmental Quality Protection

- [§1501.](#) Short title.
- [§1502.](#) Public policy.
- [§1503.](#) Definitions.
- [§1504.](#) Yap State Environmental Protection Agency created; membership; terms; vacancies; chairman, vice chairman; records; qualifications.
- [§1505.](#) Officers; staff.
- [§1506.](#) Technical, legal and other assistance.
- [§1507.](#) Powers and duties of the Agency.
- [§1508.](#) Right of entry.
- [§1509.](#) Environmental impact studies.
- [§1510.](#) Annual report.
- [§1511.](#) State and FSM EPB cooperation.
- [§1512.](#) Violations and enforcement.
- [§1513.](#) Supersession.
- [§1514.](#) Severability.

§1501. Short title.

This chapter may be cited as the "Environmental Quality Protection Act".

Source: YSL 2-19 §1, modified.

§1502. Public policy.

(a) The Yap State Government, 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 technological advances, and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the State of Yap, in cooperation with the [FSM National Government](#), municipal governments, and other concerned public and private organizations, to use all practical means and measures, including financial and technical assistance, 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 State of Yap.

(b) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the State of Yap to use all practicable means, consistent with other essential considerations of State policy, to improve and coordinate governmental plans, functions, programs, and resources to the end that the inhabitants of the State of Yap may:

- (1) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- (2) Assure for all Yapese safe, healthful, productive and aesthetically and culturally pleasing surroundings;

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

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

Source: YSL 2-19 §2, modified.

Cross-reference: The constitutional provision on public health is found in [Yap Const., Art. XII, Sect. 1](#). That section states: "The State Government shall provide for the protection and promotion of the public health, which may include the traditional practice of medicine." The statutory provisions on Health and Welfare are found in Title 15 of this Code. The constitutional provisions on Conservation and Development of Resources are found in [Yap Const., Art. XIII](#). Section 1 of Article XIII states: "The State Government shall promote the conservation and development of agricultural, marine, mineral, forest, water, land and other natural resources." The statutory provisions on Planning and Economic Development are found in Title 20 of this Code.

§1503. Definitions.

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

(a) "Agency" means the Yap State Environmental Protection Agency.

(b) "Beneficial uses" means a use of the environment that is conducive to public benefit, welfare, safety or health and which requires protection from the effect of wastes, discharges, emissions and deposits.

(c) "Chairman" means the Chairman of the Yap State Environmental Protection Agency personally or his duly authorized representative.

(d) "Environment" means the physical factors of the surroundings of human beings and includes the land, soil, water, atmosphere, climate, sound, odors, tastes and the biological factors of animals and plants of every description situated within the territorial limits of the State of Yap including the State Fishery Zone.

(e) "Land" includes buildings and any easements relating thereto.

(f) "Person" means the Government of Yap State or the Federated States of Micronesia or any of their subdivisions or entity thereof, joint venture, association, firm, corporation, or company organized or existing under the laws of Yap State or any state of the Federated States of Micronesia or a foreign country, lessee or other occupant of property, or individual, acting singly or as a group.

(g) "Pollution" means any direct or indirect alteration of the physical, thermal, chemical, biological or radioactive properties of any part of the environment by the discharge, emission or deposit of wastes so as to affect any beneficial use adversely or to cause a condition which is hazardous or potentially hazardous to public health, safety or welfare, or to animals, birds, wildlife, aquatic life or to plants of every description.

(h) "Protection and management" includes all rules, regulations, methods and measures that:

(1) are required to build, restore or maintain, or are useful in building, restoring or maintaining the environment; and

(2) are designed to ensure that

(A) beneficial uses may be made on a continuing basis;

(B) irreversible or long-term ill effects on the environment are avoided; and

(C) there will be a multiplicity and variety of options available with respect to uses of the environment.

(i) "State Fishery Zone" means the zone as specified to be the State Fishery Zone under Section 206 of the State Fishery Zone Act of 1980.

(j) "Waste" includes any matter prescribed by regulation to be waste, and any matter whether liquid, solid, gaseous, or radioactive which is discharged, emitted or deposited in the environment in such volume, component or manner as to cause an alteration of the environment.

Source: YSL 2-19 §3, as amended by YSL 3-73 §1, modified.

§1504. Yap State Environmental Protection Agency created; membership; terms; vacancies; chairman, vice chairman; records; qualifications.

(a) There is hereby established the Yap State Environmental Protection Agency to be composed of five members who shall be appointed by the Governor with the advice and consent of the Legislature. If the Legislature does not confirm an appointment within 30 days after it has been submitted to the Legislature, the appointment shall be deemed to have been withdrawn. The Governor in his appointment shall select persons who are FSM citizens and residents of Yap for their ability to inspire the highest degree of ability and confidence to carry out the policy and purpose of this chapter. The first appointments made under this provision of this section shall be made as follows:

- (1) One member for a period of three years;
- (2) Two members for a period of two years; and
- (3) Two members for a period of one year.

Each subsequent appointment shall be for a term of three years and shall, unless removed from office, be eligible for reappointment. Vacancies for unexpired terms shall be filled in the same manner as the original appointments. If the remaining unexpired term is less than one year, the Governor shall fill such vacancy without the advice and consent of the Legislature. Any member of the Agency may be removed from the Agency by the Governor or by the Agency for inefficiency, neglect of duty, or misconduct in office.

(b) The Agency shall elect from among its members a Chairman and a Vice-Chairman. The Governor shall designate a member to serve as a Chairman until such time as the Agency shall elect a Chairman.

(c) Compensation. Any member of the Agency who is an employee of the State Government shall be granted administrative leave with pay while engaged in the performance of the duties of the Agency. Non-State Government members of the Agency, who are not otherwise compensated, shall receive compensation of \$25.00 per day while engaged in the performance of the duties of the Agency. Members shall also be entitled to receive reasonable travel costs and per diem at standard Yap State rates when engaged in the performance of the duties of the Agency.

(d) Meetings. The Agency shall meet at least once a quarter. Meeting may be held at any time or place as determined by the Agency, or upon the call of the Chairman or upon written request of any two members. Three members of the Agency shall constitute a quorum for the transaction of business. All meetings shall be open to the public, and public notice of time and place of such meetings shall be posted in public places and shall be announced on the radio throughout Yap State.

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

Source: YSL 2-19 §4, as amended by YSL 2-29 §1 and YSL 3-73 §2, modified.

§1505. Officers; staff.

The Agency shall designate a full time executive officer who shall administer the functions of the Agency and shall have such duties and responsibilities as may be delegated to him by the Agency. The executive officer shall not be a member of the Agency and shall not have the right to vote. The executive officer shall be assisted in his duties by supporting staff as the Agency deems necessary to implement the functions of the Agency.

Source: YSL 2-19 §5, modified.

§1506. Technical, legal and other assistance.

(a) At the request of the Agency, the Governor shall provide the Agency with necessary technical assistance through the departments, offices, and agencies of the State Government.

(b) The Attorney General shall provide legal assistance and representation to the Agency in any suit or prosecution brought by or against the Agency or against any member, officer, staff or agent of the Agency, and shall advise the Agency on matters of law whenever requested.

Source: YSL 2-19 §6, as amended by YSL 3-73 §3, modified.

Cross-reference: The statutory provisions on the Executive are found in Title 3 of this Code.

§1507. Powers and duties of the Agency.

The Agency shall have the power and duty to control and prohibit pollution of air, land, and water in accordance with this chapter and with the regulations adopted and promulgated pursuant to this chapter, and for this purpose is authorized and empowered to:

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

(b) Accept appropriations, loans, and grants from the Yap State Legislature, FSM Congress, the U.S. Government, the FSM National Government, or any agency thereof and other sources, public or private, which loans, grants, and appropriations shall not be expended for other than the purposes of this chapter.

(c) Adopt and provide for the continuing administration of a Yap State-wide program for the prevention, control, and abatement of pollution of the air, land, and water of Yap State, and from time to time review and modify such programs as necessary.

(d) Establish criteria for classifying air, land, and water in accordance with their present and future uses.

(e) Adopt and implement plans for the certifications of importers and applicators of restricted use pesticides, for the issuance of experimental use permits for pesticides and a plan to meet special local needs, and such other measures as may be necessary to carry out the purposes of this chapter.

(f) Establish and provide for the continuing administration of a permit system whereby a permit shall be required for the burning of any office, warehouse, store, barn, shed, cookhouse, boat,

canoe, lumber, copra or any other building or shelter, crop, shrub, grass, timber or other property, or for the discharge by any person of any pollutant in the air, land, or water, or for the conduct by any person of any activity, including but not limited to, the operation, construction, expansion, or alteration of any installation, which results or may result in the discharge of any pollutant in the air, land, or water, provide for issuance, modification, suspension, revocation, and termination of such permits, and for the posting of an appropriate bond.

(g) Collect information and establish record keeping, monitoring and reporting requirements as necessary and appropriate to carry out the purposes of this chapter.

(h) Exercise all such powers as necessary for carrying out its duties.

Source: YSL 2-19 §7, as amended by YSL 3-73 §4, modified.

Cross-reference: The constitutional provision on public health is found in [Yap Const., Art. XII, Sect. 1](#). That section states: "The State Government shall provide for the protection and promotion of the public health, which may include the traditional practice of medicine." The statutory provisions on Health and Welfare are found in Title 15 of this Code. The constitutional provisions on Conservation and Development of Resources are found in [Yap Const., Art. XIII](#). Section 1 of Article XIII states: "The State Government shall promote the conservation and development of agricultural, marine, mineral, forest, water, land and other natural resources." The statutory provisions on Planning and Economic Development are found in Title 20 of this Code.

§1508. Right of entry.

Whenever it is necessary for the purposes of this chapter, the Agency, or any member, agent, or employee when duly authorized by the Agency or by court order, may, at reasonable times, enter any establishment or upon any property for the purpose of obtaining information, making inspections, obtaining samples, inspecting or copying records required to be maintained under the provisions of this chapter or any regulation made hereunder, or conducting surveys or investigations or detecting any offenses committed in violation of the provisions of this chapter or any regulation made hereunder.

Source: YSL 2-19 §8, as amended by YSL 3-73 §5, modified.

§1509. Environmental impact studies.

(a) All persons shall include in their development proposals an environmental impact assessment study in accordance with the provisions of this chapter and the regulations established by the Agency. Copies of the environmental impact assessment study shall be made available to the Agency, and to the public for inspection and copying.

(b) All persons shall submit an environmental impact statement to the Agency, in accordance with the provisions of this chapter and the regulations established by the Agency, prior to taking any action significantly affecting the quality of the environment as determined by the Agency.

(c) The environmental impact statement shall include, but not limited to, statements certifying:

(1) That the environmental impact of the proposed action has been studied and considered by a competent and independent environmental agency;

(2) That alternatives to the proposed action have been given consideration;

(3) That any adverse environmental effects which cannot be avoided by adopting reasonable alternatives are justified by other substantial benefits to the state; and

(4) Any short-term uses of the environment are consistent with maintaining and enhancing long-term productivity or usefulness of the environment, or if not, why it is proposed that the action proceed regardless.

Source: YSL 2-19 §9, as amended by YSL 3-73 §6, modified.

§1510. Annual report.

The Agency shall submit to the Governor and the Yap State Legislature, not later than October 30 of each year a report on its activities for the preceding fiscal year.

Source: YSL 2-19 §10, modified.

§1511. State and FSM EPB cooperation.

(a) The Agency is authorized to enter into cooperative agreements with any appropriate FSM agency, or agencies, for the protection and management of the environment.

(b) Such function or functions when delegated to the Agency pursuant to this section may be reassumed and performed by the delegating body.

Source: YSL 2-19 §11, as amended by YSL 3-73 §7, modified.

§1512. Violations and enforcement.

Any person who violates any provision of this chapter or of any permit, regulation, standard, or order issued or promulgated hereunder, shall be subject to enforcement action by the Agency and the Attorney General of the State of Yap.

(a) Discharges of waste.

(1) When the Agency finds that:

(A) a discharge of waste is taking place, or is threatening to take place, in violation of the provisions of this chapter or regulations established by the Agency concerning requirements as to discharges; or

(B) the waste collection, treatment or disposal facilities of a discharger are approaching capacity, the Agency shall require the discharger to submit for approval by the Agency a detailed time schedule of specific action to be taken by the discharger to prevent a violation of the requirements as to discharges, and the Agency may approve the schedule subject to such modifications as it considers reasonably necessary.

(2) When the Agency finds that a discharge of waste is taking place, or is threatening to take place, in violation of the requirements as to discharges, the Agency shall issue a cease and desist order, and direct that the discharger:

(A) comply immediately with those requirements;

(B) comply with those requirements in accordance with a time schedule set by the Agency; or

(C) in the event of a threatened violation, take appropriate remedial or preventive action.

(b) Pollutants.

(1) Any person who:

(A) discharges any pollutant into the air or water, or on land in violation of this chapter

or of any permit, requirement or order issued or made by the Agency under this chapter; or

(B) intentionally or negligently causes or permits any pollutant to be deposited where it is discharged into the air or water, or on land, shall, on the order of the Agency, clean up the pollutant or abate its effects.

(c) Civil penalties.

(1) A person who violates any provision of this chapter or any regulation made hereunder, shall be liable to a civil penalty in an amount not less than \$100.00 and not more than \$10,000.00 for each day of the violation.

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

(d) Declaratory and equitable relief.

(1) The Attorney General on behalf of the Agency or the State Government, a local government or any other person may maintain an action in the Yap State Court for declaratory or equitable relief against any person for the protection of the air, land, water or other aspect of the environment from pollution, impairment or destruction.

(2) Any person may maintain an action in the State Court for declaratory relief against the Government of the State of Yap, or any agency or instrumentality of the Government of the State of Yap for the protection of the air, land, water or other aspect of the environment from pollution, impairment or destruction.

(3) Subject to paragraph (4) of this subsection, if in an action under paragraph (1) or (2) of this subsection, the Court finds that any relevant standard or requirement fixed or made by the Agency or any other instrumentality or agency of the Government of the State of Yap is unreasonable, either generally or in the particular circumstances, the Court may apply, and may order the adoption of, a reasonable standard or requirement.

(4) Paragraph (2) of this subsection does not apply with respect to a standard or requirement fixed or made by State law or any other law applicable to the State, or by the Governor by virtue of powers conferred on him by law.

(e) Damages. Where a person violates any provision of this chapter or any regulation made hereunder, the Attorney General may maintain a civil action for damages in the Trial Division of the Yap State Court. Such action may be in addition to any civil penalties imposed hereunder. In determining such damages, the Court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurred, and corrective action, if any, taken by the violator.

(f) False statements. Any person who knowingly makes any false statement, representation, or certification in an application, record, report, plan, or other document filed or required to be maintained under this chapter, or by any permit, regulation or order issued under this chapter, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$100.00 and not more than \$10,000.00, or by imprisonment for not less than three months and not more than six months, or both.

(g) Falsifying monitoring systems. A person who falsifies, tampers with or knowingly makes

inaccurate any monitoring system, system device or method required to be maintained under this chapter or under a permit, regulation or order issued or promulgated hereunder shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not less than \$100.00 and not more than \$10,000.00, or by a term of imprisonment of not less than three months and not more than six months, or both.

Source: YSL 2-19 §12, as amended by YSL 3-73 §8, modified.

Cross-reference: The statutory provisions on the Judiciary are found in Title 4 of this Code.

§1513. Supersession.

Section 510 (1)-(7) of Title 63 of the Trust Territory Code (District Environmental Protection Advisory Boards) is superseded in its entirety.

Source: YSL 2-19 §13.

§1514. Severability.

If any provision of this chapter or any regulation or order promulgated hereunder, or the application of any such provision, regulation, or order to any person or circumstance shall be held invalid, the remainder of this chapter, or any regulations or orders promulgated pursuant thereto, or the application of such provisions, regulations, or orders to persons or circumstances other than those to which it is held invalid shall not be affected thereby, and to this extent the provisions of this chapter are severable.

Source: YSL 2-19 §14, modified.