

FIFTEENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST SPECIAL SESSION, 2007 CONGRESSIONAL BILL NO. 15-39, C.D.1, C.D.2,
C.D.3, C.D.4

PC NO. 15-62

PUBLIC LAW NO. 15-08

AN ACT

To enact a new title 27 of the Code of the Federated States of Micronesia to govern essential services and to enact a new chapter 2 thereof to create the Federated States of Micronesia Petroleum Corporation as a public corporation, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. The Code of the Federated States of Micronesia,
2 as amended, is hereby further amended by enacting a new title 27
3 entitled "Essential Services".

4 Section 2. The Code of the Federated States of Micronesia,
5 as amended, is hereby further amended by enacting a new chapter 1
6 of title 27 which shall be titled "Reserved".

7 Section 3. The Code of the Federated States of Micronesia,
8 as amended, is hereby further amended by enacting a new chapter 2
9 of title 27 which shall be entitled "Federated States of
10 Micronesia Petroleum Corporation Act of 2007".

11 Section 4. The Code of the Federated States of Micronesia,
12 as amended, is hereby further amended by enacting a new section
13 201 to chapter 2 of title 27 as follows:

14 "Section 201. Short title. This chapter may be cited
15 as the "Federated States of Micronesia Petroleum
16 Corporation Act of 2007"."

17 Section 5. The Code of the Federated States of Micronesia,
18 as amended, is hereby further amended by enacting a new section
19 202 to chapter 2 of title 27 as follows:

1 "Section 202. Definitions. For the purposes of this
2 chapter and subsequent regulations, the following
3 definitions shall apply unless the context otherwise
4 requires:

5 (1) "Board" means the Board of Directors appointed
6 under section 213;

7 (2) "CEO" means the Chief Executive Officer appointed
8 under section 231;

9 (3) "Chairperson" means the Chairperson of the Board;

10 (4) "Congress" means the Congress of the Federated
11 States of Micronesia;

12 (5) "Corporation" means the Federated States of
13 Micronesia Petroleum Corporation;

14 (6) "Executive Council" means the President of the
15 Federated States of Micronesia and the Governor of each
16 State. As used herein, consent, approval or instruction
17 of the Executive Council shall mean such consent,
18 approval or instruction taken with the unanimous consent
19 of the President and each Governor. For the avoidance
20 of doubt, a written resolution of the Federated States
21 of Micronesia Economic Policy Implementation Council,
22 duly signed by the President and each Governor, shall
23 constitute such an instruction notwithstanding the fact
24 that it is also executed by other officials;

25 (7) "FSM" means the Federated States of Micronesia;

1 (8) "Officer" includes any employee of the Corporation
2 vested with a power or duty in accordance with this
3 Chapter;

4 (9) "Premises" means any piece of land and if there
5 are buildings of any sort erected on that land, includes
6 those buildings, and also includes a ship or other
7 vessel;

8 (10) "Product" or "Products" means petroleum products
9 including automotive and industrial diesel fuels,
10 gasoline, unleaded petrol, kerosene, Jet A1, lubricants
11 and any other petroleum or alternative fuel products
12 that may now be available or that may become available
13 in the future;

14 (11) "Secretary" means the Secretary of Finance and
15 Administration of the Federated States of Micronesia;

16 (12) "State" means a State of the Federated States of
17 Micronesia;

18 (13) "Works" or "Works of the Corporation" includes the
19 whole of the petroleum storage and dispensing systems
20 and associated works owned, controlled or managed by the
21 Corporation for any purpose associated with its
22 functions under this Act."

23 Section 6. The Code of the Federated States of Micronesia,
24 as amended, is hereby further amended by enacting a new section
25 211 to chapter 2 of title 27 as follows:

1 "Section 211. Establishment of Corporation. The
2 Federated States of Micronesia Petroleum Corporation is
3 hereby established as a public corporation under the
4 laws of the Federated States of Micronesia. It may
5 hereinafter be referred to as "the Corporation"."

6 Section 7. The Code of the Federated States of Micronesia,
7 as amended, is hereby further amended by enacting a new section
8 212 to chapter 2 of title 27 as follows:

9 "Section 212. Independence. The Corporation shall not
10 be deemed to be a government department, board or agency
11 and as such is not subject to the laws governing the
12 activities of the government including but not limited
13 to title 52 (the Public Service System Act) and title 55
14 (The Financial Management Act); provided, however, that
15 nothing herein shall be deemed to waive the Corporations
16 responsibility to comply with the Financial Management
17 Act if allotted government funds."

18 Section 8. The Code of the Federated States of Micronesia,
19 as amended, is hereby further amended by enacting a new section
20 213 to chapter 2 of title 27 as follows:

21 "Section 213. Board of Directors of the Corporation.
22 The affairs of the Corporation shall be managed and its
23 corporate powers exercised by a Board of Directors,
24 hereinafter referred to as 'the Board.'"

25 Section 9. The Code of the Federated States of Micronesia,

1 as amended, is hereby further amended by enacting a new section
2 214(a) to chapter 2 of title 27 as follows:

3 "Section 214(a). Appointment and Termination of
4 Directors.

5 (1) The Board shall be composed of seven voting
6 members as follows:

7 (a) one director appointed by the President of
8 the FSM with the advice and consent of Congress;

9 (b) one director appointed by the Governor of the
10 State of Chuuk with the advice and consent of the Chuuk
11 State Senate;

12 (c) one director appointed by the Governor of the
13 State of Kosrae with the advice and consent of the
14 Kosrae State Legislature;

15 (d) one director appointed by the Governor of the
16 State of Pohnpei with the advice and consent of the
17 Pohnpei State Legislature;

18 (e) one director appointed by the Governor of the
19 State of Yap with the advice and consent of the Yap
20 State Legislature; and

21 (f) two directors appointed by the President of
22 the FSM with the advice and consent of Congress from a
23 list of private sector candidates nominated by the four
24 State governors.

25 (2) The persons appointed under subsection 214(a) (1)

1 must have experience in public administration,
2 environmental matters, finance, or oil and gas
3 distribution. At least one person appointed under
4 subsection 214(a)(1)(f) must have special knowledge and
5 capacity in the field of oil and gas distribution.

6 (3) No person appointed under subsection 214(a)(1) nor
7 any member of his or her immediate family may possess
8 any pecuniary interest in any business or entity which
9 derives any part of its revenue from the distribution of
10 oil or gas in the Federated States of Micronesia.

11 (4) The persons appointed under subsection 214(a)(1)
12 hold office for a term of three years, provided,
13 however, that the initial terms of office shall be
14 determined by lot at the first meeting held by the Board
15 with three members serving an initial term of one year,
16 two serving an initial term of two years and two serving
17 an initial term of three years. Provided further, that
18 if no replacement has been appointed prior to the
19 expiration of a director's term, he or she shall
20 continue to serve for an additional period of 90 days or
21 until a replacement is appointed, whichever is less.
22 All members are eligible for reappointment.

23 (5) Vacancies on the Board shall be filled for the
24 unexpired portion of the term in the same manner as
25 originally filled.

1 (6) The Board may, at any time by majority vote,
2 remove any director for failure to attend three
3 consecutive meetings of the Board, or for neglect of
4 duty or malfeasance in office."

5 Section 10. The Code of the Federated States of Micronesia,
6 as amended, is hereby further amended by enacting a new section
7 214(b) to chapter 2 of title 27 as follows:

8 "Section 214(b). Transitional Board of Directors.

9 Notwithstanding section 214(a), the President and the
10 Governors of the States of Chuuk, Kosrae, Pohnpei and
11 Yap shall have the authority to appoint a transitional
12 Board of Directors, whose tenure shall not exceed six
13 months. The transitional Board shall consist of five
14 members whose appointments are not subject to advice and
15 consent by Congress or any branch of a State
16 Legislature. One of the members shall be chosen by the
17 President of the FSM and one shall be chosen by each of
18 the Governors of the four FSM States. Appointment to
19 the transitional Board shall not preclude a permanent
20 appointment under section 214 (a) and a permanent
21 appointment pursuant to subsection 214(1)(a, b, c, d, or
22 e) shall immediately replace a person appointed to the
23 transitional Board pursuant to this section. All other
24 requirements of section 214(a) shall apply to the
25 transitional Board. The initial meeting of the

1 transitional Board may be called at any time after four
2 of the five members have been appointed.

3 Section 11. The Code of the Federated States of Micronesia,
4 as amended, is hereby further amended by enacting a new section
5 215 to chapter 2 of title 27 as follows:

6 "Section 215. Chairperson of the Board. The
7 Chairperson of the Board shall be chosen by the Board
8 members by majority vote and shall serve for a term of
9 one year from the date of selection. The Chairperson may
10 authorize, in writing, any director to exercise any
11 power or perform any function conferred on the
12 Chairperson by or under this Act."

13 Section 12. The Code of the Federated States of Micronesia,
14 as amended, is hereby further amended by enacting a new section
15 216 to chapter 2 of title 27 as follows:

16 "Section 216. Meetings of the Board.

17 (1) The Board must meet as often as may be necessary
18 for the performance of its functions, provided that it
19 shall meet no less than once per quarter each calendar
20 year and provided, further, that at least two such
21 meetings shall require the physical presence of the
22 directors at a single location.

23 (2) At any meeting, the quorum of the Board is a
24 majority of the total directors appointed at the time of
25 the meeting.

1 (3) Notice of a meeting of the Board must be given to
2 each director and shall be delivered by hand or sent by
3 post, facsimile, electronic mail or other written
4 message to an address supplied by the director to the
5 Board for this purpose.

6 (4) Decisions at meetings of the Board are taken by a
7 simple majority of the directors present and voting.

8 (5) Subject to this section, the Board may regulate
9 its own procedure.

10 (6) The validity of a proceeding of the Board is not
11 affected by a vacancy in the membership or by any defect
12 in the appointment of a director."

13 Section 13. The Code of the Federated States of Micronesia,
14 as amended, is hereby further amended by enacting a new section
15 217 to chapter 2 of title 27 as follows:

16 "Section 217. Transaction of Business Without Meeting.

17 A resolution of the Board is valid, even though it was
18 not passed at a meeting of the Board, if -

19 (1) it is signed or assented to by no less than five
20 directors of the Board; and

21 (2) a notice in writing of the proposed resolution was
22 given to each director no less than 7 Days before the
23 resolution is assented to by any director."

24 Section 14. The Code of the Federated States of Micronesia,
25 as amended, is hereby further amended by enacting a new section

1 218 to chapter 2 of title 27 as follows:

2 "Section 218. Remuneration of Directors. Directors who
3 are employees of the national government of the FSM or a
4 State government shall receive no additional
5 compensation for their service as members of the Board.
6 The compensation of members who are not Government
7 employees shall be as determined by the Board and
8 published in the minutes and annual report of the Board.

9 Section 15. The Code of the Federated States of Micronesia,
10 as amended, is hereby further amended by enacting a new section
11 219 to chapter 2 of title 27 as follows:

12 "Section 219. Disclosure of Interest.

13 (1) A director of the Board who has a direct or
14 indirect personal interest in the outcome of any matter
15 before the Board must disclose the interest to the
16 Board.

17 (2) The disclosure of an interest under subsection (1)
18 must be recorded in the minutes of the Board.

19 (3) After making a disclosure under subsection (1),
20 the director -

21 (a) in the case of a meeting, must withdraw from
22 the meeting before the commencement of deliberations of
23 the Board in respect of the matter referred to in
24 subsection (1), although the director may be counted for
25 the purposes of forming a quorum of the Board at the

1 meeting; and

2 (b) in any case, must not vote on the matter."

3 Section 16. The Code of the Federated States of Micronesia,
4 as amended, is hereby further amended by enacting a new section
5 220 to chapter 2 of title 27 as follows:

6 "Section 220. Minutes of Meetings and Business
7 Transacted. The Board must keep minutes of all its
8 meetings and business transacted under section 216 and
9 217 in a proper form. All minutes of the meetings shall
10 be made available to the public upon request."

11 Section 17. The Code of the Federated States of Micronesia,
12 as amended, is hereby further amended by enacting a new section
13 221 to chapter 2 of title 27 as follows:

14 "Section 221. Delegation of Board's Powers.

15 (1) The Board may, from time to time, by notice in
16 writing under the hand of the Chairperson, delegate to
17 any person or committee any of the Board's powers under
18 this Act.

19 (2) A delegation under this section may be made to a
20 specified person or committee, or holder for the time
21 being of a specified office or to the holders of offices
22 of a specified class.

23 (3) A delegation may be made subject to such
24 restrictions and conditions as the Board thinks fit, and
25 may be made either generally or in relation to any

1 particular case or class of cases.

2 (4) A person or committee purporting to exercise a
3 power of the Board by virtue of a delegation under this
4 section must, when required to do so, produce evidence
5 of authority of the person or committee to exercise the
6 power."

7 Section 18. The Code of the Federated States of Micronesia,
8 as amended, is hereby further amended by enacting a new section
9 231 to chapter 2 of title 27 as follows:

10 "Section 231. Appointment of Chief Executive Officer.

11 (1) The Board must appoint a Chief Executive Officer
12 on such terms and conditions as the Board may determine.

13 (2) The CEO -

14 (a) shall serve at the pleasure of the Board;

15 (b) shall have had not less than five years
16 experience in the oil industry, or the equivalent
17 experience in a related profession;

18 (c) shall not engage in any other business
19 without the prior consent of the Board;

20 (d) shall be responsible for the day to day
21 operation of the Corporation;

22 (e) shall be responsible for the proper
23 administration and management of the functions and
24 affairs of the Corporation;

25 (f) shall be responsible for developing a five-

1 year plan and an annual plan describing the medium and
2 short term goals of the Corporation; and

3 (g) must perform such other functions and duties
4 as the Board may determine.

5 (3) The Board shall review the performance of the
6 Chief Executive Officer at least annually in light of
7 the Corporation's goals and objectives, and may
8 terminate the CEO at any time, for any reason.

9 (4) If the CEO is temporarily absent from FSM, or
10 temporarily unable to perform the duties of office, the
11 Board may, appoint a person to act in the place of the
12 CEO during that period."

13 Section 19. The Code of the Federated States of Micronesia,
14 as amended, is hereby further amended by enacting a new section
15 232 to chapter 2 of title 27 as follows:

16 "Section 232. Appointment of Chief Financial Officer.

17 The CEO shall appoint, with the concurrence of the
18 Board, a Chief Financial Officer, for such term as shall
19 be directed by the Board. He shall receive and disburse
20 all funds of the Corporation. The Chief Financial
21 Officer shall serve at all times under the direct
22 supervision of the CEO."

23 Section 20. The Code of the Federated States of Micronesia,
24 as amended, is hereby further amended by enacting a new section
25 233 to chapter 2 of title 27 as follows:

1 "Section 233. Appointment of Health and Safety Officer.

2 The CEO shall appoint, with the concurrence of the
3 Board, a Health and Safety Officer. The Health and
4 Safety Officer, whose duties may be combined with those
5 of another position, shall be responsible for ensuring
6 compliance with all health, safety and environmental
7 laws and for developing, with input from the Board and
8 the Executive Council, health, safety and environmental
9 policies for the day-to-day operation of the
10 Corporation."

11 Section 21. The Code of the Federated States of Micronesia,
12 as amended, is hereby further amended by enacting a new section
13 234 to chapter 2 of Title 27 as follows:

14 "Section 234. Appointment of Other Officers and Staff.

15 To the extent consistent with this Title, the CEO may
16 appoint, retain and terminate, on such terms and
17 conditions as the Board may determine, such officers,
18 employees, agents, or consultants as may be necessary or
19 expedient for carrying out the functions and duties of
20 the Corporation."

21 Section 22. The Code of the Federated States of Micronesia,
22 as amended, is hereby further amended by enacting a new section
23 241 to chapter 2 of title 27 as follows:

24 "Section 241. Functions of the Corporation. The
25 functions of the Corporation are -

1 (1) to operate and manage the Works, either directly
2 or through contracting out such management to third
3 parties;

4 (2) to secure contracts with Product suppliers who
5 will provide the required fuel Products at the lowest
6 cost through competitive bidding to the extent
7 practicable;

8 (3) to provide oil and gas distribution services on
9 the basis of commercially accepted practices, treating
10 all purchasers of Products on equitable terms in
11 accordance with its published prices and requiring all
12 users to pay for fuel purchased; provided that nothing
13 in this subsection shall prevent the Corporation from
14 using subsidies received from governmental,
15 international or private sources to reduce the overall
16 costs charged to users of public utilities services;

17 (4) to plan for the continued security of Product
18 supply in the FSM;

19 (5) to maintain and operate the Works so as to
20 minimize the likelihood of interruption of supply, and
21 to handle the Product in a manner that protects the
22 environment, the safety, and the health of employees and
23 the public;

24 (6) to make safety, health and environmental
25 considerations a priority in planning, and in the

1 development of new Products and processes; to advise
2 promptly, appropriate officials, employees, customers
3 and the public of information on significant industry-
4 related safety, health and environmental hazards, and to
5 recommend protective measures;

6 (7) to invest surplus revenues of the Corporation in
7 the maintenance, expansion and improvement of Product
8 facilities and services;

9 (8) to represent the Federated States of Micronesia
10 with regard to regional fuel supply initiatives as
11 requested by the Government of the Federated States of
12 Micronesia; and

13 (9) to do all those things which shall be necessary or
14 incidental to the performance of its functions under
15 this Chapter."

16 Section 23. The Code of the Federated States of Micronesia,
17 as amended, is hereby further amended by enacting a new section
18 242 to chapter 2 of title 27 as follows:

19 "Section 242. Powers of the Corporation.

20 (1) In performing the functions authorized under this
21 Chapter or under any other law of the Federated States
22 of Micronesia, the Corporation shall have the capacity
23 to exercise all powers normally exercised by a
24 corporation, including, but not limited to, the
25 following:

1 (a) to adopt, alter, and use a corporate seal;

2 (b) to adopt and amend bylaws governing the
3 conduct of its business and the exercise of its powers;

4 (c) to sue and be sued in its corporate name;

5 (d) to acquire, in any lawful manner, real,
6 personal, or mixed property, either tangible or
7 intangible; to hold, maintain, use, and operate such
8 property; and to sell, lease, or otherwise dispose of
9 such property;

10 (e) to, subject to Section 251 and the laws of
11 the Federated States of Micronesia, borrow or raise any
12 sum or sums of money and to issue corporate bonds on
13 such security and upon such terms as may from time to
14 time be deemed necessary for the expansion and
15 improvement of the Works;

16 (f) to retain and terminate the services of
17 employees, agents, attorneys, auditors, and independent
18 contractors upon such terms and conditions as it may
19 deem appropriate; and

20 (g) to do all such other things as may be deemed
21 incidental to or conducive to the attainment of the
22 responsibilities of the Corporation.

23 (2) Without limiting the generality of the powers
24 given to it by subsection (1), and in addition to any
25 other powers provided for by this Act, the Corporation

1 shall have the following specific powers -

2 (a) to acquire, lease, construct, maintain and
3 operate facilities, plant, equipment and infrastructure
4 associated with the supply of Product and the related
5 activities of the Corporation; to erect Works, and
6 install any necessary equipment, machinery and plant for
7 any purpose related to the functions of the Corporation;

8 (b) to acquire, lease and take over in any lawful
9 manner the business, property, assets, and liabilities
10 of any preexisting entity relating to fuel storage and
11 distribution;

12 (c) to purchase, lease or otherwise acquire and
13 maintain such personal and real property as the
14 Corporation may from time to time deem necessary for the
15 furtherance of its functions;

16 (d) to do all such things as it deems expedient
17 to enter into any contract for the sale, lease or
18 purchase of property related to the performance of its
19 functions;

20 (e) to hire out plant or equipment of the
21 Corporation and to enter into contracts for its
22 operation and management;

23 (f) to fix, charge and recover rates and fees for
24 the supply of Product and for any other service provided
25 by the Corporation;

1 (g) to fix, charge and recover any surcharge on
2 rates and fees for the supply of Product during any
3 period when it may be reasonably anticipated that the
4 supply of Product may be affected by a shortage of
5 supply;

6 (h) to ration or differentially allocate the
7 supply of Product consistent with reasonable business
8 practices and the needs of customers;

9 (i) to recover the capital cost of supplying
10 Product or providing other services to particular
11 premises on such terms and conditions as the Corporation
12 determines;

13 (j) to investigate any failure to comply with
14 this Act, or any act that effects the ability of the
15 Corporation to provide services under this Act, and to
16 take such steps as it considers necessary to secure
17 compliance with this Act or to prevent interference with
18 the activities of the Corporation; and

19 (k) to set and to enforce standards for work done
20 by contractors and tradesmen relating to the supply of
21 Product and any other service provided by the
22 Corporation."

23 Section 24. The Code of the Federated States of Micronesia,
24 as amended, is hereby further amended by enacting a new section
25 243 to chapter 2 of title 27 as follows:

1 "Section 243. Executive Council May Give Direction and
2 Require Information. The powers, functions and
3 discretion of the Corporation, its Board of Directors
4 and its officers shall be subject to the right and power
5 of the Executive Council to -

6 (1) request, and obtain from the Corporation, such
7 returns, accounts, and other information as the
8 Executive Council may, from time to time, require, and
9 to institute any investigation, hearing, audit or other
10 informational process as the Executive Council shall
11 deem appropriate; and

12 (2) set the terms and timing of any subsequent
13 divestment of the assets and operations of the
14 Corporation or for the issuance of common shares of the
15 Corporation; provided any such divestment must provide
16 for the payment or satisfaction of all indebtedness
17 incurred in the formation and operation of the
18 Corporation for which the Government of the Federated
19 States of Micronesia may be obligated or a full and
20 complete release of the Government of the Federated
21 States of Micronesia from liability for the repayment of
22 such loans or indebtedness."

23 Section 25. The Code of the Federated States of Micronesia,
24 as amended, is hereby further amended by enacting a new section
25 251 to chapter 2 of title 27 as follows:

1 "Section 251. Debts and obligations of the Corporation.

2 (1) Unless otherwise expressly provided by law, the
3 debts and obligations of the Corporation shall not be
4 debts or obligations of the Government of the Federated
5 States of Micronesia or of a Government of a State, nor
6 shall the Government of the Federated States of
7 Micronesia or that of a State be responsible for any
8 such debts or obligations.

9 (2) Unless an express assumption of liability shall be
10 executed by the Corporation and approved by Resolution
11 of Congress, the Corporation shall not assume, or be
12 deemed to have assumed, the liability of any third party
13 whose assets or operations are acquired by the
14 Corporation, including, without limitation, liabilities
15 arising from any breach of legal or contractual
16 obligation or arising from violation of any law, rule,
17 ordinance, regulation or decree.

18 (3) During such periods of time there remains
19 outstanding any loans or obligations payable to the
20 Government of the Federated States of Micronesia or any
21 loans or obligations payable by the Corporation to any
22 other party for which the Government of the Federated
23 States of Micronesia may be a guarantor, borrower or
24 otherwise obligated, no new loans or indebtedness
25 (except credit extended pursuant to energy/fuel supply

1 agreements) in excess of an aggregate amount of
2 \$1,000,000 shall be incurred unless approved by
3 Resolution of Congress."

4 Section 26. The Code of the Federated States of Micronesia,
5 as amended, is hereby further amended by enacting a new section
6 252 to chapter 2 of title 27 as follows:

7 "Section 252. Funds of the Corporation.

8 (1) The funds of the Corporation consist of -

9 (a) money appropriated from time to time by the
10 FSM Congress and the State legislatures and paid to the
11 Corporation;

12 (b) money derived from the disposal, lease, or
13 hire of, or any other dealing with, any property vested
14 in or acquired by the Corporation;

15 (c) money borrowed by the Corporation in
16 accordance with subsection (2);

17 (d) income from interest referred to in
18 subsection (3); and

19 (e) except as provided herein, any other moneys
20 that may become payable to the Corporation in respect of
21 the sale of Product or any matter incidental to its
22 functions and powers.

23 (2) Subject to Section 251, the Corporation may borrow
24 such sums as shall be required by the Corporation to
25 meet any of its obligations or to perform any of its

1 functions.

2 (3) The Corporation shall, to the extent practicable,
3 maintain its funds in the form of liquid, interest
4 bearing bank deposits or such other investments as shall
5 be approved in writing by the Board.

6 (4) The Corporation shall conserve its funds by
7 performing its functions and exercising its powers under
8 this Chapter so as to ensure that the total revenues of
9 the Corporation are sufficient to meet all sums properly
10 chargeable to its revenue account including depreciation
11 and interest on capital."

12 Section 27. The Code of the Federated States of Micronesia,
13 as amended, is hereby further amended by enacting a new section
14 253 to chapter 2 of title 27 as follows:

15 "Section 253. Annual Budget and Costs of
16 Administration.

17 (1) At such time and in such manner as the Board may
18 prescribe, the Chief Financial Officer shall submit to
19 the Board and to the Executive Council a detailed budget
20 for the next ensuing fiscal year which shall include:

21 (a) for the last completed fiscal year, audited
22 accounts indicating the prevailing rates and charges
23 applicable to the Product, the amount of gross income
24 generated by the Corporation, and the amount of all
25 capital and operational expenditures made by the

1 Corporation, together with the closing balance of all
2 bank accounts maintained by the Corporation;

3 (b) for the fiscal year in progress, a statement
4 showing the estimated amount of gross income and the
5 estimated amount of all capital and operational
6 expenditures made by the Corporation, together with such
7 summaries, schedules, and supporting data as the Board
8 may deem necessary; and

9 (c) for the next ensuing fiscal year, a budget
10 showing anticipated rates and charges for the Product,
11 the estimated amounts of gross income of the Corporation
12 and a statement of all estimated capital and operational
13 expenditures anticipated by the Corporation.

14 (2) In the event the expenditures identified in
15 subsection 1(c) are anticipated to exceed the estimated
16 amount of gross income to be generated by the
17 Corporation in the next ensuing fiscal year, plus
18 appropriations, grants, loans or subsidies fully
19 approved by the Congress of the Federated States of
20 Micronesia and the amount of any funds, including the
21 balance of any applicable capital expenditure sinking
22 funds earmarked for the current year's expenditures,
23 carried over from previous fiscal years, the proposed
24 budget shall include a plan for financing the deficit.

25 (3) For any fiscal year during which the Corporation

1 is expected to have outstanding loan balances owing to
2 the Federated States of Micronesia or in which the
3 Federated States of Micronesia continues to be obligated
4 or liable for repayment of any portion of a loan or debt
5 of the Corporation, or if the proposed plan to finance a
6 budget deficit pursuant to subsection (2) above includes
7 a grant, loan, guarantee or subsidy from the Federated
8 States of Micronesia, the budget of the Corporation
9 shall be submitted to Congress for approval and no
10 further loans or indebtedness shall be incurred by the
11 Corporation until the budget has been approved by
12 Resolution of Congress."

13 Section 28. The Code of the Federated States of Micronesia,
14 as amended, is hereby further amended by enacting a new section
15 254 to chapter 2 of title 27 as follows:

16 "Section 254. Accounts, Annual Report, and Audit.

17 (1) The Board, the CEO and the Chief Financial Officer
18 of the Corporation are jointly responsible for ensuring
19 that the Corporation at all times keeps adequate
20 accounts of its transactions and financial affairs, and
21 must, without limitation, ensure that -

22 (a) all moneys received by the Corporation are
23 properly brought to account;

24 (b) all payments by the Corporation are properly
25 authorized;

1 (c) adequate control is maintained over the
2 Corporation's property and the incurring of liabilities;
3 and

4 (d) the accounts are kept in accordance with
5 generally accepted accounting principles.

6 (2) Within three months after the end of each
7 financial year, the Chief Financial Officer must prepare
8 a report of the Corporation's activities during the
9 financial year (referred to as the "Annual Report") and
10 shall submit a copy of the Report to the Secretary, the
11 Board and to the Executive Council.

12 (3) The Annual Report must contain, among other things
13 -

14 (a) a statement of financial performance, which
15 shall include a balance sheet, operating statements, a
16 statement of changes in financial position, and an
17 analysis of changes in retained earnings;

18 (b) a statement summarizing the rates and charges
19 prevailing throughout the prior year with respect to the
20 Product and the outlook for such rates in the coming
21 year;

22 (c) a statement concerning the condition of the
23 Works and the capital expenditure plan of the
24 Corporation;

25 (d) the CEO's one and five-year plans required

1 pursuant to section 231 of this Chapter; and

2 (e) such other information as is required to give
3 a true and fair view of the Corporation's financial and
4 operational affairs.

5 (4) The annual accounts of the Corporation must be
6 audited by the FSM Public Auditor. For this purpose, the
7 Chief Financial Officer must, within three months after
8 the end of each financial year submit to the Public
9 Auditor -

10 (a) the statement of financial performance and
11 accompanying accounts of the Corporation for the year;

12 (b) the most recent budget prepared pursuant to
13 section 253; and

14 (c) the Annual Report for the year prepared in
15 accordance with subsection (2)."

16 Section 29. The Code of the Federated States of Micronesia,
17 as amended, is hereby further amended by enacting a new section
18 255 to chapter 2 of title 27 as follows:

19 "Section 255. Tax liability. The Corporation shall be
20 liable for the payment of any tax, assessment or
21 contribution as may be required by law. Nothing herein
22 shall be deemed to exempt employees and independent
23 contractors of the Corporation from any tax liability
24 for services rendered to the Corporation.

25 Section 30. The Code of the Federated States of Micronesia,

1 as amended, is hereby further amended by enacting a new section
2 261 to chapter 2 of title 27 as follows:

3 "Section 261. Operating Standards. The Board, the CEO
4 and the Health and Safety Officer of the Corporation
5 shall be jointly responsible for developing and
6 implementing written operational policies that shall set
7 forth the manner in which the Corporation is to --

8 (1) manage its business with the goal of preventing
9 incidents and of controlling emissions and wastes to
10 below harmful levels, and to design, operate, and
11 maintain facilities to this end and to respond quickly
12 and effectively to incidents resulting from its
13 operations;

14 (2) design and maintain facilities, establish
15 management systems, provide training and conduct
16 operations in a manner that safeguards people and
17 property;

18 (3) identify and manage risks associated with its
19 products and to ensure that Product is not manufactured
20 or sold when it is not possible through proper design,
21 procedures, and practices to provide an appropriate
22 level of safety for people and the environment;

23 (4) specify precautions required in handling,
24 transporting, using, and disposing of Product and to
25 take reasonable steps to communicate those precautions

1 to employees, customers, and others who might be
2 affected;

3 (5) comply with all applicable environmental and
4 industrial and product safety laws and regulations and
5 to apply responsible standards where laws and
6 regulations do not exist;

7 (6) furnish services that reliably meet responsible
8 standards of performance, efficiency, and courtesy; to
9 furnish accurate and sufficient information about its
10 products and services, including details of guarantees
11 and warranties, so that customers can make informed
12 purchasing decisions; and where the Corporation's
13 products reach the ultimate consumer through independent
14 parties, such as service station dealers and
15 distributors, to actively encourage such parties to
16 achieve standards comparable to those which have been
17 established for the Corporation's own performance; and

18 (7) undertake appropriate reviews and evaluations of
19 its operations to measure progress and to foster
20 compliance with these policies."

21 Section 30. The Code of the Federated States of Micronesia,
22 as amended, is hereby further amended by enacting a new section
23 262 to chapter 2 of title 27 as follows:

24 "Section 262. Contracts.

25 (1) The purchase of all supplies and materials and the

1 construction of all works by independent contractors,
2 when the expenditure exceeds \$20,000, shall be, by
3 contract, let to the lowest responsible bidder whose
4 offer adequately responds in quality, fitness, and
5 capacity to the particular requirements of the proposed
6 work or materials and supplies called for by the
7 contract; provided that Product quality and reliability
8 of Product supply shall be taken into account when
9 evaluating fuel supply agreements; and provided further
10 that any initial fuel supply agreement and facilities
11 operation agreement executed as part of a transaction by
12 which the Corporation acquires the Works shall be exempt
13 from such requirement. A notice requesting bids shall be
14 published at least ten days before bids are received.
15 The lowest responsible bidder shall be determined by the
16 CEO using sound judgment and after consultation with the
17 Board. The Board may reject any and all bids and re-
18 advertise at its discretion.

19 (2) If, after rejecting bids for materials and
20 supplies, the Board determines that, in its opinion, the
21 materials and supplies may be purchased at a lower price
22 in the open market, the Board may authorize such
23 purchases without further observance of the provisions
24 requiring contracts, bids or notices.

25 (3) In case of major public calamity, or whenever it

1 is in the interest of public safety or necessary to keep
2 public utilities services operational, the Board may
3 determine that the public interest and necessity demand
4 the immediate expenditure of funds to keep the services
5 operational or in a safe condition, and thereupon
6 authorize the expenditure of such sums as may be needed
7 without the observation of the provisions requiring
8 contracts, bids or notices.

9 (4) Where reasonable, preference in the letting of
10 contracts shall be given to local contractors based on
11 the procedure provided by Section 405, Title 55 of the
12 FSM Code.

13 (5) No director shall vote on any contract awarded by
14 the Board in which the director has a direct or indirect
15 financial interest."

16 Section 31. The Code of the Federated States of Micronesia,
17 as amended, is hereby further amended by enacting a new section
18 263 to chapter 2 of title 27 as follows:

19 "Section 263. Power to discontinue or ration supplies.

20 (1) In addition to any other powers of the Corporation
21 under this Act, the Corporation may, without notice,
22 discontinue, ration or limit any supply of Product or
23 other service provided by it if it considers it
24 necessary or desirable to do so -

25 (a) by reason of a disruption of international

1 supplies;

2 (b) by reason of any accident or emergency;

3 (c) to facilitate any work done or to be done by
4 the Corporation;

5 (d) to avoid or limit pollution; or

6 (e) for the conservation of strategic product
7 reserves.

8 (2) As soon as possible after it has taken any action
9 under sub-section (1) the Corporation shall give notice
10 of its action and indicate the likely duration of the
11 discontinuance or rationing.

12 (3) The Corporation shall not be liable to any person
13 for any loss or damage suffered by that person, and no
14 person shall have a claim against the Corporation, where
15 there is an increase, diminution or discontinuance in
16 the supply of Product or any other service provided by
17 the Corporation, or where there is a diminution in the
18 quality of products, provided that such increase,
19 diminution or discontinuance is caused by accident,
20 other natural phenomenon or other unavoidable cause, by
21 the Corporation acting in good faith in the proper
22 exercise of its functions, or by the exercise by the
23 Corporation of a power under this Act.

24 (4) Without limiting the foregoing, if any fees or
25 charges in respect of any customer, including

1 governments or governmental units of any type, remain
2 unpaid thirty (30) calendar days after the date due for
3 payment, the CEO may discontinue the supply of Product
4 and services to that customer and may commence legal
5 action to recover any rates, fees or charges that have
6 fallen due for payment."

7 Section 32. The Code of the Federated States of Micronesia,
8 as amended, is hereby further amended by enacting a new section
9 264 to chapter 2 of title 27 as follows:

10 "Section 264. Transition; Employees. The Corporation
11 may, at its discretion, undertake to hire employees in
12 good standing of pre-existing entities involved in the
13 business of oil and gas distribution in the FSM,
14 provided that the Corporation shall be under no
15 obligation to do so with respect to any particular
16 employee, nor shall it be required to hire employees at
17 the same salaries or to fill the same positions as they
18 may have enjoyed previously. In the event employees of a
19 pre-existing entity are employed by the Corporation, all
20 accrued benefits, sick leave, annual leave and other
21 contractual obligations owed by the pre-existing entity
22 to its employees shall remain the obligations of that
23 entity and shall not be assumed by the Corporation,
24 except to the extent directed in writing by the Board."

25 Section 33. The Code of the Federated States of Micronesia,

1 as amended, is hereby further amended by enacting a new section
2 265 to chapter 2 of title 27 as follows:

3 "Section 265. Issuance of Shares; divestment.

4 (1) Upon the written instruction of the Executive
5 Council, the Corporation shall, through the filing of
6 such documents as may be required of privately-held
7 corporations, including, without limitation, Articles of
8 Incorporation, Bylaws and Share Affidavits, capitalize
9 itself through the issuance of common shares and, in
10 such event, the provisions of this Chapter shall be made
11 subject to the terms of the Articles of Incorporation
12 and Bylaws, and nothing in this Chapter shall be read as
13 restricting the payment of dividends, the holding of
14 annual shareholder's meetings, the conduct of audits for
15 the benefit of shareholders, the election of Directors
16 and such other corporate governance and shareholder's
17 rights provisions as may be set out in the Articles of
18 Incorporation and Bylaws and approved by the Executive
19 Council.

20 (2) Upon the written instruction of the Executive
21 Council, the Corporation shall, subject to the
22 conditions set forth in Section 243, take all necessary
23 steps to divest its assets and operations, in whole or
24 in part, to such entity or entities as shall be directed
25 by the Executive Council. The Board and officers of the

1 Corporation shall take all necessary actions to
2 effectuate such divestment, including the execution of
3 documents and instruments, and the turnover of books,
4 records and personal property as shall be necessary to
5 transfer operations and assets of the Corporation to the
6 entity or entities designated by the Executive Council.
7 Upon written instruction of the Executive Council
8 following such divestment, the Corporation shall wind up
9 its affairs and cease operation."

10 Section 34. Effectiveness. This act shall become law upon
11 approval by the President of the Federated States of Micronesia or
12 upon its becoming law without such approval.

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17 _____ September 11, 2007
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22 _____
23 /s/ Manny Mori
24 Manny Mori
President
Federated States of Micronesia