

Section 18.810. Program Fund, uses, loan repayment and reversion of funds.

- (1) This Section shall become operable in the event the Program is funded from loan proceeds or from funds of the General Fund otherwise appropriated for such use and which require repayment. Upon disbursement of any loan proceeds, such funds shall be deposited in a Kosrae State Government Reduction in Force Assistance Program Fund (hereinafter Assistance Fund) which is hereby created and established. The Assistance Fund shall be separate from the General Fund or any other funds of the Kosrae State Government. Money in the Assistance Fund shall be invested prudently and investment gains therefrom shall accrue within the Fund.
- (2) Funds in the Assistance Fund may only be withdrawn, unless otherwise provided by law, for the following purposes:
 - (a) Payment of compensation to employees participating in the Program;
 - (b) Repayment of loan obligations directly related to the Program; or
 - (c) Payment for training costs related to the Program, but not exceeding \$50,000 in total.
- (3) In the event a loan is obtained to establish this Program, to facilitate the repayment of any such loan, the State Government shall appropriate funds equivalent to at least fifty percent of the costs for each position abolished and subject to compensation payments under the Program. The funds so appropriated shall be deposited in the Multi-Loan Disbursement Fund. The balance of the Multi-Loan Disbursement Fund must equal or exceed the principal amount borrowed for the Program and the Early Retirement Program according to any loan repayment term.
- (4) Any funds remaining in the Multi-Loan Disbursement Fund and the State's Trust Fund Account after the loan has been paid in full shall revert to the General Fund.

Section 18.811. Annual Report. The Governor shall submit a report to the Legislature not later than the first Monday of February of each year regarding the condition of the Program, actual expenditures from the last completed fiscal year, estimated expenditures for the fiscal year in progress, a full accounting of the funds received by the State for the Program, and a full accounting of funds deposited in the escrow account as authorized in Section 18.810 of this chapter.

Section 18.812. Act supersedes other laws. The provisions of this chapter shall supersede in their entirety any other provisions of any State laws that may be interpreted as being inconsistent with any provisions of this chapter.”

Background

S.L. No. 9-27

Note: this version does not include the Shark Protection Act. The Attorney General has been advised and it should be included in the next updated version

TITLE 19. ENVIRONMENTAL PROTECTION AND MANAGEMENT

Chapter 1. General Provisions

Section 19.101. Kosrae Island Resource Management Authority Purpose. To protect the environment, human health, welfare and safety and to abate, control and prevent pollution or contamination of air, land and water in accordance with Title 7, Chapter 4, Title 13 and this Title, by balancing the needs of economic and social development with those of environmental quality and adopting regulations and pursuing policies which, to the maximum extent possible, ensure that economic and social development is environmentally sustainable.

Section 19.102. Powers and duties. The Authority has the power and duty to:

- (1) adopt and enforce regulations to effect the purposes of any part of Chapter 3 of this Title that has not been assigned to the Department of Resource and Economic Affairs;
- (2) adopt and provide for the continuing administration of a development permit system, including the requirement of development proposals, for the construction, expansion or alteration of a development, including alteration of land or marine space, that may significantly affect, directly or indirectly, natural or historical resources, significantly alter the landscape or be incompatible with surrounding air, land or water uses;
- (3) adopt and enforce primary and secondary drinking water regulations, including the establishment of an underground injection control program;
- (4) adopt and provide the continuing administration of a program for the abatement or prevention of the contamination of drinking water systems;
- (5) establish standards for classifying air, land and water in accordance with present and future uses;
- (6) adopt and implement plans for the certification of applicators of pesticides, for the issuance of experimental use permits for pesticides and a plan to meet special local needs;
- (7) establish and provide for the continuing administration of a permit system for the discharge of a pollutant in the air, land or water;
- (8) collect information and establish record keeping, monitoring and reporting requirements necessary and appropriate to carry out the purposes of this chapter;
- (9) enter public or private property to inspect or take samples in performance of its duties;
- (10) issue a cease and desist order to a person found to be in violation of law or regulation pertaining to the environment;
- (11) order a polluting party to abate the causing of, and to remove, polluting matter;
- (12) devise land use plans and t, no later than two years after the effective date of this Chapter, propose legislation to the Legislature and the Governor for the regulation of the use of land;
- (13) acts as an agent to the Environmental Protection Board of the Federated States of Micronesia pursuant to written agreement approved by the Governor;
- (14) preserve the State's forests and wildlife and regulate activities that affect them;
- (15) oversee and enforce those provisions pertaining to the preservation and conservation of marine resources. This shall include oversight over the duties of Marine Surveillance;
- (16) preserve and regulate the use of antiquities and objects and places of historical and cultural value;
- (17) manage the Recycling program of the island of Kosrae in relation to the purposes of this Chapter;
- (18) adopt climate risk reduction and climate change adaptation measures based upon existing weather and climate extremes and projected climate changes, and to provide consultation on application of climate change impacts and adaptation measures to the location, design and construction of public projects and other development projects;

- (19) control and implement preventive measures to minimize and eradicate where feasible, introduced alien invasive species;
- (20) provide an environmental education and awareness program to increase public awareness and knowledge on the environment and threats to the environment, and to expand and promote environmental ethics.

Section 19.103. Definitions. As used in this Title, unless the context otherwise requires, the term:

- (1) "Administrator" means the administrator of KIRMA;
- (2) "Agent" means a person who acts on behalf of another person. "Agent" includes a person appointed by a foreign fishing company to act as its legal representative within the Federated States of Micronesia, including the acceptance of and response to legal process pursuant to Title 24 (Marine Resources) of the Code of the Federated States of Micronesia or any law relating to foreign fishing agreements;
- (3) "Aquaculture" means any activity designed to cultivate or farm fish and includes mariculture;
- (4) "Authority" means the Kosrae Island Resource Management Authority;
- (5) "Authorized officer" means any person or category of persons designated as an authorized officer under Section 19.352;
- (6) "Commercial fishing" means any fishing resulting or intended to result in selling or trading any fish that may be taken, caught or harvested during the fishing operation. "Commercial fishing" does not include sport fishing;
- (7) "Director" means Director of the Department of Resources and Economic Affairs;
- (8) "Drift net" means a gill net or other net or arrangement of nets which is more than 2.5 kilometers in length and the purpose of which is to enmesh, entrap or entangle fish;
- (9) "Explosive" or "explosives" means a substance or a combination of substances which upon rapid decomposition or combustion cause an explosion, that is, a violent bursting or expansion with noise;
- (10) "Export" means to send or remove an article of trade or commerce from the State;
- (11) "Fish" means any marine or aquatic plant or animal, including their eggs, spawn, spat and juvenile stages, and any of their parts;
- (12) "Fishery waters" means any waters over which the State has jurisdiction, including the State fishery zone and inland waters;
- (13) "Fishing" means the actual or attempted searching for, catching, taking, or harvesting of fish by any method whatsoever; any other activity that could reasonably be expected to support or assist in the locating, catching, taking or harvesting of fish; and any activity used in preparing, processing or transporting fish;
- (14) "Fishing gear" means any equipment, implement, or other thing that can be used in the act of fishing, including, without limitation, any fishing net, rope, line, float, trap, hook, or winch;
- (15) "Fishing vessel" means any vessel used for, equipped to be used for, or of a type that is normally used for fishing or assisting one or more vessels in any activity related to fishing, including, without limitation, preparation, supply, storage, refrigeration, transportation, or processing;

- (16) "Foreign fishing vessel" means any fishing vessel other than a local fishing vessel;
- (17) "Inland waters" means the waters of the State landward from the State's baseline; as defined by national law, including harbors, tide lands, rivers, and streams;
- (18) "Local fishing vessel" means any fishing vessel wholly owned and controlled by:
 - (a) The State Government, or any corporation established by State law and wholly owned or controlled by the State Government;
 - (b) One or more natural persons who are citizens or permanent residents of the State;
 - (c) Any company, society, or other association of persons incorporated or established under the laws of the State.
- (19) "Observer" means any person authorized to act as observer under Section 19.481 or Title 24 of the Code of the Federated States of Micronesia;
- (20) "Operator" means any person who is in charge of or who directs or controls a fishing vessel, including the master, owner, and charter;
- (21) "Permit" means any permit issued under this Title;
- (22) "Person" means any individual, firm, corporation, association, partnership, agency, authority, commission, foundation; the Government of the State of Kosrae; its political subdivision; state created entity; municipality, or other institution or entity, whether public or private;
- (23) "Poison" means any substance having a deleterious property that enables it to harm or destroy life, including, but not limited to, bleaches, hypochlorous acid or any of its salts, plants or plant material and any other substance that is commonly recognized or scientifically described as a poison or noxious substance;
- (24) "Regulation" means any regulation adopted by the Authority pursuant to this Title, unless otherwise noted;
- (25) "State Fishery zone" means the waters of the State extending seaward twelve (12) miles from the State's baseline as defined by national law;
- (26) "Transshipment" means the transfer of any fish or fish products to or from any fishing vessel; and
- (27) "Vessel" means any boat, ship, canoe or other water going craft."

Chapter 2. Planning

Section 19.201. The Authority shall adopt and provide for the continuing administration of a development permit system, including the requirement of development proposals and environmental impact studies for the construction, expansion or alteration of a development, including alteration of land or marine space, that may significantly affect, directly or indirectly, natural or historic resources, significantly alter the landscape or be incompatible with surrounding air, land or water uses.

Section 19.202. Environmental impact studies. The Authority requires that:

- (1) All persons include in their development proposals an environmental impact assessment study in accordance with regulations established by the Authority.
- (2) All persons submit an environment impact statement to the Authority according to Authority specifications, prior to taking any action significantly affecting the quality of the human environment."

Chapter 3. Fishing and Marine Wildlife.

Subchapter A. – General Provisions

Section 19.301. State powers within the fishery waters. Within the State fishery waters, the State has complete sovereign rights for all purposes, including exploring, exploiting, conserving, managing, and developing living and non-living resources within the fishery waters.

Section 19.302. Regulations. The Administrator may adopt regulations for the management, conservation and development of the fishery waters and that otherwise implement this Chapter. These include, without limitation, regulation that:

- (1) Identify areas of the fishery waters for management, conservation or development;
- (2) Limit the size, number, location, or type of any species of fish taken from the fishery waters;
- (3) Prohibit specific activities related to fish and fishing;
- (4) Prohibit the sale, possession, and transportation of any species of fish; and
- (5) Prohibit the use of specific fishing methods, gear, or types of vessels.

Section 19.303. Authority consultation and approving required. Any person planning a development or activity that may affect the environment quality of the fishery waters shall inform and consult with the Administrator before initiating the development or activity. The Administrator may require that an Environmental Impact Assessment or other investigation be carried out by that person or any other authority provided in State law or appointed by the Administrator. The person proposing the development or other activity shall pay for the Environmental Impact Assessment or other investigation. Before initiating the development or activity, the person proposing the development or activity shall submit to the Authority a copy of any plan for the development or activity, along with a copy of the completed Environmental Impact Assessment, if one has been completed or required. The Administrator has the right to submit his comments before any final decision is made by any other State government authority concerning any development or activity that may affect the environmental quality of the fishery waters.

Section 19.304. Aquaculture Exemption. Nothing in this title shall be interpreted as prohibiting or authorizing regulations to prohibit the harvesting, processing, sale or export of fish, (as defined by Section 19.103 (10)) cultivated in an aquaculture center operated or approved by the National Government of the Federated States of Micronesia or the State Government of the State of Kosrae.

Subchapter B – Fishing Permits

Section 19.305. Permits required.

A State permit is required, and must be maintained on board, for the following:

- (1) Fishing from a foreign fishing vessel in the State fishery zone, unless the fishing is authorized under section 117 of Title 24 of the Code of the Federated States of Micronesia; and
- (2) Transshipment.

Section 19.306. Other activities for which permits may be required.

- (1) The Administrator may require and issue permits for the following activities in or associated with the fishery waters:
 - (a) Fishing not covered by Section 19.305;
 - (b) The import and export of fish or other marine resources;
 - (c) Aquaculture; or
 - (d) Marine research

- (2) By regulation, the Administrator may exempt from permitting requirements any persons or fishing vessels for activities described in Section (1) above. The Administrator shall exempt any person engaging in subsistence fishing.

Section 19.307. Issuance of permits and written agreements for foreign fishing vessels.

- (1) By regulation, the Director shall establish procedures and requirements for the issuance of permits to foreign fishing vessels and for transshipment, as well as the terms and conditions of permits.
- (2) A permit may not be issued unless the permittee has entered into an agreement with the State that complies with this Title.
- (3) The Director may negotiate and conclude agreements with foreign governments, associations or companies in accordance with this Title for fishing in the State fishery zone, transshipment or related activities. These agreements must include terms and requirements no less stringent than those required by national law. The agreements are valid and enforceable when signed by the Governor.
- (4) The Governor may authorize the National Government to negotiate and execute an agreement on the State's behalf for foreign fishing in the State fishery zone.

Section 19.308. Permit requirements for all permits. The Director, or his designee, shall issue all permits in accordance with this subchapter, except those permits authorized by Section 19.306. Permits may be issued upon receipt of a completed application in the appropriate form and payment of the required fee. The Director shall attach to any permit any terms and conditions prescribed by the regulations and may attach any additional terms and conditions as are appropriate. A permittee shall hold a permit in its original, complete and correct form. Regulations establishing requirements for a permit must prescribe, at least, the following:

- (1) A form and procedures to apply for a permit;
- (2) A condition that the permittee consents to being stopped and boarded;
- (3) A condition that the permittee consents to inspections, searches, and seizures without reasonable cause of any vessel, vehicle, aircraft, nonresidential premises, fishing gear, fish, or fish products used in connection with any activity regulated by this Title;
- (4) A condition that the permittee exhibit his permit on request of an authorized officer or observer;
- (5) Any other conditions that may or must be attached to a permit;
- (6) Criteria for renewal, refusal, suspension or cancellation;
- (7) Fees, royalties, and other forms of payment;
- (8) The period of validity;
- (9) Requirements for transfer;
- (10) The right to appeal from a decision to refuse, suspend or cancel a permit; and
- (11) Offenses, fines and penalties for failure to comply with conditions attached to a permit.

Section 19.309. Additional permit information. The Administrator may require the following information to be attached to the application for a permit issued under section 19.306 of this Chapter:

- (1) A description of the proposed site, fish species, cultivation and harvesting methods;
- (2) An Environmental Impact Assessment; and
- (3) Any other reasonable information requested in the discretion of the Administrator.

Section 19.310. Observation of laws. No permit issued under this Title relieves any person of any requirement imposed by any law of the State or the Federated States of Micronesia.

Subchapter C – Required Equipment

Section 19.311. Registration of fishermen and fishing vessels. The Director may, by regulation, require that all fishermen or any class of fishermen, or all vessels or any class of vessels within the State be registered with the Director. If registration is required by regulation, the Director shall maintain a written register of fishermen and/or fishing vessels registered.

Section 19.312. Marking of fishing vessels and gear

- (1) The Director may adopt regulations requiring fishing vessels to display registration letters and numbers and other markings.
- (2) All submerged stationary fishing gear or surface drifting gear must bear conspicuous surface marks using brightly colored buoys, flags or floating poles and night lighted markers. All surface marks must be visible in clear weather at a distance of at least one nautical mile. For nets, the markers must be placed at 50-foot intervals along the full length of the net.

Section 19.313. Vessel safety provisions.

No person shall operate a vessel in the State fishery zone extending seaward from one mile beyond any reef without the following equipment aboard:

- (1) Reasonable amounts of food and water;
- (2) An operable flare gun and flares, or a mirror;
- (3) A sea anchor or drogue;
- (4) Emergency rowing equipment;
- (5) Life jackets or other reasonable floating devices sufficient for all passengers; and
- (6) 50 meters of line.

Section 19.314. Fishing Gear Requirements.

All fishing gear aboard a commercial fishing vessel in the fishery waters must be stowed so that it is not readily available for use, except where permitted under this Title.

Subchapter D – Prohibited Acts.

Section 19.315. Compliance with Title.

No person shall violate this Title, regulations adopted pursuant to this Title, written fishing agreements, or any requirements or conditions of a permit issued pursuant to this Title.

Section 19.316. Inland water fishing.

No person shall engage in commercial fishing from a foreign fishing vessel in inland waters.

Section 19.317. Fishing without a permit. No person shall fish from a foreign fishing vessel in the State fishery zone without a valid State permit for that vessel on board.

Section 19.318. Transshipment without a permit. No person shall engage in any transshipment without a valid State permit for that activity on board.

Section 19.319. Permits required. No person shall perform any act for which a permit is required pursuant to Section 19.305, without a valid State permit in his possession.

Section 19.320. Fishing by non-citizen foreign fishing crew or officers. No non-citizen crew member or officer of a foreign fishing vessel, while disembarked from that vessel, shall fish for any purpose other than personal consumption without the Director's prior written permission.

Section 19.321. Development or activity without approval. No person planning any development of activity that may affect the environmental quality of the fishery waters shall violate Section 19.303 or any requirements established by the Administrator pursuant to that Section.

Section 19.322. Violation of fishery waters. No person shall use a vessel to enter or remain within the fishery waters in violation of this Title or any other law.

Section 19.324. Contamination of fishery waters. No person shall directly or indirectly contaminate the fishery waters, including, without limitation:

- (1) Discharging non-biodegradable trash or debris, poison, oil, petroleum, solvents, metals, sewage or other noxious substances; or
- (2) Taking any action likely to damage or degrade the quality of the fishery waters or fish.

Section 19.325. Protection of reefs. No person shall damage a reef by dredging, mining, removing coral or rocks, running a vessel aground or by any other means.

Section 19.326. Drift nets. No person shall use a drift net in the fishery waters, or transport or process any fish caught by use of a drift net.

Section 19.327. Nets in navigation channels. No person shall set nets in the fishery waters in channels used for navigation.

Section 19.328. Prohibited methods of fishing.

- (1) No person shall use or attempt to use any poison, explosive, electric charge device or other substance to kill, take, stun, immobilize or in any way render fish more easily caught.
- (2) No person shall possess or control any poison, explosive, electric charge device or other substance with the intent to use it to kill, take, stun, immobilize or in any way render fish more easily caught.

Section 19.329. Export or import of live fish. No person shall export or import any live fish or viable fish eggs without the Administrator's prior written permission.

Section 19.330. Prohibition of trade in fish, fish products or other marine resources. No person shall knowingly buy, sell, knowingly possess or otherwise trade in fish, fish products, or other marine resources obtained in violation of this Title.

Section 19.331. Export of fish. No person shall export any fish or fish product caught in the fishery waters without the Administrator's prior written permission, unless:

- (1) The terms and conditions of a permit or a fishing agreement with the State allow export; or
- (2) The export is for person consumption by immediate family members.

Section 19.332. Reckless or negligent operation.

- (1) No person shall operate a motor driven vessel recklessly or with gross, willful or wanton disregard for the lives and safety of the public.
- (2) No person shall operate a motor driven vessel negligently in such a manner as to constitute a substantial deviation from the standard of care a reasonable person would exercise without due regards for the rights and safety of others.

Section 19.333. Operating a vessel under the influence. No person shall operate a motor driven vessel while under the influence of alcoholic drink, a controlled substance or any other intoxicating substance.

Section 19.334. Nets, traps, ponds, enclosures and storage devices. No person shall remove a fish from a net, trap, pond, enclosure or storage device that belongs to another person without that person's permission. No person shall knowingly destroy, damage or impair the functioning of any net, trap, pond, enclosure or storage device that belongs to another person.

Section 19.335. Protection of mooring buoys, floats, trays, other devices. No person shall tamper with, take, destroy or otherwise interfere with any mooring buoy, float, tray or other device installed or placed in the fishery waters under the authority of the Authority.

Section 19.336. Fishing operational requirements. All fishing vessels must have fully operational holding tanks or must use shore-based facilities to process their catch.

Section 19.337. Use of unmarked gear. No person shall submerged stationary fishing gear or surface drifting gear in violation of Section 19.312(2).

Section 19.338. Required safety provisions. No person shall operate a vessel without the safety provisions required under Section 19.313.

Section 19.339. Fishing gear requirements. No person shall stow fishing gear aboard a commercial fishing vessel in violation of Section 19.314

Section 19.340. Storage of fish. No person shall store or otherwise keep any fish taken in violation of this Title.

Section 19.341. Interfering with enforcement. No person shall:

- (1) Fail to comply with the lawful instructions or directions of an authorized officer or observer;
- (2) Obstruction or resist an authorized officer or observer in the exercise of any provision of this Title, including, without limitation, preventing him from boarding or searching a vessel, vehicle or aircraft or preventing him from inspecting fishing gear, equipment, records, fish or fish products;
- (3) Assault, threaten, or use abusive language or behavior toward an authorized officer or observer in the execution of his duties; or
- (4) Resist lawful arrest for any violation of this Title.

Section 19.342. Information and documentation. Every person shall give true, complete, and correct information or documentation for the issuance of a permit or registration as required under this Title. Any change in circumstances that renders any information or documentation false, incomplete or misleading must be provided to the Director or Administrator, whoever has issued the permit, immediately.

Section 19.343. Destruction of evidence. No person shall destroy, abandon, or conceal any fish, fishing gear, net or other fish appliance, electric shock device, explosive, poison or any other thing or document knowing that it is about to be produced in evidence in any trial, inquiry, or investigation authorized by law, with the intent to prevent it from being produced.

Section 19.345. Unauthorized procuring of aquatic life. Unauthorized procuring of aquatic life is any of the following:

- (1) Any violation of Section 19.357.
- (2) Any violation of Section 19.328
- (3) Any violation of Section 19.326
- (4) Procuring fish or other aquatic life from midnight Saturday to midnight Sunday; or
- (5) Engaging in the commercial harvesting, commercial processing, or commercial exportation of sea cucumbers without a permit, in violation of any permit conditions, or in violation of regulation(s) drafted pursuant to Section 19.359; or
- (6) Possessing more than five (5) sea cucumbers without a permit, in violation of any permit conditions, or in violation of regulations drafted pursuant to Section 19.359.

Section 19.346. Marine resource violation. Marine resource violation is committing any act in violation of Section 19.315.

Section 19.347. Unauthorized destruction to marine environment: Unauthorized destruction to marine environment is any act in violation of Section 19.323 or Section 19.324.

Section 19.348. Unauthorized foreign fishing: Unauthorized foreign fishing is fishing in violation of Section 19.316 or Section 19.317.

Section 19.349. Unauthorized fishing: Unauthorized fishing is fishing in violation of Section 19.318, Section 19.319 or Section 19.320.

Section 19.350. Unauthorized development or activity in the State fishery waters: Unauthorized development or activity in the State fishery waters is any act in violation of Section 19.321.

Subchapter E – Fishery Monitoring, Control and Surveillance.

Section 19.351. Primary responsibility for enforcement: The Director and Administrator have primary responsibility for enforcing this Title, except that the Attorney General's office is responsible for the review and final determination of any potential criminal legal actions.

Section 19.352. Appointment of authorized officers and observers: The Director or Administrator may appoint, in writing, any person or category of persons as authorized officers to ensure compliance with this Title. Any police officer is deemed to be an authorized officer for purpose of this Title. The Director or Administrator may appoint any person as an observer for compliance, monitoring and any other function. Any authorized officer or observer appointed pursuant to Title 24 of the Code of the Federated States of Micronesia is deemed to be an authorized officer or observer with respect to foreign fishing vessels or activities in the fishery waters.

Section 19.353. Powers of authorized officers and observers:

- (1) For the purpose of enforcing this Title, any authorized officer or observer may:
 - (a) Require any person engaged in fishing to show his permit, fishing gear and catch;
 - (b) Stop, board and search any vessel he reasonably expects is a fishing vessel in the fishery waters;
 - (c) Stay on board any fishing vessel within the fishery waters;
 - (d) Examine or inquire of any person aboard about the fishing gear, fish, cargo, catch, contents of holds and storage spaces, voyage and activities of the vessel;
 - (e) Inspect and search the vessel, vehicle, aircraft, nonresidential premises, fishing gear, fish, catch, cargo, content of holds and storage spaces, or other evidence of activities subject to this Title;
 - (f) Request and receive a reasonable fish sample from any person in possession or control of fish or fish products;
 - (g) Require any person aboard a fishing vessel to inform him of the vessel's name, call sign and country of registration and the name of the master, owner, charterer and all crew members;
 - (h) Require the agent of any foreign fishing vessel holding a permit to fish issued under Title 24 of the Code of the Federated States of Micronesia, where the agent is based within the State, to inform him of the name, call sign and country of registration of any vessel that he represents and the name of the operator, officer, or crew members, or other information reasonably required;
 - (i) Seize any vessel, vehicle, aircraft, fishing gear, equipment, stores, catch, cargo, fish, fish products, log books, charts, other documents or other items used in the commission of an offense, subject to procedures and requirement of Title 14, Chapter 12 of the Kosrae State Code;

- (j) Arrest any person where there is probable cause to believe he has committed a criminal offense in violation of this Title;
- (k) Request and execute any warrant or other process issued by any court of competent jurisdiction relating to this Title; and
- (l) Exercise any other lawful authority.

Section 19.354. Hot pursuit. An authorized officer may, following hot pursuit in accordance with international law commenced within the fishery waters, stop, board and search in the commission of an offense in the fishery waters. The authorized officer may bring the fishing vessel and all persons and things on board within the fishery waters.

Section 19.355. Immunity of authorized officers or observers. An authorized officer or observer who acts pursuant to this Title may not be found civilly or criminally liable for those actions or omission to act, unless taken in bad faith.

Section 19.356. Duty of confidentiality. The Administrator shall require an authorized officer or observer to swear an oath of confidentiality.

Subchapter F – Aquatic Wildlife

Section 19.357. Protection of species. The Administrator may preserve and develop the resources of any fish species.

- (1) The Administrator may adopt regulations regarding the management of any species, including, without limitation, the time, place, and method of harvesting, a permit system, and minimum and maximum size or other restrictions to ensure responsible and environmentally sound harvesting.
- (2) In addition to any prohibitions in regulations adopted under subsection (1), the following activities are prohibited:
 - (a) Taking or killing a turtle whose shell is less than twenty-seven (27) inches when measured over the top of the carapace shell lengthwise;
 - (b) Taking turtle eggs or killing a turtle while it is on shore;
 - (c) Taking or killing turtle of any size from the first (1st) day of June to the thirty-first (31st) day of August or from the first (1st) day of December to the thirty-first (31st) day of January inclusive;
 - (d) Taking or killing a *Pinctada margaritifera* (black-lip mother-of-pearl oyster) from the first (1st) day of August to the thirty-first (31st) day of December inclusive;
 - (e) Taking or killing a *Pinctada margaritifera* whose shell is less than six (6) inches in minimum diameter, measured along the largest dimension across the outside of the shell;
 - (f) Harvesting tochus (*tukasangai*) except as officially authorized by Section 19.358;
 - (g) Taking or killing a lobster less than one (1) pound in weight or less than three (3) inches in carapace length, or taking or killing a female lobster with eggs;
 - (h) Taking or killing a Mangrove crab whose shell is less than six (6) inches in length, measured along the largest dimension across the outside of the shell.

Section 19.358. Trochus. The Administrator has the power and duty to preserve and develop trochus resources for maximum economic and ecological benefit. By regulation the Administrator provides for:

- (1) the time, place and method of trochus harvesting by a permit system to assure responsible and environmentally sound harvesting; and
- (2) minimum and maximum shell size or other limitations in harvesting.

Section 19.359. Sea Cucumbers:

- (1) No person may commercially harvest, commercially process, or commercially export sea cucumbers without having a valid permit issued by KIRMA.
- (2) No person may possess more than five (5) sea cucumbers, at one time, without a valid permit issued by KIRMA.
- (3) KIRMA shall adopt necessary regulations to provide for the protection and sustainable commercial harvesting, commercial processing, and commercial exportation of sea cucumbers in accordance with this section. These regulations shall provide for:
 - (a) the number, time, species, place and method of sea cucumber harvesting by a permit system to assure responsible and environmentally sound harvesting;
 - (b) minimum and maximum size or other limitation in harvesting; requiring permit holders to receive training in sea cucumber species identification;
 - (c) minimizing environmental impacts caused by commercial processing of sea cucumber;
 - (d) reporting requirements for persons commercially processing or commercially exporting sea cucumbers; and
 - (e) the absolute ban of the commercial harvesting, commercial processing, and/or commercial exportation of any species of sea cucumber that has been determined by the Administrator to require such protection.
- (1) KIRMA shall monitor sea cucumber populations to determine whether the commercial harvesting, commercial processing, or commercial exportation of sea cucumber is within sustainable levels.
- (2) Prior to issuing or denying a permit, KIRMA shall receive and consider advice from the Director of the Department of Resources and Economic Affairs.
- (3) For purposes of this section, the phrase “sustainable commercial harvesting, commercial processing, and commercial exportation” means undertaking these activities by methods, and at levels, that allow the sea cucumber population to replenish itself perpetually, and does not significantly alter or degrade their functions within the island ecosystem.”

Chapter 4 – Land, Antiquities and Terrestrial Wildlife

Subchapter A – General Provisions

Section 19.401. The Administrator may adopt regulations for the protection of natural or historic resources, terrestrial wildlife including endangered species, and establish standards for classifying land in accordance with present and future uses.

Subchapter B – Antiquities

Section 19.402. Impact review. Before the Government begins to undertake, assist, participate in, or license an action that might affect the land or State waters, KIRMA considers the impact of the action on antiquities and traditional culture, reporting its findings to the Governor, the Legislature, and components of Government involved in the proposed action.

Section 19.403. Regulation. By regulation, the KIRMA states the classes of structures, artifacts, or other objects which constitute State antiquities, and provides for authorization of the uses of antiquities for scholarly research, museum display or educational purposes.

Subchapter C – Endangered Species

Section 19.405. Endangered species. By regulation the Administrator states an endangered species and provides for its protection.

Section 19.406. Endangering a species. Endangering a species is taking, possessing, exporting or engaging in any commercial activity concerning any endangered species of plant or animal, as provided by this title, regulations adopted pursuant to this Title and Title 13.

Section 19.407. Unlawful Pigeon Hunting. Unlawful pigeon hunting is the taking, wounding, or killing of any pigeon from the first (1st) day of February to the thirty-first (31st) day of December inclusive, or during January from midnight Saturday to midnight Sunday.

Section 19.408. Endangering the Kosrae White-eye. Endangering the Kosrae White-eye or 'Trum' is the killing, injuring, capturing, possessing or exporting of the Kosrae White-eye or 'Trum'.

Chapter 5 – Hazardous Substances and Pollution

Subchapter A – General Provisions

Section 19.501. Powers and duties. The Authority has the power and duty to:

- (1) adopt and enforce primary and secondary drinking water regulations, including the establishment of an underground injection control program;
- (2) adopt and provide for the continuing administration of a program for the abatement or prevention of the contamination of drinking water system;
- (3) establish and provide for the continuing administration of a permit system for the discharge of a pollutant in the air, land or water;
- (4) order a polluting party to abate the causing of, and to remove, polluting matter; and
- (5) adopt and implement plans for the certification of applicators of pesticides, for the issuance of experimental use permits for pesticides and a plan to meet special local needs.

Subchapter B – Pollution

Section 19.502. Littering. Littering is the willful or negligent throwing, dropping, placing, depositing, spitting or sweeping of any waste matter on land or water in other than appropriate storage containers or areas designated for such purposes. Waste matter is discarded, used, or left-over substances including, but not limited to, chewed betel nut, a lit or unlit cigarette, cigar, match, or a flaming or glowing material, or any garbage, trash, refuse, paper, container, packaging or construction material, carcass of a dead animal, any noxious or offensive matter, or to dump waste matter in or upon a public or private road, including any portion of the right-of-way thereof, or in or upon private property into or upon which the public is admitted by easement or license, or upon private property without the consent of the owner, or in or upon a public park or other public property other than property designated or set aside for such purpose. It is unlawful to deposit or dump, rocks or dirt in or upon a private road, including any portion of the right-of-way, or upon private property, without the consent of the owner, or in or upon a public park or other public property, without the consent of the authority having jurisdiction over the road or property. No portion of this section is construed to restrict an owner in the use of his private property, except that the deposition or dumping of waste matter on the property may not create a public nuisance as defined by Section 13.509.

Section 19.503. Fouling of public rivers and public water supply. Fouling of public rivers and public water supply is introducing impurities into a stream, river or public water supply, except for the introduction of impurities in a stream or river in connection with washing of clothes or a person.

Section 19.504. Polluting. Polluting is willfully or negligently discharging pollutants in violation of this Title or in violation of any condition or limitation included in a permit issued pursuant to this Title or, in

the case of introduction of pollutants into publicly owned treatment works, violating a pretreatment standard or toxic effluent standard.

Section 19.505. Contamination of fisher waters: No person shall directly or indirectly contaminate the fishery waters, including, without limitation:

- (1) Discharging non-biodegradable trash or debris, poison, oil, petroleum, solvents, metals, sewage or other noxious substances; or
- (2) Taking any action likely to damage or degrade the quality of the fishery waters or fish.

Subchapter C – Persistent Organic Pollutants

Section 19.506. Title: This subchapter shall be known as and may be cited as the Persistent Organic Pollutants Acts of 2009.

Section 19.507. Purpose: This chapter is enacted to protect the environment and the health of persons of Kosrae with the specific purposes of:

- (1) Implementing the provisions of the Stockholm Convention;
- (2) Reducing and eventually eliminating the introduction of certain hazardous substances into Kosrae's environment; and
- (3) Monitoring the use and discharge of certain hazardous substances currently within the jurisdiction of Kosrae.

Section 19.508. Definitions: The following definitions apply in this chapter, unless the context clearly requires otherwise:

- (1) "Active ingredients" means:
 - (a) In the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient will prevent destroy, repel, or mitigate any pest;
 - (b) In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or maturation otherwise alter the behavior of plants or their produce;
 - (c) In the case of a defoliant, an ingredient which will cause the leaves of foliage to drop from a plant; and
 - (d) In the case o a desiccant, an ingredient which will artificially accelerate the drying of plant tissues.
- (2) "Environment" means water, air, land, and all plants and humans and other creatures on or in the water, air, or land, and the interrelationships that exist among them.
- (3) "Hazardous substances" means:
 - (a) Any substance which is toxic, corrosive, an irritant, a strong sensitizer, flammable, combustible, or generates pressure through decomposition, heat or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children or any substance which KIRMA, in consultation with the Director of Health, finds comes within the definition of this paragraph.
 - (b) Any radioactive substance, if with respect to such substance as use in a particular class of article or as package, KIRMA, in consultation with the Director of Health, determines that the substance is sufficiently hazardous to require labeling in order to protect that public health.

- (c) Any substance that KIRMA, in consultation with the Director of Health, determines is a hazardous substance consistent with the purpose and intent of this chapter, including but not limited to substances containing pesticides.
- (4) "Inert ingredient" means an ingredient that is not an active ingredient.
 - (5) "Label" means written, printed, or graphic matter on the container of any substance, or in the case of an article which is unpacked, or is not packaged in a container intended or suitable for delivery to the ultimate consumer, a display of such matter directly on the article involved, or on a tag or other wrapper.
 - (6) "Misbranded product" means a hazardous substance that does not meet the labeling requirement of this chapter.
 - (7) "Person" means any individual, firm, corporation, association, partnership, agency, authority, commission, foundation; the Government of the State of Kosrae; its political subdivisions, state created entity; municipality, or other institution or entity, whether public or private.
 - (8) "Radioactive substance" means a substance that emits ionizing radiation.
 - (9) "Sell or distribute" means to distribute, solicit, sell, offer for sale, hold the sale, transport, deliver for transportation, or otherwise introduce into the stream of commerce within the State of Kosrae or through any point located within the State of Kosrae.

Section 19.509. Hazardous Substances Covered by this Act. The initial priority list of hazardous substances including the following compounds, identified in Micronesia's Draft National Implementation Plan for the Stockholm Convention:

- (1) Aldrin
- (2) Chlordane
- (3) DDT (Dichloro -diphenyl trichloroethane)
- (4) Dieldrin
- (5) Dioxins
- (6) Endrin
- (7) Furans
- (8) Heptachlor
- (9) Hexachlorobenzene (HCB)
- (10) Mirex
- (11) Polychlorinated Biphenyls (PCBs)
- (12) Toxaphene

Section 19.510. Additions to the Priority List.

- (1) KIRMA may supplement the priority list of hazardous substances by regulation.
- (2) Substances to be considered for the priority list are those that pose a significant human health risk either by toxicity or because they are persistent bioaccumulative toxins as identified by international environment organizations.
- (3) The Department of Health shall be consulted in the identification of substances to be included on the priority list.
- (4) Substances shall be removed from the list only with the approval of the Legislature.

Section 19.511. Sale, Use, Possession and Discharge of Substances on the Priority List.

- (1) Prior to a ban under this chapter, no person shall:

- (a) Possess, use, store, transport, discard, or otherwise discharge any substance on the priority list except as specified on the labeling;
 - (b) Possess, use, store, transport, discard, or otherwise discharge any substance on the priority list in any manner which would have unreasonably adverse effects on the environment; and
 - (c) Possess, use, store, transport, discard, or otherwise discharge any substance on the priority list unless the person has a current, valid permit.
- (2) After a ban is in effect under this chapter, no person shall possess, sell, buy, use, apply, store, transport, discard, or otherwise discharge any substance on the priority list except as authorized by regulation.
 - (3) No person may sell any product containing any substance on the priority list after January 1st of the year following the year the substance is placed on the priority list except as authorized by regulation.
 - (4) The substance is banned after January 1st of the second year following the year the substance was placed on the priority list. A ban means no person may possess, sell, buy, use, apply, store, transport, discard, or otherwise discharge any product containing any substance on the priority list except as authorized by regulation.
 - (5) Once a substance is placed on the priority list, KIRMA shall issue a notice of the effective date of the ban, of permit requirements, and of any testing, monitoring and reporting requirements required by regulation. KIRMA shall prescribe the method and content of the notice by regulation.
 - (6) KIRMA shall promulgate regulations on the sale, use, possession, and discharge of substances placed on the priority list, including testing, monitoring, and reporting requirements.

Section 19.512. Labeling Requirements.

- (1) No product containing substances identified on the priority list shall be used, distributed, received, or sold within the State of Kosrae, with or without the permit, unless it bears a label, in English, providing the following information:
 - (a) name, brand, or trademark under which the product is sold or distributed;
 - (b) ingredient statement containing both active and inactive or inert ingredients;
 - (c) directions for use and disposal which, if complied with, will adequately protect health and environment;
 - (d) warning or caution statements as may be required by regulations;
 - (e) weight or measure of active and inactive or inert ingredients.
- (2) It shall be a violation of this chapter to detach, alter, deface, or destroy, in whole or in part, any label unless such action is taken pursuant to regulation issued under this chapter.
- (3) It shall be a violation on this chapter to possess, sell, buy, use, apply, store, transport, discard, or otherwise discharge a misbranded product.

Section 19.513. Permits.

- (1) KIRMA shall, by regulation, establish a process for issuing permits to possess, use, store, transport, discard, or otherwise discharge any substances on the priority list prior to the date it is banned.
 - (a) Any permit issued shall specify its duration and the conditions for compliance with any rules and standards adopted by regulation pursuant to this chapter.

(b) KIRMA may establish a schedule of fees for applying for a permit. The fees shall be based upon the anticipated cost of filing and investigating the application, of issuing or denying the requested permit, and of an inspection program to determine compliance with the permit. The fee shall accompany the application for a permit.

(c) KIRMA may require submission of plans and other reasonable information for the safe use, transport, discharge and disposal of substances on the priority list as it considers necessary to determine the eligibility of the applicant for the permit.

- (2) KIRMA shall require periodic reports from persons who hold permits. The report shall be in a form prescribed by KIRMA and shall contain the information on the amount and nature of the substance on the priority list, methods of discharge and disposal, and such other information as KIRMA may require by regulation.
- (3) Any fee collected under this chapter shall be deposited in the State's Treasury to the credit of an account of KIRMA. Such fees are continuously appropriated to meet the administrative expenses of the permit program. If fees collected in any year exceed the legislatively approved budget, the excess amount shall be credited toward the permit program budget for the following year. Any fee collected under this chapter shall be accounted for and expended in the same manner as are other local revenue funds appropriated for KIRMA.
- (4) KIRMA shall require persons holding ka permit that allows for the use or discharge of one or more of the substances placed on the priority list to test for or monitor, and to report their release on at least an annual basis, between June 1 and June 30, of each year.

Section 19.514. Violation, Warning Notices and Penalties.

(1) First Violation.

(a) Any person who violates this chapter, or any regulation issued under this chapter, shall receive a warning notice from KIRMA citing the specific violation and the necessary corrective action for the first violation.

(b) If the first violation is knowing and intentional, or if the first violation causes substantial harm to any person's health or to the environment, KIRMA may impose additional penalties as authorized by regulation.

(2) Second Violation.

(a) Any person who violates this chapter, or any regulation issued under this chapter a second time, shall assessed a civil penalty between ten dollars (\$10.00) and fifty thousand dollars (\$50,000.00), depending on the severity of the harm to health and environment caused by the violation.

(b) In addition to the civil penalty, any permit issued under this chapter may be revoked.

(3) Third and Successive Violation.

(a) Any person who violates this chapter, or any regulation issued under this chapter a third or successive time, shall be assessed a civil at least double the amount of the previous civil penalty, and depending on the severity of the harm to health and environment caused by the violation.

(b) In addition, any permit issued to the repeat violator under this chapter shall be revoked.

(c) In addition, the repeat violator shall be guilty of a misdemeanor and shall be fined not more than \$500.00 or imprisoned for not more than one year, or both upon conviction.

- (d) In addition, if the repeat violator knowingly and intentionally violated and the violation caused serious harm or serious adverse effects on the environment, the repeat violator shall be guilty of a felony and shall be fined not more than \$1,000.00 or imprisonment for not more than three years, or both, upon conviction.
- (4) In addition to the above penalties, a violator may be required to pay the costs of assessing harm to health and the environment and the costs of any clean-ups, as provided for by regulations under this chapter.
- (5) In addition to the above procedures and penalties, KIRMA may issue cease and desist order and seize banned substances as provided for by regulations under this chapter.

Section 19.515. Liability.

- (1) When constructing and enforcing the provisions of this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

Section 19.516. Cooperation. KIRMA is authorized and empowered to cooperate with and enter into agreements with any department of the State, the National Government, the College of Micronesia, other States within the Federated States of Micronesia, and any other agency of the State, to carry out the purpose of this chapter and to implement any provisions of the Stockholm Convention.

Section 19.517. Authority to Inspect.

- (1) KIRMA, and its authorized representatives and employees, may enter upon public or private property at any reasonable time to examine and inspect documentation and permits, application methods, supplies of substances on the priority list, or being considered for the priority list, to examine and collect samples of plants, soil, water, or other materials, and to perform any other act for the purpose of carrying out its responsibilities under this chapter.
- (2) KIRMA shall promulgate regulations covering notices to be given, the conduct of its authorized representatives and employees, and any other act under this submission.

Section 19.518 Exemptions.

- (1) KIRMA may, by regulation, grant exemptions under this chapter to state and national departments and agencies to conduct experimental or research work related to the impact of the substance on health and the environment. The exemption must be in writing and must contain conditions designed to protect health and the environment and requiring removal of any unused substances in the State.
- (2) KIRMA may, by regulation, allow a substance on the priority list to be used and discharged if its use serves a health need with no reasonably available alternative as certified by the Department of Health.

Section 19.519. Community Education.

- (1) In order to improve public understanding of the types and amount of hazardous substances entering the environment of the State, KIRMA shall create and regularly update a database of substances on the priority list by municipality. KIRMA shall create the database in a commonly used database format and make it available to the public by posting in public location and on the World Wide Web.
- (2) KIRMA and the Department of Health shall jointly provide for community education on health and environment risks associated with substances on priority list and associated with substances being considered for the priority list.

- (3) KIRMA shall cause the database required by this section on or before January 1st of the year following enactment of this chapter.

Section 19.520. Implementation of the Stockholm Convention· KIRMA is authorized to promulgate regulations, in addition to other permitted or required by this chapter, to ensure implementation of this provision of the Stockholm Convention and the intent of this chapter.

Chapter 6 – Waste Management and Recycling

Subchapter A – Kosrae Recycling Program

Section 19.601. Recycling Program Established. This Chapter establishes a recycling program for the State of Kosrae whereby the State of Kosrae shall from time to time appoint a recycling agent to collect such waste materials as are designated by regulation and to the extent possible dispose of such material by sale and shipment from Kosrae.

- (1) The recycling program shall be, to the maximum extent, self-sustaining so that the collection of Recycling Deposit Fees and the sale of designated waste materials will be sufficient to fund the continued collection and removal of waste material from Kosrae.

Section 19.602. Recycling Agent· As of the effective date of this chapter, the Recycling Agent for the State of Kosrae is KIRMA.

- (1) A Recycling Agent shall hold its appointment until such time as a new Recycling Agent is nominated and appointed by the Governor.
- (2) A Recycling Agent may only be appointed by the Governor following the Legislature's consent by resolution to the nomination by the Governor.
- (3) A Recycling Agent may contract with a Recycling Operator to operate the recycling program.

Section 19.603. Regulation. The Administrator shall promulgate rules and regulations, guidelines, programs, and operating principles as may be deemed proper and necessary in the light of government policies and objectives of this Chapter.

- (1) The rules and regulations, guidelines, programs, and operating principles shall be in writing and shall be designated as the Recycling Program Regulations.
- (2) Before taking effect, the Recycling Program Regulations must be approved by resolution by the Legislature.
- (3) Amendments to the Recycling Program Regulations must be approved by resolution by the Legislature.

Section 19.604. Recycling Deposit Fee· A recycling deposit fee in an amount specified by the Recycling Program Regulations shall be charged upon all items designated by the Recycling Program Regulations arriving or manufactured in the State of Kosrae and shall be collected pursuant to procedures and regulations established under this Title.

- (1) The Recycling Deposit Fee is not a tax on imports.
- (2) The Recycling Deposit Fee shall be paid by the person or entity importing or manufacturing the designated items.
- (3) The Recycling Deposit Fee shall not apply to those items imported to Kosrae that are intended for re-export, items manufactured in Kosrae for eventual export, or items imported to Kosrae for transshipment to a destination outside of Kosrae.

Section 19.605. Recycling Fund· A Recycling Fund has been established pursuant to Title 10, Section 10.205 (1)(d) of the Kosrae State Code.

- (1) There shall be paid into the Recycling Fund

- (a) Any money appropriated by the Kosrae State Legislature for the purposes of the Fund; and
 - (b) All monies collected as a Recycling Deposit Fee under this Chapter or Recycling Program Regulations; and
 - (c) Any other money lawfully available to the Fund.
- (2) There shall be paid out of the Recycling Fund:
- (a) The amount of any expenditure by the State on the costs of recovering waste materials.

Section 19.606. Payments by Recycling Agent: The Recycling Agent or Recycling Operator shall make such payments to persons or entities for those items designated by the Recycling Program Regulations a may be from time to time specified in the Recycling Program Regulations.

Section 19.607. Reimbursements to Recycling Agent or Recycling Operator: The Division of Finance and Administration shall process and provide reimbursement from the Recycling Fund to the Recycling Agent or Operator within five (5) working days of the written request for funds supported by any requirements specified by the Recycling Program Regulations.

Section 19.608. Reporting.

The Administrator shall, on or before August 1 of each year, submit to the Kosrae State Legislature and the Governor:

- (1) A statement showing the estimated income and expenditure of the Recycling Fund for the current financial year; and
- (2) Estimates of the income and expenditure of the Recycling Fund for the next financial year;
- (3) The Administrator shall, on or before February 1 of each year, submit a report to the Kosrae State Legislature and the Governor dealing generally with the operations of the Recycling Fund during the preceding financial year and containing the audited statement of account for the financial year.

Section 19.609. Recycling Offenses. Any person who:

- (1) Willfully refuses, or without reasonable excuse neglects or fails to pay a Recycling Deposit Fee; or
- (2) Willfully, with the intent to defraud, claims or takes the benefit of any exemption from the Recycling Deposit Fee without being entitled to that benefit; or
- (3) In circumstances not falling within either of the preceding subsections, contravenes provisions of this Chapter or any regulations made under this Chapter; shall be in violation of the offense of Cheating under Title 13, Section 13.404 of the Kosrae State Code.

Section 19.610. Civil proceedings. Without prejudice to any criminal prosecution, any Recycling Deposit Fee which remains unpaid after it has become due for payment shall be recoverable by the State, from the person liable to pay the Recycling Deposit Fee, as a civil debt.

Chapter 7 Enforcement

Subchapter A – Procedures.

Section 19.701. Right of Entry. To enforce the Title KIRMA may at a reasonable time enter an establishment or public or private property for the purpose of obtaining information, making an inspection, obtaining samples, inspecting or copying a record required to be maintained by this Title or regulation, or conducting a survey or investigation to enforce this chapter.

Section 19.702. Enforcement.

- (1) A person who violates this Title is subject to enforcement action by KIRMA which may include issuance of a cease and desist order, imposition of a civil penalty up to ten thousand dollars for each day violation, or commencement of a civil action to enjoin the violation.
- (2) If KIRMA finds that an unlawful discharge of waste is taking place or may take place or that the waste collection treatment or disposal facilities of a discharger is approaching capacity KIRMA requires the discharger to submit for approval of KIRMA, with such modifications as it may deem reasonably necessary, a detailed time schedule of specifications the discharger will take to correct or prevent a violation of requirements.
- (3) When KIRMA finds that an unlawful development activity or discharge of waste is taking place or may take place, KIRMA issues an order to cease and desist and directs that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith; (b) comply in accordance with a time schedule set by KIRMA; or (c) in the event of a threatened violation, take appropriate remedial or preventive action. In the event of an existing or threatened violation of waste discharge in the operation of a community system, cease and desist orders may restrict or prohibit the volume, type, or concentration of waste that might be added to such system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order.
- (4) KIRMA holds a public hearing to determine the authenticity of the facts upon which it issued a cease and desist order affording adequate notice and opportunity to appear and be heard to an interested person.
- (5) A cease and desist order of KIRMA becomes effective upon issuance, and final upon KIRMA's issuance of findings after a public hearing. KIRMA serves a copy by registered mail or personal delivery upon a person charged with the violation and upon an affected person appearing at the hearing and requesting a copy.
- (6) A person who engages in a development activity or discharges a pollutant into the water, air, or on the land in violation of this Title or a regulation or other order issued by KIRMA, or who intentionally or negligently causes of permits such a violation, upon order of KIRMA, corrects the violation or abates its effect.

Section 19.703. Court proceeding. Upon failure of a person to comply with a KIRMA order, following KIRMA's request, the Attorney General petitions the Court for the issuance of an injunction, mandamus or other appropriate remedy requiring the person to comply with the order.

Chapter 8. Terrestrial and Marine Protection Areas

Section 19.801. Short Title. This chapter shall be known as the "Protected Area Act of 2010".

Section 19.802. Powers and Duties. KIRMA has the power and duty to:

- (1) Promulgate and enforce regulations; and
- (2) Establish by regulation activities and uses which are restricted or prohibited in the System; and
- (3) Establish procedures, conditions, and standards for development; for the harvesting or collection of trees and other natural resources; fishing, hunting; conducting research; and other activities within the System;
- (4) Establish and provide for the continuing administration of a permit program for development; or for the harvesting or collection of trees and other natural resources within the System;

Section 19.803. Application.

This Chapter shall apply to all mangrove, upland, wetland and watershed forests as delineate in Kosrae State Land Use Plan dated June 13, 1994 and revised 2003, as adopted by the Legislature, and other areas of biological significance as identified in the Kosrae Biodiversity Strategic Action Plan; and to all areas designated as protected areas in the System pursuant to law and pursuant to regulations adopted pursuant to the Chapter.

Section 19.804. Definitions. As used in this Chapter, unless the context otherwise requires:

- (1) "Administrator" means the administrator of KIRMA.
- (2) "Areas of biological significance" means those areas delineated in the Kosrae Biodiversity Strategic Action Plan and other areas as determined by KIRMA through regulations adopted pursuant to this Chapter.
- (3) "DREA" means Department of Resources and Economic Affairs.
- (4) "Fish" means any species of mammal, fish, amphibian, mollusk, crustacean, arthropod, invertebrate, coral or other animal that inhabits the freshwater or marine plants or algae, including seeds, roots, products, and any other parts thereof; and any other living freshwater or marine resource, including bacteria and fungi.
- (5) "Fishing" means:
 - (a) The actual or attempted searching for, chasing of, catching, taking or harvesting of fish;
 - (b) Any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish; and
 - (c) The placing, searching for, or recovery of fish aggregating device or associated equipment such as radio beacons.
- (6) "Liquid waste" means any liquid substance, synthetic or organic, which may pollute soil, groundwater or surface water, including but not limited to petroleum products, pesticides, chemicals, or any other substance deemed unsafe for the health of the forest and designated by KIRMA through regulations adopted pursuant to this Chapter.
- (7) "Mangrove forest" means any inter-tidal ecosystem, including all trees, other plants and animals therein.
- (8) "Non-commercial" means not intended or designated to procure profit, reward or compensation in exchange for products or services rendered.
- (9) "Open fire" means a fire which is not completely contained within a metal or concrete enclosure.
- (10) "Person" means any individual, government or business entity.
- (11) "Reserved trees" means any trees within or in the vicinity of a permitted harvesting area that are not designated for cutting and are to be protected during harvest operations.
- (12) "Sensitive watershed" means any upland area on steep slopes with soils classified as "highly" erodible or "very highly erodible" by the USDA Soil Conservation Service or USDA Forestry Service.
- (13) "Solid waste" means any waste composed of metal, paper, plastic, other synthetic materials or any other solid substance deemed unsafe for the health of the forest and designated by KIRMA through regulations adopted pursuant to this Chapter.

- (14) "Subsistence fishing" means fishing undertaken by the residents of Kosrae to ensure the livelihood of the immediate or extended family as may be further defined by regulation.
- (15) "System" refers to the collective marine and terrestrial protected areas established by this act or designated by future statutes, as provided herein.
- (16) "Upland forest" means an uncultivated area with natural forest that may contain wetland and watershed forest, but does not contain mangrove forest.
- (17) "Watershed forest" means:
 - (a) An area from which the water supply of any municipality, village or community is or may be obtained; or
 - (b) An area where water infiltrates into artesian or other ground-water areas from which the water supply of any municipality, village or community is or may be obtained.
- (18) "Wetland forest" means a freshwater swamp forest in which trees and other plants exist in waterlogged soil.

Section 19.805. Prohibition. It shall be unlawful for any person to:

- (1) Dispose of any liquid or solid waste in or on any area of the System except in designated waste container;
- (2) Build, ignite or maintain any open fire in a mangrove, upland, wetland or watershed forest, except by written authorization issued by the Administrator pursuant to this Chapter;
- (3) Harvest or collect trees or any other plants in or from any State owned forests, including all mangrove forests, except by written authorization issued by the Administrator pursuant to this Chapter;
- (4) Violate any regulation adopted pursuant to this Chapter; or
- (5) Violate any permit or order issued by the Administrator pursuant to this Chapter.

Section 19.806. Mangrove Forests.

- (1) No trees or other plants may be collected or harvested in or from any mangrove forest, except by written authorization provided by the Administrator pursuant to this Chapter. The authorization shall specify the maximum quantity of trees which may be harvested and the permitted harvesting location. The harvest or collection of reserved trees is prohibited at all locations at all times. The Administrator may establish prohibit all harvests in specific locations through establishment of "no harvest zones" by regulations adopted pursuant to this Chapter.
 - (a) Notwithstanding the provisions of this Section, an individual may, from time to time, harvest no more than a single mangrove tree for traditional and customary personal non-commercial use by the individual.
- (2) All construction, earthmoving, fill and excavation from or in mangrove forest is prohibited, except following completion of environmental assessment and satisfaction of all applicable requirements of Chapter 2 of this Title, and all applicable regulations.

Section 19.807. Watershed Forests.

- (1) A buffer zone of one hundred (100) feet adjacent to all rivers and streams upstream of all dams is established in all watershed forests. The buffer zone boundary shall begin at the average high water mark of the river or stream boundary at the dam and shall extend parallel to the river or stream boundary to

the headspring or source of the river or stream. All construction, earthmoving, fill and excavation is prohibited in the buffer zone.

- (2) All earthmoving, fill, excavation and removal of trees and other plants is prohibited on or from watershed forest land which has a slope of 30% or more.

Section 19.808. Wetland Forest.

The harvest of trees or other plants may be regulated by the Administrator through regulations adopted pursuant to this Chapter. No Terminalia (Ka) tree may be harvested or collected in or from any wetland forest, except by written authorization provided by the Administrator pursuant to this Chapter. The authorization shall specify the quantity of trees to be harvested and the permitted harvesting location. The harvest or collection of trees is prohibited at all locations at all times. The Administrator may prohibit all harvests in specific locations through establishment of “no harvest zones” by regulations adopted pursuant to this Chapter.

Section 19.809. Harvesting From State Owned Forests.

All harvesting of trees and other plants on or from State owned forest is prohibited, except in accordance with regulations adopted by KIRMA pursuant to this Chapter, or by written authorization provided by the Administrator. KIRMA shall adopt regulations that require fire prevention and use of appropriate harvesting and re-vegetation practices to encourage re-growth and native biodiversity. Native vegetation on State owned forests shall not be converted to introduced or non-native plantations.

Section 19.810. Establishment of the Kosrae State Protected Areas System.

There is hereby established the Kosrae State Protected Areas System which shall be subject to this Chapter and administered by the Administrator in consultation with the Mayors of the municipalities.

- (1) All areas currently designated as marine park areas for the protection and conservation of fish and wildlife, as of the effective date of this Chapter shall be included within the System. All areas within the System shall remain part of the System until otherwise specified by law.
- (2) Other marine and terrestrial areas to be included in the System shall be designated pursuant to the following procedure:
 - (a) The area proposed for inclusion in the System shall first be proposed to the Mayor of the municipality in which the area is located. The Mayor shall review the proposal, and submit written comments on the proposal, complete with any required application, to KIRMA within thirty (30) days.;
 - (b) KIRMA shall transmit the proposal and comments to DREA, which shall conduct its review of the proposal documents. DREA shall complete its review, including action on any required permit or approval, within thirty (30) days, and shall transmit the record of its action to KIRMA.
 - (c) KIRMA shall then complete its review, including action on any required permit or approval, within thirty (30) days, and shall then transmit the records of its action and DREA action to the KIRMA Board of Directors.
 - (d) The KIRMA Board of Directors shall complete its review, including action on any required permit or approval, within thirty (30) days, and shall then transmit the complete record to the Governor.
 - (e) The Governor shall complete his review, including action on any required permit or approval, within thirty (30) days, and if approved, shall then transmit the complete record to the Legislature, including his request for the area to be designated as a protected area within the System.
 - (f) The Legislature may approve by act the area proposed as a protected area within the System.

Section 19.811. Administration of the Kosrae State Protected Areas System.

- (1) In administering the System, the Administrator is authorized to:
 - (a) To enter into contracts with any person for the provision of facilities for the management of the area and such public accommodations that are not consistent with the primary purpose for which the area was established. No facility may be developed in any area of the System unless it is compatible with the use of the area;
 - (b) To accept donations of funds and to use such funds to acquire or manage lands, waters or interests therein, and to accept any gift, device, grant or other conveyance of title to, or any interest in, real property or other tangible goods, to be added to or used in connection with the System; and
 - (c) To acquire lands, waters or interests therein by exchange of public lands for private lands, or for interests in public lands which the Administrator finds suitable for disposition or by eminent domain, for inclusion within the System.
- (2) Within sixty (60) days of the designation of an area to be included within the System, the Administrator shall issue such regulations as are necessary for the proper administration of the area and as are consistent with the purposes of the establishment of the System. In developing the regulation under this subsection, the Administrator shall consult with the traditional leaders and the leaders of the local municipal government for the area in which the designated area is located.

Section 19.812. Prohibited Activities Within the Kosrae State Protected Area System.

- (1) Within the boundaries of an area designated as part of the System:
 - (a) No person shall harvest, disturb, injure, cut, burn, remove, destroy or possess any part of the real or personal property of the State, including mangrove and forested area, natural growth and minerals, in any area of the System;
 - (b) No person shall take or possess any fish, bird, mammal or other wild vertebrate animals or part, or nest, or egg thereof within any such area unless otherwise allowed by regulations adopted pursuant to this Chapter;
 - (c) No person shall engage in fishing, unless otherwise allowed by regulations issued under this Chapter;
 - (d) No person shall engage in dredging, mining or other removal of minerals, rock, sand, coral or other natural resources;
 - (e) No person shall enter, use or otherwise occupy any area of the System for the purpose of engaging in any activity prohibited under this section, unless such activities are otherwise permitted under this Chapter or regulations adopted under this Chapter.
- (2) Commercial exploitation of resources within the boundaries of the System is prohibited. Qualified institutions and individuals shall be permitted to conduct nondestructive forms of scientific investigation within the System, upon receiving the prior written approval from the Administrator pursuant to regulations adopted under this Chapter.

Section 19.813. Permit required.

- (1) Notwithstanding Section 19.812, the Administrator is authorized, under such regulations as he may adopt, to permit the use of areas within the System for non-commercial recreational hunting and fishing, subsistence fishing, public recreation and accommodations, and scientific research when such uses are compatible with the purposes for which such areas were established.

- (2) If the material provisions of any permit issued are violated by the permit holder, in addition to any other remedies allowed by law, the Administrator may revoke or suspend the permit permanently or for a specified period of time pursuant to procedures established by regulations.

Section 19.814. Inventory of Features of Area. Within sixty (60) days after the designation of an area within the System, the Administrator shall prepare an inventory of each area's scenic, natural, and cultural features, including but not limited to, ecological, archeological, historical and geological features.

Section 19.815. General Plan. Following the designation of an area within the System, and prior to the development of any new facilities in an area, the Administrator shall prepare a general plan for the area. The general plan shall consist of elements that will evaluate and define the proposed land uses, facilities, concessions, operation of the area, any environmental impacts, and the management of resources, and shall serve as a guide for the future development, management, and operation of the area. No new facility may be developed in any area of the System unless compatible with the purposes for which the area was designated.

Section 19.816. Enforcement.

- (1) If the Administrator determines that any person has violated or is violating this Chapter, any regulation adopted pursuant to this Chapter, or any permit or authorization issued pursuant to this Chapter, the Administrator shall serve written notice by certified mail or personal service upon the alleged violator or violators specifying the alleged violation. The notice may include:
 - (a) Upon the first violation, a warning notice may be issued a citing the specific violation and necessary corrective action;
 - (b) An order that the alleged violator cease and desist from the activities that violate this Chapter, any rules adopted, or permit issued pursuant to this Chapter;
 - (c) An order imposing penalties provided in Section 19.819; and
 - (d) An order that the alleged violator appear before the Administrator for a hearing at a time and place specified in the notice or to be set later and answer the charges complained of;
 - (e) Any order issued pursuant to this Chapter shall become final, unless not later than fifteen (15) days after the notice of violation and order is served, the person or persons named therein requests in writing a hearing before the Administrator.
 - (f) Any penalty imposed pursuant to this Chapter shall become due and payable fifteen (15) days after the notice of penalty is served, unless the person named therein requests in writing a hearing before the Administrator. Whenever a hearing is requested on any penalty imposed pursuant to this Chapter, the penalty shall become due and payable only upon completion of all review proceedings and issuance of a final order confirming the penalty in whole or in part. Upon request for a hearing, the Administrator shall require the alleged violator appear before the Administrator for a hearing at the time and place specified in the notice and answer the charges complained of. The hearing shall be conducted pursuant to regulations adopted pursuant to regulations adopted pursuant to this Chapter.

Section 19.817. Emergency Powers; Procedures. If the Administrator determines that an imminent peril to the public health and safety requires immediate action, the Administrator, without a public hearing, may order any person causing or contribution to the action, fire, disposal of waste, harvesting or collection to immediately reduce or stop the action, fire, disposal of waste, harvesting or collection, and may take any and all other actions as may be necessary. The order shall fix a place and time, not later than twenty-four (24) hours thereafter, for a hearing to be held before the Administrator.

Section 19.818. Injunction and Other Relief.

- (1) The Administrator may institute a civil action in the State Court for injunction and other relief to address any action, fire, disposal of discharge of waste, prevent any violation of this Chapter, any regulation adopted, or condition of a permit or authorization issued pursuant to this Chapter, to impose and collect civil penalties, to collect administrative penalties, or obtain other relief.
- (2) The Administrator may require the violator to perform corrective or restorative action to restore the subject sit to its original condition as nearly as possible.
- (3) In addition to any other penalty imposed, any person who violates Section 19.805(1) shall be liable for all costs of removal and remediation of the waste disposal, and all costs of corrective and restorative action taken to restore the forests to its original condition.
- (4) In addition to any other penalty imposed, any person who violates Section 19.805(2) shall be liable for all costs of suppressing the fire, and all costs of corrective and restorative action taken to restore the forest to its original condition.
- (5) In addition to any other penalty imposed, any person who violates Section 19.805(3) shall be liable for a penalty equivalent to the value of the wood, logs, trees and plants harvested in violation, and all costs of corrective and restorative action taken to restore the forest to its original condition.

Section 19.819. Civil Penalties· Any person who violates this Chapter, any regulation adopted pursuant to this Chapter, or any term or condition of a permit or authorization issued pursuant to this Chapter shall be fined not more than \$10,000.00 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action. In determining the amount of the penalty, the gravity of the violation, prior violations, and the demonstrated good faith of the person charged in attempt to achieve rapid compliance after notification of a violation shall be considered.

Section 19.820. Administrative Penalties· In addition to any other administrative or judicial remedy provided by this Chapter or by rules adopted pursuant to this Chapter, the Administrator is authorized to impose by order the penalties specified in Section 11.1819.

Section 19.821. Criminal Penalties· In addition to any action which may be brought under this Chapter:

- (1) Any person who negligently or knowingly disposes of or discharges waste and who at the time negligently or knowingly places another person in imminent danger of death or serious bodily injury shall be guilty of a category three felony.
- (2) Any person who knowingly violates this Chapter, regulations adopted under this Chapter, or a permit issued under this Chapter shall be guilty of a category three misdemeanor.

Section 19.822. Separate Offenses· For the purpose of imposing civil and criminal penalties under this Chapter, each day of a continuing violation shall constitute a separate offense·

Section 19.823. Liability of Vessels in rem· Any vessel used in the commission of a violation of this Chapter, regulations adopted under this Chapter, or a permit issued under this Chapter shall be liable in rem for any civil penalty or criminal penalty imposed.

Background:

Former Title 19 repealed and new Title 19 added by S.L. 10-8.

Section 19.824. Establishment of Utwe Biosphere Reserve·

- (1) There is hereby established the marine protected area known as the Utwe Biosphere Reserve (“the Reserve”) which shall be subject to the provisions of this Act and be administered by KIRMA.

- (2) The main objective of the Reserve is to preserve and prohibit any human activities particularly the harvesting of natural resources, within the core are of the Reserve.
- (3) The Reserve is located on the South-West of Kosrae on the relatively flat and narrow coastal plain extending from the foothills to the shore at 5°16'13"N; 162°57'27"E.
- (4) The Reserve shall comprise three zones these being the core zone, buffer zone and transition zone.
- (5) The Core Zone:
 - (i) has an area of 96.4 ha and is centrally located among the other zones. It's GPS coordinates are Longitude 162 degrees 57 minutes 28.937 second East, Latitude 5 degrees 16 minutes, 26.764 seconds North.
 - (ii) is designated a no-take zone, meaning all natural resources extractive activities are prohibited.
 - (iii) The boundary coordinates for the Core Zone are to be established by regulation by KIRMA.

Background:

Former Title 19 repealed and new Title 19 added by S.L. 10-8. Section 19.824 is added by S.L. No. 10-48.

Title 20. STATE GOVERNMENT ETHICS ACT

Section 20.101. Short Title. This chapter shall be known as and may be cited as the "State Government Ethics Act."

Section 20.102. Purpose. The purpose of this chapter is to prescribe standards of ethical conduct for all State Government employees and officials in order that the people of Kosrae may have confidence in the integrity of their government and demand accountability from their government officials.

Section 20.103. Scope. The provisions of this chapter shall apply to all employees of the State Government including elected and appointed officials and all persons covered by or specifically exempted from the Public Service System Act, Title 18 of the Kosrae State Code.

Section 20.104. Definitions. The definitions in this section shall apply throughout this title, unless otherwise specified or a different meaning is plainly required.

- (1). "Benefit" shall mean gain or advantage of any kind, and shall include financial gain, property, service, or improvement of condition.
- (2) "Business" shall mean business of any kind whether situated in the State of Kosrae or elsewhere and whether incorporated or not.
- (3) "Confidential information" shall mean information that is not available to the public and was communicated to the public employee or official during his or her employment and or was communicated in a manner that a reasonable person would understand the information was not to be disclosed outside of the designated group.
- (4) "Family member" shall mean a parent, brother, sister, spouse, or child, including a person who is adopted legally or in accordance with custom, or for whom case was given by the public official such that there exists a relationship in the nature of parent and child. The term shall also include a spouse of any person referred to in this definition and their children.