



Commonwealth of the Northern Mariana Islands

Office of the Governor

Saipan, Mariana Islands 96950

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REPLY TO

DEPT or ACTIVITY

23 MAY 1989

The Honorable Benjamin T. Manglona
Senate President
Sixth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

GOV. COMM. 6-109
(HOUSE)

and

The Honorable Pedro R. Guerrero
Speaker, House of Representatives
Sixth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. President and Mr. Speaker:

This is to inform you that I have signed into law Senate Bill No. 6-104, S.D.I, H.D.2, entitled, "To add a new Article 2 to Title 1, Division 2, Chapter 8 of 1 CMC, providing for a Commonwealth Solid Waste Management and Disposal Act of 1988; to amend 1 CMC, Section 2605(x); and to amend 4 CMC, Division 8 to remove refuse collection responsibility from the Commonwealth Utilities Corporation; and for other purposes", which was passed by the Sixth Northern Marianas Commonwealth Legislature.

Signing this bill will ensure the improvement and protection of the environmental quality of life here in the Commonwealth, and in particular, the new sanitary landfill can proceed as authorized by this legislation. By the way, several minor technical concerns have been brought to the attention of the authors of this bill, for consideration.

This bill becomes Public Law No. 6-30, of which copies bearing my signature are forwarded for your ready reference.

Sincerely,

PEDRO P. TENORIO
Governor

Attachment

CC: Special Assistant for Programs and Legislative Review

RECEIVED
BY J. Hernandez
5/23/89

*technical
concerns*

SUBJ: Senate Bill No. 6-104, "Commonwealth Solid
Waste Management Act of 1989"

5/15/89

Page 2

First, the introductory description and Section 13 refer to the "Commonwealth Solid Waste Management Act of 1988". However, Section 1 declares the Short Title to be the "Commonwealth Solid Waste Management Act of 1989." These three should be made consistent. Second, Section 4 refers at line 9 in the heading and at line 11 in subsection (a) to the Department of Pubic Works. Some people might argue that is an appropriate name or that it was intentional. Nonetheless, we believe that the Legislature had no intention of creating a new executive department but was referring to the esteemed Department of Public Works and the text should be corrected to so reflect.

Our other concerns occur in Section 9 which deals with the various penalties under this act. Section 9(a) allows the Chief of the Division of Environmental Quality to require a person to undertake **any** of a list of corrective measures. We twice previously asked that the words "or all" be added after "**any**" to make it clear that the Chief had discretion and was not limited to just one of the measures, which is a possible interpretation of the present wording.

A second problem is located in Section 9(c) which uses the words "summarily suspend" in reference to permits. This phrase is preceded by "suspend" and followed by "**revoke**". It is still unclear to us what "summarily suspend" means or how it differs from "suspend" or "**revoke**". However, any problem can be avoided by not relying on these words in enforcing the law.

A third problem is located in Section 9(d) which sets a civil penalty of not less than \$10,000 per day for each violation which the violator "shall pay to the Division of Environmental Quality". We twice suggested substituting the phrase "shall be subject to" for "shall pay to the Division of Environmental Quality". It is a much more accurate statement of the law and how penalties are applied. However, the present phrase will suffice.

A fourth concern deals with the criminal penalty of a \$50,000 fine, with each day of violation being a new offense under Section 9(f). Our concern here is that this level of monetary penalty will entitle violators to a jury trial. We recommended a maximum fine of \$2,000 with each day of violation being a new offense. That would have avoided a jury trial for each person so accused. The Legislature intended to set the fine as high as they did because a lesser amount might not deter very serious violations, particularly those involving hazardous waste. That is a reasonable position and if the fact of jury trials causes a problem of enforcement in the future, the law can be amended at that time.

PUBLIC LAW NO. 6-30

S.B. NO. 6-104, S.D.1, H.D.2

SIXTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SECOND SPECIAL SESSION, 1989

AN ACT

To add a new Article 2 to Title 1, Division 2, Chapter 8 of 1 CMC, providing for a Commonwealth Solid Waste Management and Disposal Act of 1988; to amend 1 CMC, Section 2605(x); and to amend 4 CMC, Division 8 to remove refuse collection responsibility from the Commonwealth Utilities Corporation; and for other purposes.

Offered by Senators Juan N. Babuata. Benjamin T. Manclona.
and Paul A. Manalona

Date: April 27, 1988

SENATE ACTION

Referred to: Committee on Health, Education, Welfare and Programs

Standing Committee Report No: 6-73

First Reading: July 22, 1988

Second and Final Reading: July 27, 1988

Accepted House Amendments: April 14, 1989

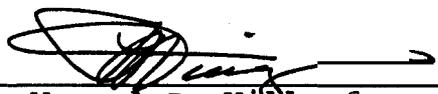
HOUSE ACTION

Referred to: Committee on Natural Resources

Standing Committee Report No: 6-48

First Reading: February 14, 1989

Second and Final Reading: April 14, 1989


Manuel P. Viilagomez
Senate Legislative Secretary

MAY 9 REC'D

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Section 9.	Penalties.
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Section 11.	Conformity to Article VI, Section 3(b) of the Constitution.
Section 12.	Add. Title 1 CMC, Division 2.
Section 13.	Amendment. Title 1 CMC, Division 2.
Section 14.	Amendment. Title 4 CMC, Division 8.
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AN ACT

To add a new Article 2 to Title 1, Division 2, Chapter 8 of 1 CMC, providing for a Commonwealth Solid Waste Management and Disposal Act of 1988; to amend 1 CMC, Section 2605(x); and to amend 4 CMC, Division 8 to remove refuse collection responsibility from the Commonwealth Utilities Corporation; and for other purposes.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Short Title. This Act may be cited as
2 the "Commonwealth Solid Waste Management Act of 1989."

3 Section 2. Statement of Policy. It is hereby
4 declared to be the public policy of the Commonwealth of the
5 Northern Mariana Islands and the purpose of this act to
6 provide for collection, disposal, and management systems
7 for solid waste that will protect the health, safety, and
8 welfare of the public and the environment of the
9 Commonwealth.

10 Section 3. Definitions. As used in this Act:

11 (a) "Chief" shall mean the Chief of the
12 Division of Environmental Quality, Department of
13 Public Health and Environmental Services.

14 (b) "Collection" shall mean the act of
15 removing solid waste from a storage container at
16 the source of generation or at a transfer station
17 and the subsequent transport of the solid waste to
18 the site of disposal.

1 (c) "Director" shall mean the Director of
2 the Department of Public Works.

3 (d) "Disposal" shall mean and include the
4 siting, design, construction or operation of any
5 solid waste management facility, including but
6 not limited to sanitary landfills, transfer
7 stations, recycling operations, or incinerators.

8 (e) "Hazardous Waste" shall mean any
9 material which because of its quantity,
10 concentration, physical, chemical, radiological,
11 toxic, or infectious characteristics, may cause,
12 or significantly contribute to an increase in
13 mortality or an increase in serious irreversible
14 or incapacitating reversible illness, or pose a
15 substantial present or potential hazard to human
16 health or the environment when improperly managed.

17 (f) "Open burning" means burning of solid
18 waste in the open, such as in an open dump.

19 (g) "Open dump" shall mean a land site at
20 which solid wastes are disposed of in a manner
21 that does not protect the environment, are
22 susceptible to open burning, or are exposed to
23 the elements, vectors, or scavengers.

24 (h) "Person" shall mean any individual,
25 partnership, corporation, association, or

1 government entity, corporation, or agency.

2 (i) "Sanitary Landfill" shall mean a
3 solid waste management facility employing an
4 engineered method of disposing of solid wastes
5 on land in a manner that minimizes environmental
6 hazards by spreading the solid wastes in thin
7 layers, compacting the solid wastes to the
8 smallest practical volume, and applying and
9 compacting cover material at the end of each
10 operating day.

11 (j) "Solid Waste" shall mean and include
12 any garbage, refuse, sludge from a water supply
13 or waste treatment plant, or other discarded
14 material whether solid, liquid, semisolid, or
15 contained gaseous material, excluding domestic
16 sewage or discharge of dredged material subject
17 to the U.S. Clean Water Act, as amended.

18 (k) "Solid Waste Management Facility"
19 means any site at which solid wastes are
20 aggregated for storage, transferal, transformation,
21 processing, or disposal, including but not limited
22 to sanitary landfills, transfer stations, recycling
23 operations, or incinerators, but not including
24 sites where a single person has collected its own
25 solid wastes for a brief period prior to removal

1 to a solid waste management facility, unless such
2 person has created thereby a public nuisance or
3 health hazard.

4 (1) "Transfer Station" means a site to
5 which solid wastes are brought from their point of
6 generation and where such wastes are temporarily
7 stored prior to transfer to a site of permanent
8 storage, processing, or other method of disposal.

9 Section 4. Department of Pubic Works: Powers and
10 Responsibilities.

11 (a) The Department of Pubic Works shall be
12 the responsible agency empowered to:

13 (1) collect at transfer stations and
14 dispose of solid waste in the Commonwealth
15 as provided in this Act;

16 (2) establish rules and regulations to
17 enforce its powers; and

18 (3) assess fees by regulation for the
19 collection and disposal of solid wastes.

20 (b) The Director is authorized to contract
21 with any person for performance of the solid waste
22 collection or disposal duties of the Department of
23 Public Works. Such person shall not commence such
24 contract without first obtaining a permit from the
25 Division of Environmental Quality as provided herein

1 and conforming with all other requirements of this
2 Act.

3 (c) The Director shall report annually to
4 the Governor and to the Legislature the amount of
5 fines and fees collected and the cost of solid
6 waste collection and disposal operations undertaken
7 by the Department under the provisions of this Act.
8 The Director shall recommend amendments or additions
9 to this Act or to the Comprehensive Solid Waste
10 Management Plan, once enacted, as appropriate to
11 accomplish the policy set out in Section 2 above.

12 Section 5. Department of Public Health and
13 Environmental Services: Powers and Responsibilities.

14 (a) The Chief of the Division of Environmental
15 Quality shall be empowered to:

16 (1) issue nontransferable permits both
17 for the collection and for the disposal of
18 solid waste consistent with the protection of
19 the environment and the public health;

20 (2) monitor performance and enforce the
21 conditions of collection and disposal permits
22 to ensure protection of public health and the
23 environment and to prevent public nuisances;

24 (3) establish rules and regulations to
25 enforce its powers; and

1 (4) by regulation assess a fee for
2 permits.

3 (b) The Chief is authorized to issue emergency
4 permits for open dumps.

5 (1) Emergency permits must be counter-
6 signed by the Governor of the Commonwealth.

7 (2) Notice of an emergency permit must
8 be advertised through at least two forms of
9 public media one week prior to becoming
10 effective.

11 (c) All applicants, except the Department of
12 Public Works, for a solid waste collection or disposal
13 permit must submit proof of a performance bond in
14 amounts determined by the Chief.

15 (d) The Chief shall prepare a comprehensive
16 solid waste management plan for the island of Saipan,
17 including an examination of the feasibility and
18 desirability of employing incineration, or other
19 alternative disposal methods, in place of or in
20 association with sanitary landfills, so as to extend
21 the useful life of and reduce the need for additional
22 land for such landfills.

23 The plan shall include clearly stated solid
24 waste management goals including, but not limited to:
25 protection of the environment, protection of human

1 health, recycling of waste materials, efficient and
2 economic management of collection and disposal of
3 solid waste, and privatization of the collection and
4 disposal process. The plan shall include quantifi-
5 able objectives to measure achievement of the goals,
6 a timetable for attainment of each objective, and a
7 provision for an annual report to the Legislature on
8 the progress of the Commonwealth in reaching its
9 solid waste management goals.

10 The plan shall conform to the comprehensive
11 land use plan of the Marianas Public Land Corporation
12 and any statutorily established land use or economic
13 development plans for the Commonwealth in effect
14 during the planning process. The scope of time
15 considered in this plan shall be the years 1990
16 through 2010.

17 (e) The Chief shall submit the Comprehensive
18 Solid Waste Management Plan, constructed in statutory
19 form as appropriate, to the Legislature for enactment
20 into law. The Legislature shall have 90 days from
21 date of submission to enact the Plan, as submitted or
22 with amendments, or to reject the Plan. Should the
23 Legislature fail to enact or reject the Plan within
24 90 days the Plan shall become law without such action.
25

Section 6. Site Selection Criteria; Utilization Standards. Site selection for and utilization of solid waste management facilities shall be consistent with public health and welfare requirements and all applicable environmental quality standards. Site selection criteria and standards for utilization shall include, but are not limited to the following:

- 8 (a) applicable public health and
- 9 environmental standards;
- 10 (b) protection of groundwater resources;
- 11 (c) engineering feasibility;
- 12 (d) operational feasibility;
- 13 (e) compatibility with adjacent land uses
- 14 and consistency with island-wide patterns of land
- 15 use, whether or not such patterns are established
- 16 or confirmed by law;
- 17 (f) conformity with the Comprehensive Solid
- 18 Waste Plan contemplated in Section 5(d) and (e) of
- 19 this Act, after such Plan is enacted into law; and
- 20 (g) aesthetic or visual environmental
- 21 impacts.

22 Section 7. Recycling.

- 23 (a) At any collection point or disposal site
- 24 the permittee, or in the case of transfer stations
- 25 or other solid waste management facilities operated

1 by the Department of Public Works, the Director,
2 shall provide for the segregation from other solid
3 wastes and from each other those components which
4 can be recycled profitably either within the
5 Commonwealth or by shipment to recycling operations
6 outside the Commonwealth.

7 (b) Fees for collection and disposal of solid
8 wastes shall be structured so as to encourage such
9 segregation by the public and be consistent with the
10 economic value of the components.

11 Section 8. Prohibited Activities. It is unlawful for
12 any person to:

13 (a) violate any provision of this Act or any
14 rule or regulation established by authority of this
15 Act;

16 (b) own, operate, or use an open dump for
17 disposal of solid waste without an emergency permit
18 issued pursuant to this Act;

19 (c) place, or allow to be placed, any solid
20 waste on the roads or on any public or private
21 property contrary to the provisions of law;

22 (d) own or manage a solid waste management
23 facility without a disposal permit issued pursuant
24 to this Act;

25 (e) operate a business the purpose of which is

1 to collect or transport solid waste without a
2 collection permit issued pursuant to this Act;

3 (f) collect, transport, process, or dispose
4 of solid waste or hazardous waste in such a manner as
5 to degrade the environment, create a public nuisance,
6 create a health or safety hazard, or in a manner
7 otherwise contrary to this Act;

8 (g) transport solid waste on any road unless
9 adequate precautions are taken to contain and prevent
10 the solid waste from falling off the vehicle;

11 (h) destroy, or attempt to destroy, by
12 burning, except in an incinerator approved by the
13 Chief, any solid waste that will give off offensive
14 odors or that is within one mile of any village or
15 other residential or urban area. Burning of trees,
16 bush, grass, or other organic detritus of land
17 clearing or landscaping is permissible as permitted
18 by law; or

19 (i) dispose of any hazardous waste without a
20 hazardous waste management permit issued pursuant to
21 2 CMC, Section 3122(c) (2).

22 Section 9. Penalties.

23 (a) The Chief may issue any order to enforce
24 the provisions of this Act. The order may require
25 the person to do any of the following:

1 (1) to cease and desist from the
2 violation;

3 (2) to take mitigating measures to
4 correct the violation; or

5 (3) to pay a civil fine of not more
6 than \$1,000.00 for each violation.

7 (b) The Chief may institute a civil action
8 to seek any lawful remedy, including exemplary
9 damages and contempt for failing to abide by an
10 order, to enforce the provisions of this Act.

11 (c) The Chief may modify, suspend, summarily
12 suspend, or revoke any permit issued by Division of
13 Environmental Quality for violation of provisions of
14 this Act, subject to the provisions of the
15 Administrative Procedures Act (1 CMC, Division 9,
16 Chapter 1).

17 (d) Any person who violates any hazardous
18 waste management provision of this Act or any
19 regulation issued under the authority of this Act, or
20 who refuses or neglects to comply with an order issued
21 by the Chief shall pay to the Division of
22 Environmental Quality a civil penalty of not less than
23 \$10,000.00 per day for each violation.

24 (e) Any person subject to civil penalties is
25 entitled to prior written notice and to a hearing upon

1 written request to the Chief.

2 (f) In addition to the other penalties
3 provided for in this Act, a person is guilty of
4 criminal offense if the person knowingly and willingly
5 commits any act prohibited by this Act. Any violation
6 of this Act shall be punishable by a fine of not more
7 than \$50,000.00, or by imprisonment for not more than
8 one year, or both.

9 (g) Each day of continued violation is a
10 separate offense.

11 Section 10. Deposits. All monies, including fees and
12 civil fines, collected by the Chief or the Director under
13 the provisions of this Act shall be deposited to the General
14 Fund of the Commonwealth.

15 Section 11. Conformity to Article VI, Section 3(b)
16 of the Constitution. Nothing in this Act shall prevent a
17 Mayor from carrying out the responsibilities and duties of
18 the Mayor under Article VI, Section 3(b) of the
19 Constitution.

20 Section 12. Add. Sections 1 through 11 of this Act
21 shall be added as a new Article 2 to Chapter 8 of 1 CMC,
22 Division 2.

23 Section 13. Amendment. Title 1 CMC, Division 2,
24 Section 2605(x), is hereby repealed and reenacted to read:

25 "(x) Permitting of the operation and

1 environmental monitoring of solid waste collection
2 and of solid waste management facilities, including,
3 but not limited to, sanitary landfills, open dumps,
4 transfer stations, and incinerators pursuant to
5 provisions of the Commonwealth Solid Waste Management
6 Act of 1988 and other applicable laws."

7 Section 14. Amendment. Title 4 CMC, Division 8, sub-
8 section 8112(b) is amended by deleting "refuse collection".

9 "(b) "Utility service" includes the delivery of
10 electrical, water, sewer, cable television and
11 telephone services in the Commonwealth."

12 Section 15. Amendment. Title 4 CMC, Division 8,
13 subsection 8121(c) is amended to read as follows:

14 "(c) The Corporation shall have the following
15 divisions:

- 16 1. Electrical Power Division.
- 17 2. Water Services Division.
- 18 3. Sewer Division.
- 19 4. Compliance Division."

20 Section 16. Amendment. Title 4 CMC, Division 8, sub-
21 section 8122(a) is amended by deleting "refuse collection".

22 "(a) The Commonwealth Utilities Corporation
23 shall supervise the construction, maintenance
24 operations, and regulation of power, sewage,
25 telephone, cable television, and water utility

services: Provided, that whenever feasible the
2 Corporation shall contract for private business to
3 assume its duties with respect to one or more of its
4 division."

5 Section 17. Amendment. Title 4 CMC, Division 8, sub-
6 section 8123(i) is amended by deleting "refuse collection".

7 "(i) To contract to transfer to private owner-
8 ship or control the construction, management, and
9 operation of the water, sewer, and electrical power
10 systems, in a public manner that is both timely and
11 fair to the government, its employees, and utility
12 service consumers."

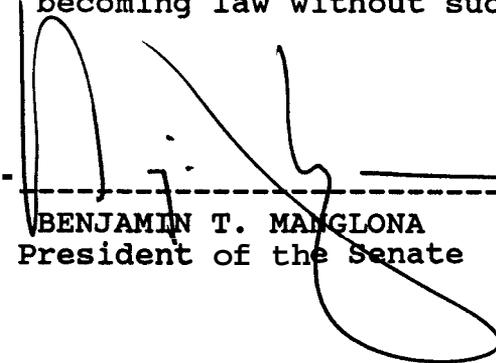
13 Section 18. Amendment. Title 4 CMC, Division 8, sub-
14 section 8123(m) is amended by deleting "refuse collection".

15 "(m) To the extent the Corporation deems lawful
16 and necessary, to review and establish utility rates
17 and other fees for water, sewer, telephone, cable
18 television, and electrical power."

19 Section 19. Severability Clause. The provisions of
20 this Act are severable and if any provision or part thereof
21 shall be held invalid or unconstitutional or inapplicable
22 to any person or circumstance, such invalidity,
23 unconstitutionality, or inapplicability shall not effect or
24 impair the remaining provisions of this Act.

25

1 Section 20. Effective Date. This Act shall take
2 effect upon its approval by the Governor of upon its
3 becoming law without such approval.



BENJAMIN T. MANGLONA
President of the Senate

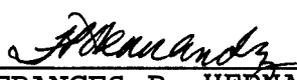


PEDRO R. GUERRERO
House Speaker

ATTEST:



MANUEL P. VILLAGOMEZ
Senate Legislative Secretary



FRANCES P. HERNANDEZ
Acting House Clerk

May 23
_____, 1989


PEDRO P. TENORIO
Governor
Commonwealth of the Northern Mariana Is.