



Gov. Msg. No. 9-314

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

FROILAN C. TENORIO  
Governor

JESUS C. BORJA  
Lt. Governor

Capitol Hill  
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SEP. 5 1985

The Honorable Juan S. Demapan  
President of the Senate  
Ninth Northern Marianas  
Commonwealth Legislature  
Saipan, MP 96950

The Honorable Diego T. Benavente  
Speaker, House of Representatives  
Ninth Northern Marianas  
Commonwealth Legislature  
Saipan, MP 96950

Dear Mr. Speaker and Mr. President:

This is to inform you that I have signed into law Senate Bill No. 9-19, S.D. 1, entitled, "A Bill for an Act to add a new article 4 to 3 CMC, Division 5, Oil Spill and Hazardous Materials Responder Immunity Act", which passed both Houses of the Ninth Northern Marianas Commonwealth Legislature.

This bill becomes Public Law No. 9-49. Copies bearing my signature are forwarded for your reference.

Sincerely,

FROILAN C. TENORIO

CC: Director, Emergency Operations  
Special Assistant for Programs and Legislative Review

s/c  
RECEIVED  
9/5/95  
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Copies to all senators  
9/5/95

***THE SENATE***  
**NINTH NORTHERN MARIANAS COMMONWEALTH**  
**LEGISLATURE**

**THIRD SPECIAL SESSION, 1995**

PUBLIC LAW NO. 9-49

**SENATE BILL NO. 9-19, SD1**

=====  
**AN ACT**

To add a new Article 4 to 3 CMC, Division 5, Oil Spill and Hazardous  
Materials Responder Immunity Act.

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**Offered by Senators** Juan.S. Demapan; Eusebio A. Hocog; Esteven M. King; Ricardo  
S. Atalig; Jesus R. Sablan; David M. Cing; Paul A. Manglona; and  
Thomas P. Villagomez.

**DATE:** February 8, 1994

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**SENATE ACTION**

**Referred to:** Committee on Resources, Economic Development & Programs  
**Standing Committee Report No.:** None  
**Second and Final Reading:** June 2, 1994

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**HOUSE ACTION**

**First and Final Reading:** June 27, 1995

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**DAVID M. CING**  
**SENATE LEGISLATIVE SECRETARY**

**NINTH NORTHERN MARIANAS  
COMMONWEALTH LEGISLATURE**

**PUBLIC LAW NO. 9-49  
SENATE BILL  
NO. 9-19.S.D.I**

**FIRST REGULAR SESSION, 1994**

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**AN ACT**

To add a new Article 4 to 3 CMC, Division 5, Oil Spill and Hazardous Materials Responder Immunity Act.

**BE IT ENACTED BY THE NINTH NORTHERN MARIANAS  
COMMONWEALTH LEGISLATURE:**

1           Section 1. Legislative Findings. Rapid response and immediate and decisive  
2 action are critical when a spill or other similar discharge of oil or hazardous material  
3 occurs, for effective removal or containment, just as in response to a natural disaster  
4 such as fire, typhoon or earthquake. In any of these circumstances responders must  
5 take immediate action based on very limited information, attacking the problem  
6 quickly if there is to be any realistic chance of mitigating the worst harm. Limited  
7 immunity for firefighters has long been recognized because of these circumstances,  
8 and this Act extends similar protection to oil discharge and hazardous material  
9 accident responders. Without similar immunity, the enormous financial risks and  
10 liability exposures associated with oil discharge and hazardous material accidents  
11 response **will** deter those persons who are not responsible for the initial incident, such  
12 as cleanup contractors, fishermen and barge owners, from prompt aggressive cleanup,  
13 or from any response at all. The liability for damages resulting from the oil discharge  
14 or hazardous material clean-up efforts falls on the party responsible for the initial  
15 discharge, not on the persons trying to help clean up or mitigate the damage.



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1           Section **5142. Definitions.** For the purposes of this chapter, the terms:

2                   (a) 'Damages' means damages of any kind for which liability  
3                   may arise under the laws of the Commonwealth or the common law  
4                   resulting from, arising out of, or related to the discharge or threatened  
5                   discharge of oil or hazardous material;

6                   (b) 'Discharge' means any emission (other than natural  
7                   seepage), intentional or unintentional, and includes, but is not limited  
8                   to, spilling, leaking, pumping, pouring, emitting, emptying or  
9                   dumping;

10                  (c) 'State (CNMI) On-Scene Coordinator' means the  
11                  Chairperson of the Commonwealth Area Contingency Planning  
12                  Committee, who co-chairs the planning meetings and will direct and  
13                  coordinate the response activities of Commonwealth agencies in the  
14                  event of a discharge;

15                  (d) 'Federal On-Scene Coordinator' means the Federal official  
16                  pre-designated by **the** Oil Pollution Act of 1990 and identified in the  
17                  Area Contingency Plan (Captain of the port for Guam and the CNMI)  
18                  to ensure immediate and effective response and coordinate and direct  
19                  Federal agencies in the event of a discharge;

20                  (e) 'Hazardous Materials' means toxic, chemical and other  
21                  sorts of substances commonly considered to be innately hazardous to  
22                  the environment in general and particularly to living things;

23                  (f) 'National Contingency Plan' means the National  
24                  Contingency Plan prepared and published under Section 311(d) of the

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1 Federal Water Pollution Control Act [33 USC 1321(d)], as amended  
2 by the **Oil** Pollution Act of 1990 (33 USC 2701);

3 (g) 'Oil' means oil of any **kind** or in any form, including, but  
4 not limited to, petroleum, fuel oil, sludge, oil refuse and oil mixed with  
5 wastes other than dredged oil;

6 (h) 'Oil Spill or Hazardous Material Response Organization'  
7 means an organization of private persons **which** is established for the  
8 primary purpose and activity of preventing or rendering care,  
9 assistance, equipment or advice in response to a discharge or  
10 threatened discharge of oil or hazardous material:

11 (i) 'Pewon' means an individual, corporation, partnership,  
12 association, Federal agency, state, territory, municipality, commission,  
13 or political subdivision of a state *or* territory;

14 (j) 'Removal costs' means the costs of removal that are  
15 incurred after a discharge of oil or hazardous material has occurred or  
16 in any case in which there is a **substantial** threat of a discharge of oil or  
17 hazardous material, the costs to prevent, minimize, or mitigate oil  
18 pollution from such an incident;

19 (k) 'Responsible party' means the following:

20 (1) Vessels. In the case of a vessel, any person  
21 owning, operating, or demise chartering the vessel.

22 (2) Onshore facilities. In the case of an onshore  
23 facility (other than a pipeline), any person owning *or* operating  
24 the facility, **except** a Federal agency, a state, territory,  
25 municipality, commission, or political subdivision of a state or

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territory, or any interstate body, that as the owner transfers possession and right to use the property to another person by lease, assignment, or permit.

(3) Offshore facilities. In the case of an offshore facility (other than a pipeline or a deepwater port licensed under the Deepwater Port Act of 1974 [33 USC 1501 et seq.]), the lessee or permittee of the area in which the facility is located or the holder of a right of use and easement granted under applicable state or territorial law or the Outer Continental Shelf Lands Act (43 USC 1301-1356) for the area in which the facility is located (if the holder is a different person than the lessee or permittee), except a Federal agency, state, territory, municipality, commission, or political subdivision of a state or territory, or any interstate body, that as owner transfers possession and right to use the property to another person by lease, assignment, or permit.

(4) Deepwater ports. In the case of a deepwater port licensed under the Deepwater Port Act of 1974 (33 USC 1501-1524), the licensee.

(5) Pipelines. In the case of a pipeline, any person owning or operating the pipeline.

(6) Abandonment. In the case of an abandoned vessel, onshore facility, deepwater port, pipeline, or offshore facility, the persons who would have been responsible parties immediately prior to the abandonment of the vessel or facility.

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1                   Section **5143**. Exemption from liability for persons responding to  
2 discharges of oil or hazardous material.

3                   (a) No person, including but not limited to an oil spill or  
4 hazardous material response organization, its agents, subcontractors  
5 and employees, shall be liable under the laws of the laws of the  
6 Commonwealth or the common law to any person for costs, damages,  
7 and any other claims and expenses as a result of actions taken or  
8 omitted to be taken **in** the course of rendering case, assistance and  
9 advice consistent with the Area Contingency Plan or the National  
10 Contingency Plan, or at the direction of the State (CNMI) On-Scene  
11 Coordinator or Federal On-Scene Coordinator in response to a  
12 discharge or threatened discharge of oil or hazardous material.

13                   (b) Subsection (a) of this Section shall not apply:

14                               (1) To a responsible party;

15                               (2) To actions for personal injury or wrongful  
16 death;

17                               (3) If the person commits acts **of** gross negligence  
18 or willful misconduct in connection with the cleanup of a  
19 discharge of oil.

20                   (c) A responsible party is liable for any removal costs and  
21 damages that another person or oil spill or hazardous material response  
22 organization is relieved of under subsection (a) of this Section."

23                   Section **4. Severability**. If any provision **of** this Act or the application of any  
24 such provision to any person or circumstance should be held invalid by a court of  
25 competent jurisdiction, the remainder of this Act or the application of its provisions to

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SENATE BILL NO. 9-19, S.D.1

1 persons or circumstances other than those to which it is held invalid shall not be  
2 affected thereby.

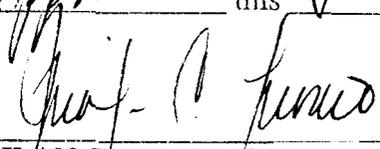
3 Section 5. Effective Date. This Act shall take effect **upon** its approval by the  
4 Governor or upon its becoming law without such approval.

**CERTIFIED BY:**

**ATTESTED TO BY:**

  
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JUAN S. DEMAPAN  
PRESIDENT OF THE SENATE

  
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DAVID M. CING  
SENATE LEGISLATIVE SECRETARY

*Approved* this *17<sup>th</sup>* day of *September*, 1995  
  
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FROILAN C. TENORIO  
GOVERNOR  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS