

Commonwealth of the Northern Mariana Islands  
Office of the Governor  
Saipan, Mariana Islands 96950

FOR OFFICIAL  
CABLE ADDRESS  
GOV. NMI SAIPAN  
REPLY TO:

DEPT. or ACTIVITY

October 8, 1982

The Honorable Benigno R. Fitiaf  
Speaker, House of Representatives  
Third Northern Marianas Commonwealth  
Legislature  
Saipan, CM 96950

and

The Honorable Olympio T. Borja  
President of the Senate  
Third Northern Marianas Commonwealth  
Legislature  
Saipan, CM 96950

GOV. COMM. NO. 41  
(House of Rep.)

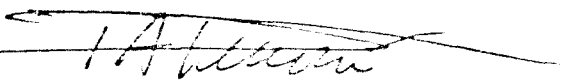
Dear Mr. Speaker and Mr. President:

I am pleased to inform you that I have signed into law House Bill No. 61, H.D.2, S.D.1, entitled, "To protect the environment of the Commonwealth, to establish a Division of Environmental Quality within the Department of Public Health and Environmental Services, to repeal Chapter 13 of Title 63 of the Trust Territory Code, to provide remedies and penalties, and for other purposes."

This law is essential for the preservation and protection of our land, water and natural resources, and our natural and human environment. Protection of our environment will, in turn, enhance the beauty of our islands for the enjoyment of our residents and visitors.

I thank you for the prompt action you have taken in the passage of this bill. House Bill No. 61, H.D.2, S.D.1 becomes Public Law 3-23. Copies bearing my signature are forwarded herewith for your ready reference.

Sincerely,

  
PEDRO A. TENORIO  
Acting Governor

Enclosures

CC: Special Assistant for Programs and Legislative Review

*Rec'd 10/12/82 - 10:40 am jgms*

THIRD NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SECOND REGULAR SESSION, 1982

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AN ACT

To protect the environment of the Commonwealth, to establish a Division of Environmental Quality within the Department of Public Health and Environmental Services, to repeal Chapter 13 of Title 63 of the Trust Territory Code, to provide remedies and penalties, and for other purposes.

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Offered by Representatives Vicente M. Sablan, Gregorio C. Sablan

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Date: January 26, 1982

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House Action

Referred to: Committee on Health, Education and Welfare  
Committee on Judiciary and Governmental Operations

Standing Committee Report No. 3-58

First and Second Reading: June 18, 1982

Final Reading: September 28, 1982

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Senate Action

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

Standing Committee Report No. 3-137

First Reading: September 7, 1982

Second Reading: September 23, 1982

  
Herbert S. Del Rosario  
Chief Clerk  
House of Representatives

FIRST REGULAR SESSION, 1982

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AN ACT

To protect the environment of the Commonwealth, to establish a Division of Environmental Quality within the Department of Public Health and Environmental Services, to repeal Chapter 13 of Title 63 of the Trust Territory Code, to provide remedies and penalties, and for other purposes.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1       Section I, Short Title. This Act may be cited as the  
2       "Commonwealth Environmental Protection Act."

3       Section 2, Policy and Purpose.

4           (a) The Legislature declares that it is the policy of  
5       the Commonwealth --

6           (1) to affirmatively protect the &Zit  
7       of each person to a clean and healthful public  
8       environment, as guaranteed by Section 9 of  
9       Article I of the Constitution;

10          (2) to establish and enforce environmental  
11       standards to protect and preserve the marine  
12       resources of the Commonwealth, in implementation  
13       of Section 1 of Article XIV of the Constitution;

14          (3) to protect vigorously the environment  
15       of uninhabited islands of the Commonwealth of the  
16       Northern Mariana Islands, thus furthering the purpose  
17       of Section 2, Article XIV of the Constitution, which  
18       requires that they be maintained as uninhabited places  
19       and used for cultural and recreational purposes, and  
20       for preservation of bird, fish, wildlife, and plant  
21       specits;

1                   (4) to afford special consideration to  
2                   the environmental quality of places and things  
3                   of cultural and historical significance to  
4                   contribute to the protection and preservation  
5                   thereof, in implementation of Section 3 of  
6                   Article XIV of the Constitution;

7                   (5) to maintain optimal levels of air, land,  
8                   and water quality in order to protect and preserve  
9                   the public health and general welfare;

10                  (6) to assure that necessary or desirable  
11                  economic and social development proceeds in an  
12                  environmentally responsible manner in order to  
13                  promote the highest attainable quality of life  
14                  for present and future generations;

15                  (7) to preserve, protect, and improve the  
16                  aesthetic quality of the land, water, and natural  
17                  resources of the Commonwealth in order to promote  
18                  the beauty of the Commonwealth for the enjoyment  
19                  of its residents and visitors; and

20                  (8) to protect the people of the Commonwealth  
21                  from physical, mental, and emotional harm that may  
22                  be caused by excessive levels of noise,

23                  (b) It is the purpose of this Act to implement the  
2                  policies set forth in subsection (a) of this section through  
2                  the clarification of responsibility within the Commonwealth

1 Government for environmental protection and through  
2 the establishment of a sound legal basis for the  
3 development and implementation of environmental plans  
4 and programs, and for the issuance and enforcement of  
5 rules, regulations, orders, standards, and permits  
6 relating to the preservation, protection, maintenance,  
7 and enhancement of the quality of the environment of  
8 the Commonwealth.

9 Section 3, Jurisdiction. The provisions of this Act and  
10 regulations issued pursuant to this Act shall apply to the air, land,  
11 water, wetlands, and submerged lands of or which appertain to the  
12 Commonwealth, including the Exclusive Economic Zone and other areas  
13 established by the Marine Sovereignty Act of 1980 (P.L. 2-7).

14 Section 4. Definitions. As used in this Act, the term --

15 (a) "Department" means the Department of Public Health  
16 and Environmental Services;

17 (b) "Director" means the Director of Public Health and  
18 Environmental Services;

19 (c) "Board" means the Board of Health and Environmental  
20 Quality;

21 (d) "Division" means the Division of Environmental  
22 Quality established by Section 5 of this Act;

23 (e) "Chief" means the Chief of the Division; and

24 (f) "Person" means any individual, corporation,  
25 association, partnership, or governmental entity.

Section 5. Establishment of Division. There is hereby established in the Department of Public Health and Environmental Services an agency to be known as the Division of Environmental Quality. The Division shall be headed by a Chief who shall serve under the direct supervision of the Director,

Section 6. Delegation of Duties, Except as otherwise provided in this Act, the Chief shall be responsible for the day-to-day administration, implementation, and enforcement of all powers and duties relating to environmental protection prescribed by law to the Department, the Director, or the Board-

Section 7. Regulatory Authority The Chief shall develop rules and regulations to carry out the policy and purpose of this Act and of any other provision of law the administration of which the Chief is responsible for pursuant to Section 6 of this Act. Notwithstanding any other provision of law, the Director shall have the exclusive power within the Department to issue regulations, after consultation with the Board, to carry out its policies and purposes. The regulations may exempt, or authorize the administrator to exempt, any activity or class of activities from the provisions of the regulations when the exemption would be in keeping with the policies and purposes of this Act and would be in the public interest. The regulations may impose a reasonable fee for any permit issued under this Act.

Section E. Environmental Programs.

(a) In addition to any other regulation required or permitted by law, the Director shall, after consultation

1 with the Board and consideration of appropriate Federal  
2 laws and regulations, issue regulations to establish and  
3 implement the programs set forth in this section.

4 (b) The Chief shall develop and administer a program  
5 to prevent, control, or mitigate any contamination of any  
6 public water system in the Commonwealth which he finds  
7 will have, or create a substantial risk of, a significant  
8 adverse effect on the public health or welfare or which  
9 may cause persons served by such system to discontinue its  
10 use. The program shall include criteria and procedures for  
11 monitoring, testing, treating, operating, or maintaining  
12 the system as necessary to assure optimal quality control  
13 of public drinking water supplies,

14 (c) The Chief shall develop and administer programs,  
15 including where appropriate a system of standards, permits,  
16 or prohibition, to prevent or regulate the following  
17 activities as necessary to protect the public health or  
18 welfare from any significant adverse effect of the  
19 activities:

20 (1) discharge of pollutants anywhere within  
21 the jurisdiction set forth in Section 3 of this Act;

22 (2) transportation, storage, use, and disposal of  
23 solid wastes, sewage, pesticides, herbicides, defoliants,  
24 dessicants, plant growth regulators, radioactive  
25 materials, and other hazardous substances; and

1                   (3) earthmoving, including the disturbance  
2                   or alteration of the surface or subsurface area  
3                   -of the land, sea floor, lagoon bottom, or coral  
4                   reef.

5                   (d) The Chief shall develop and administer a program  
6                   to assure public awareness and an opportunity for public  
7                   comment, including a public hearing when he determines that  
8                   such hearing is necessary or when such hearing is ordered by  
9                   the Director or the Board, concerning the issuance of any  
10                  permit under this Act in connection with any major siting,  
11                  including (1) subdivision of land           construction of major  
12                  public works projects, (3) construction of hotels, industrial  
13                  parks, petroleum storage or processing facilities, and  
14                  shopping centers, and (4) other large-scale projects or  
15                  activities as specified by regulation.

16                  (e) The Chief shall develop and administer a program to  
17                  collect, or to cause to be collected, information regarding  
18                  the quality of the environment of the Commonwealth. Any  
19                  permit issued under this Act may require that the applicant  
20                  for or holder of such permit supply any relevant information  
21                  to the Chief, monitor or allow the Chief to monitor any  
22                  activity under such permit, emplace or allow the Chief to  
23                  emplace any necessary recording device, and prepare or assist  
24                  the Chief in preparing any environmental assessment or  
25                  statement which may be required by regulation.



1           (f) (1) The Chief shall determine whether or not  
2           to issue a permit under this Act in connection with  
3           any activity which is not a major siting within the  
4           scope of subsection (d) of this Section not later  
5           than 21 days after the date he receives a complete  
6           application for such permit; Provided, that if an  
7           application for such permit is not complete, the  
8           Chief shall notify the applicant of the deficiencies  
9           in such application within 14 days after receipt  
10          thereof.

11           (2) The Chief shall determine whether or not  
12          to issue a permit under this Act in connection with  
13          any major siting within the scope of subsection (d)  
14          of this Section within 45 days after receipt of a  
15          complete application for such permit.

16          Section 9. Enforceaent, Remedies, and Penalties.

17           (a) The Chief, pursuant to regulations issued by the  
18          Director, shall have the power to issue any necessary order  
19          to enforce the provisions of this Act, any regulation issued  
20          under this Act, and any term of a permit granted pursuant to  
21          this Act. Such order may require that any person violating  
22          such provision or term cease and desist from such violation  
23          immediately or within a stated period of time, and may  
24          require that such person take such mitigating measures as  
25          may be necessary to reverse or reduce any significant adverse

1 effect of such violation. Such order may apply to any person  
2 in addition to the violator when necessary to protect the  
3 public health or welfare.

4 (b) At the request of the Chief, transmitted through  
5 and with the approval of the Director, the Attorney General  
6 shall institute a civil action in the Commonwealth Trial  
7 Court for a temporary restraining order, injunction, or  
8 other appropriate remedy to enforce any provision of this  
9 Act, any regulation or order issued under this Act, or any  
10 term of a permit granted pursuant to this Act.

11 (c) If any person fails to comply with any provision  
12 of this Act, or any regulation or order issued under this  
13 Act, or any term of a permit granted pursuant to this Act,  
14 after-notice of failure and the expiration of any reasonable  
15 period allowed for corrective action, the person shall be  
16 liable for a civil penalty of not more than \$1,000 for each  
17 day of the continuance of such failure, A person shall be  
18 liable for an additional penalty for any amount expended by  
19 any agency of the Commonwealth in taking any necessary action  
20 to reverse or reduce any significant adverse effect of the  
21 violation when the person is unwilling or unable to do so. If  
22 appropriate, any permit granted to a person pursuant to this  
23 Act may be revoked, suspended, or modified, The Director may  
24 assess, collect, and compromise any penalty. No penalty shall  
25 be assessed until the person charged with a violation has been

1        given an opportunity for a hearing before the Chief or a  
2        person designated by the Chief for that purpose; Provided, in  
3        emergencies the Chief may summarily suspend a permit pending  
4        permit application and subsection.

(d) Any person who knowingly and willfully (1) violates any provision of this Act, or any regulation or order issued under this Act, or any term of a permit granted pursuant to this Act, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, or (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, shall, upon conviction, be punished by a fine of not more than \$50,000, or by imprisonment for not more than one year, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any device or method of record remains inaccurate or inoperative because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

(e) Whenever a corporation or other entity is subject to prosecution under subsection (d) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under such subsection.

1           (f) The remedies and penalties prescribed in this  
2       section shall be concurrent and cumulative, and the exercise  
3       of one shall not preclude the exercise of the others, and  
4       such remedies and penalties shall be in addition to any other  
5       remedy or penalty afforded by any other law or regulation,

6           (g) Appeals from and judicial review of any adverse  
7       administrative action or decision under this Act shall be  
8       conducted as otherwise provided by law.

9           (h) Any penalty or fine collected pursuant to this  
10       section, and any permit fee collected pursuant to regulations  
11       issued under the authority of Section 7 of this Act shall be  
12       deposited to the General Fund of the Commonwealth Treasury.  
13       Section 10. Right of Entry.

14           (a) As a condition for the issuance and continuation  
15       of any permit granted under this Act, the holder of a permit  
16       shall allow prompt access to the premises covered by the  
17       permit to the Chief or his authorized representative for the  
18       purpose of inspecting the premises for compliance with the  
19       terms of the permit. The inspection may be made with or  
20       without advance notice to the permit holder, with good  
21       purpose, at the discretion of the Chief, but shall be made  
22       at reasonable times unless an emergency dictates otherwise.

23           (b) The Chief or his authorized representative may, with  
24       the consent of the owner or occupant, enter upon any property  
25       for the purpose of carrying out his duties under this Act.

1           (c) If the Chief has probable cause to believe a  
2       violation of this Act, any regulation or order issued under  
3       this Act or any term of a permit granted pursuant to this  
4       Act, has occurred or is imminent, or if it is necessary to  
5       permit the Chief to perform his duties under this Act, the  
6       Chief shall apply to the Commonwealth Trial Court or the  
7       District Court for the Northern Mariana Islands for an  
8       order or warrant to enter upon and search any property, take  
9       necessary samples or readings therefrom, seize evidence  
10      found therein and examine or impound any book or record  
11      found therein or specified in such warrant.

12           (d) The Chief or his authorized representative may  
13      enter upon any property for the purposes set forth in  
14      subsection (c) of this section ~~without~~ an order or warrant  
15      if he has probable cause to believe (1) that a violation  
16      described in the subsection has occurred or is imminent,  
17      (2) that the violation poses a serious, substantial, and  
18      immediate threat to the public health or welfare, and (3)  
19      that the delay in obtaining a court order or warrant would  
20      prolong or increase the threat, or would prevent, hinder,  
21      or delay the discovery of evidence of the violation or the  
22      taking of any necessary mitigating or remedial measure.

23      Section 11. Intergovernmental Cooperation. In carrying out  
24      his duties under this Act, the Chief may consult with any other  
25      appropriate governmental entity, international organization, or

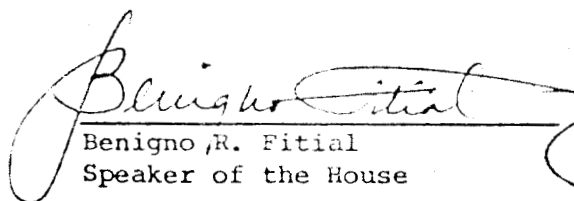
regional organization. The Chief may enter into cooperative agreements with any entity or organization, and may apply for, receive, and administer any grant related to his duties under this Act, either directly, or through the Director or the Governor, or through any other person designated by the Governor. Before entering into any cooperative agreement or applying for any grant, the Chief shall determine whether compliance with the conditions of the agreement or grant would be in the best interest of the Commonwealth.

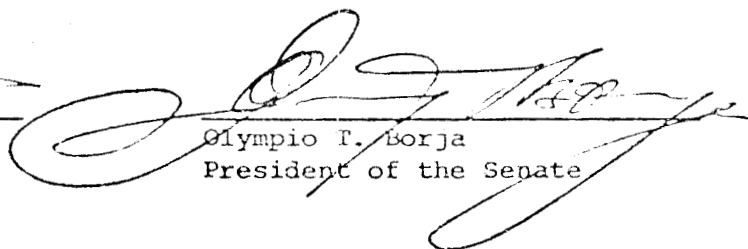
Section 12. Repealer and Savings Provisions. Chapter 13

(Sections 501 through 509) of Title 63 of the Trust Territory Code is hereby repealed. Any regulation issued under the chapter and in force and effect in the Commonwealth on the effective date of this Act shall remain in force and effect and be administered by the Chief until amended or repealed as provided in regulations issued by the Director pursuant to this Act. Any order issued pursuant to the chapter shall remain in force and effect until it expires by its own terms or is revoked by the Chief. Any action commenced under the chapter prior to the effective date of this Act shall continue as if the chapter had not been repealed.

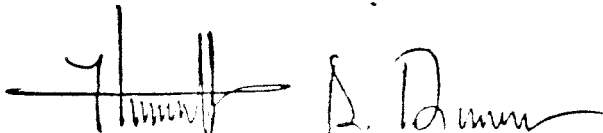
Section 13. Authorization. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.


Section 14, Effective Date. This Act shall take effect upon its approval by the Governor, or upon its becoming law without such approval,

  
Benigno R. Fitial  
Speaker of the House

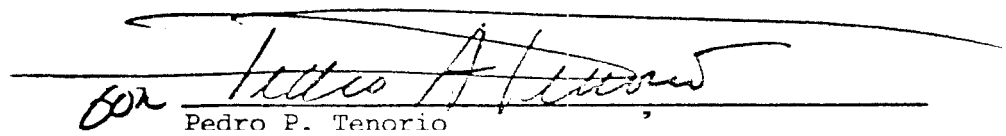
  
Olympio T. Borja  
President of the Senate

ATTEST :

  
Herbert S. Del Rosario  
Chief Clerk

  
Ignacio K. Quichocno  
Senate Legislative Secretary

APPROVED 10/8/, 1982

  
Pedro P. Tenorio  
Governor  
Commonwealth of the Northern Mariana Islands