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

23 MAY 1989

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

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.1, 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(a); 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,

[Signature]

PEDRO F. TENORIO
Governor

Attachment

CC: Special Assistant for Programs and Legislative Review

RECEIVED
BY [Signature] 5/23/89
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 Public 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.
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. Viagómez
Senate Legislative Secretary
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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:

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

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

Section 3. Definitions. As used in this Act:

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

(b) "Collection" shall mean the act of removing solid waste from a storage container at the source of generation or at a transfer station and the subsequent transport of the solid waste to the site of disposal.
(c) "Director" shall mean the Director of the Department of Public Works.

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

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

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

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

(h) "Person" shall mean any individual, partnership, corporation, association, or
government entity, corporation, or agency.

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

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

(k) "Solid Waste Management Facility" means any site at which solid wastes are aggregated for storage, transferal, transformation, processing, or disposal, including but not limited to sanitary landfills, transfer stations, recycling operations, or incinerators, but not including sites where a single person has collected its own solid wastes for a brief period prior to removal.
to a solid waste management facility, unless such person has created thereby a public nuisance or health hazard.

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


(a) The Department of Public Works shall be the responsible agency empowered to:

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

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

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

(b) The Director is authorized to contract with any person for performance of the solid waste collection or disposal duties of the Department of Public Works. Such person shall not commence such contract without first obtaining a permit from the Division of Environmental Quality as provided herein.
and conforming with all other requirements of this Act.

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

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

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

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

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

(3) establish rules and regulations to enforce its powers; and
(4) by regulation assess a fee for
permits.

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

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

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

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

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

The plan shall include clearly stated solid
waste management goals including, but not limited to:
protection of the environment, protection of human
health, recycling of waste materials, efficient and
economic management of collection and disposal of
solid waste, and privatization of the collection and
disposal process. The plan shall include quantifi-
able objectives to measure achievement of the goals,
a timetable for attainment of each objective, and a
provision for an annual report to the Legislature on
the progress of the Commonwealth in reaching its
solid waste management goals.

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

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

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

Section 7. Recycling.

(a) At any collection point or disposal site the permittee, or in the case of transfer stations or other solid waste management facilities operated
by the Department of Public Works, the Director,
shall provide for the segregation from other solid
wastes and from each other those components which
can be recycled profitably either within the
Commonwealth or by shipment to recycling operations
outside the Commonwealth.

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

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

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

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

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

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

(e) operate a business the purpose of which is
to collect or transport solid waste without a collection permit issued pursuant to this Act;

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

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

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

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

Section 9. Penalties.

(a) The Chief may issue any order to enforce the provisions of this Act. The order may require the person to do any of the following:
(1) to cease and desist from the violation;
(2) to take mitigating measures to correct the violation; or
(3) to pay a civil fine of not more than $1,000.00 for each violation.
(b) The Chief may institute a civil action to seek any lawful remedy, including exemplary damages and contempt for failing to abide by an order, to enforce the provisions of this Act.
(c) The Chief may modify, suspend, summarily suspend, or revoke any permit issued by Division of Environmental Quality for violation of provisions of this Act, subject to the provisions of the Administrative Procedures Act (1 CMC, Division 9, Chapter 1).
(d) Any person who violates any hazardous waste management provision of this Act or any regulation issued under the authority of this Act, or who refuses or neglects to comply with an order issued by the Chief shall pay to the Division of Environmental Quality a civil penalty of not less than $10,000.00 per day for each violation.
(e) Any person subject to civil penalties is entitled to prior written notice and to a hearing upon
written request to the Chief.

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

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

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

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

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

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

"(x) Permitting of the operation and
environmental monitoring of solid waste collection
and of solid waste management facilities, including,
but not limited to, sanitary landfills, open dumps,
transfer stations, and incinerators pursuant to
provisions of the Commonwealth Solid Waste Management
Act of 1988 and other applicable laws."
Section 14. Amendment. Title 4 CMC, Division 8, sub-
section 8112 (b) is amended by deleting "refuse collection".
"(b) "Utility service" includes the delivery of
electrical, water, sewer, cable television and
telephone services in the Commonwealth."
Section 15. Amendment. Title 4 CMC, Division 8,
subsection 8121 (c) is amended to read as follows:
"(c) The Corporation shall have the following
divisions:
1. Electrical Power Division.
2. Water Services Division.
3. Sewer Division.
4. Compliance Division."
Section 16. Amendment. Title 4 CMC, Division 8, sub-
section 8122 (a) is amended by deleting "refuse collection".
"(a) The Commonwealth Utilities Corporation
shall supervise the construction, maintenance
operations, and regulation of power, sewage,
telephone, cable television, and water utility
services: Provided, that whenever feasible the Corporation shall contract for private business to assume its duties with respect to one or more of its division."

Section 17. Amendment. Title 4 CMC, Division 8, subsection 8123(i) is amended by deleting "refuse collection".

"(i) To contract to transfer to private ownership or control the construction, management, and operation of the water, sewer, and electrical power systems, in a public manner that is both timely and fair to the government, its employees, and utility service consumers."

Section 18. Amendment. Title 4 CMC, Division 8, subsection 8123(m) is amended by deleting "refuse collection".

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

Section 19. Severability Clause. The provisions of this Act are severable and if any provision or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstance, such invalidity, unconstitutionality, or inapplicability shall not effect or impair the remaining provisions of this Act.
1 Section 20. **Effective Date.** This Act shall take
effect upon its approval by the Governor or upon its
becoming law without such approval.

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BENJAMIN T. MANGONA  
President of the Senate

PEDRO R. GUERRERO  
House Speaker

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MANUEL P. VILLAGOMEZ  
Senate Legislative Secretary

FRANCES P. HERNANDEZ  
Acting House Clerk

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