

ELEVENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SEVENTH SPECIAL SESSION, 1999

PUBLIC LAW NO. 11-122

H. B. NO. 11-501, HS1

AN ACT

To establish a program to divert recyclable material from CNMI landfills; and for other purposes.

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

Section 1. Title. This Act shall be known and may be cited as the “Commonwealth Recycling Act of 1999.”

Section 2. Findings and Purpose. The Legislature finds that there is a serious problem in the Commonwealth concerning the growing volume of solid waste generated by our residents and businesses. With the completion of the new Municipal Solid Waste Landfill at Marpi, the need to insure sufficient long-term disposal capacity for the Commonwealth will become even more critical. Thus it is imperative that we maximize all efforts to divert material from the landfill and extend the life of our disposal facility.

Inherent in our goal of diverting material from disposal in our landfills is the proper management of materials containing toxic substances; reduction of the quantities and toxicity of the leachate generated by landfill operations, the minimization of air pollution and the generation of “Greenhouse” gasses; and the reduction of illegal dumping and litter and their impacts on our environment and our tourist economy.

In addition, the legislature recognizes the multiple benefits of waste diversion and recycling. Not only will the promotion of recycling programs extend the limited life of our Landfills; diversion efforts can reduce the environmental impacts of certain wastes, conserve the valuable resources, provide needed skilled jobs for our residents, expand the Commonwealth tax base and result in reduced long term costs of waste management to our business. We further find that this program can be self-sustaining, and not require government subsidies.

Too often waste disposal activities are considered services, and the full costs of disposal are not calculated in developing alternatives to landfilling. Waste diversion activities,

on the other hand, are generally expected to “pay for themselves” while competing with disposal costs which do not reflect the true value of the limited capacity of the disposal facility. We believe that by assessing advanced disposal fees, we can eliminate many toxic and hazardous materials from our landfills. This Act will require shared responsibility and cooperation between the Division of Solid Waste management, the Department of Public works, and the Department of Lands and Natural resources.

Advance Disposal Fees are fees assessed at the point of entry to the Commonwealth which are intended to cover a portion of the costs of the management of specific materials which end up in the waste stream. These fees should reflect the total cost of waste management and provide funding for alternative management activities such as recycling, reuse or re-manufacturing. It is the intent of the Legislature to focus initially on those materials which have been found to have significant environmental impacts, pose substantial costs to the existing waste management infrastructure, and/or have an identified potential for economic diversion. Preliminary economic research indicates that this program will be self-sustaining, with minimal impact on the cost of goods to end-users. Overall, we feel that a cleaner, safer place to live is worth the minimal cost add on to certain consumer good.

It is the intent of this Act to establish the authority within the Division of Environmental Quality, to asses fees on certain imported materials which due to their environmental, economic or social impact should be diverted from disposal within the Commonwealth. In order to equitably support diversion activities, and provide for a stable funding base for recycling of targeted materials the Legislature is directing the Division of Environment Quality, to develop, through regulation, Advance Disposal Fees (ADF's) for specific materials deemed viable for diversion.

Section 3. Definitions. For the purpose of this Act:

(a) The term “Advance Disposal Fee” means fees assessed at the point of entry to the Commonwealth which are intended to cover a portion of the costs of the management of specific materials which end up in the waste stream.

(b) The Term “importer” means the person, business or agency who brings into the Commonwealth for first use or sale those articles which are subject to the provisions of this act.

(c) The term “permitted recycler” means a person or business organization licensed by the Commonwealth and permitted by the DEQ to receive, collect, or process specific materials for diversion.

(d) The term “consumer” means end user or purchaser

(e) The term “person” means and real person, business corporate entity, corporate entity, or governmental body or agency

(f) The term “Avoided Cost Payments” means payments made to permitted recyclers or other organization for material diverted from the waste stream. Payments are made on a tonnage basis and reflect long term savings to the community by conserving landfill capacity. Payments may be a flat rate for all recovered material, or a variable rate based on a products marketability. Payments are to be used to offset processing costs and may require a minimum amount to be paid out to the collector/hauler by the processor.

(g) The term “retailer” means any vendor who sells products to end-users.

(h) The term “wholesaler” means any vendor who sells products for resale.

(i) The term “buy back center” means a business or organization which operates a collection center for recyclable material and provides rebates or other payments to businesses or individuals who return them.

Section 4. Advance Disposal Fees. There is hereby established, within the Division of Environmental Quality, the authority to develop Advance Disposal Fees (ADFs) for specific materials deemed viable for diversion. Those items taxed under 4 CMC 1405 shall be exempt from any advance disposal fee under this act. The Division is hereby authorized to evaluate those specific materials and develop a fee structure through regulation which will provide the proper economic support for diversion programs.

In evaluating the benefits of diverting various materials from disposal, the DEQ should consider the environmental and economic benefits of diversion, the existing and potential markets for the material, and the existing collection and processing infrastructure.

The evaluation should be based on the following:

(1) The environmental impacts of the material, both from disposal and from improper management;

(2) The toxicity of the material within the waste stream;

(3) The quantities of the material within the waste stream;

- (4) The strength and stability of markets for the material;
- (5) The ease of separation and collection of the material using existing equipment and technology; and
- (6) The local benefits, both environmental and economic of on-island uses for products produced from the material.

Section 5. Promulgation of Regulations. The DEQ shall promulgate rules and regulations establishing a specific Advance Disposal Fee program for each material. In developing these regulations and procedures, it is the legislatures intent that, whenever possible, the product importer or wholesaler shall have a role in the collection and redemption process, either through directly developing redemption agreements with the product retailers, or by contracting out for buy back services with permitted recyclers. The ADF program shall include (where appropriate):

- (1) The amount of the Fee necessary to create a self sufficient diversion program, including collection, processing and shipping costs; provide adequate incentive to the public to return the material, administer the program, and provide for public education. The development of the fee should include an assessment of both the total costs of diversion and any revenue from the sale of the material.
- (2) The method of collection of the fees, the establishment of accounting procedures for the moneys collected and a process for auditing payment by importers.
- (3) Administrative sanctions pursuant to 1 CMC 9101 et seq. for failure to comply with rules and regulations promulgated in support of this legislation.
- (4) Details of the specific use of the funds, including the establishment of various methods of disbursement (grants, contracts, avoided cost payments, etc.)
- (5) A program for market development, public education and outreach.
- (6) The establishment of the specific responsibilities of retailers and wholesalers in the collection of the materials, payment of rebates, and education of consumers.
- (7) The establishment of specific responsibilities of retailers and wholesalers who import or sell materials subject to the provisions of this act.

When developing a fee and diversion program, each specific material should be considered separately, except when collection, processing or marketing issues indicate a

benefit for co-management. The rules and regulations shall be developed according to the material diversion priorities established by DEQ and shall be material specific.

Section 6. Funding of Diversion Activities. There is hereby created within the Commonwealth treasury an Environmental management fund. All funds collected through the imposition of Advance Disposal Fees shall be deposited in this Fund, specifically established for the diversion of the specific materials through:

- (1) Internal operations and shared agency costs such as the operation of collection and transfer facilities for recyclable materials;
- (2) Contracting for the private sector operation of collection and processing activities;
- (3) Payment of Avoided Costs Payments to permitted recyclers, buy back centers or others authorized under this act.
- (4) The construction of facilities or purchase of containers or equipment necessary to collect, process and re-manufacture the material, including their repair and maintenance.
- (5) Payments offsetting shipping costs to off-island markets; and
- (6) To fund CNMI or private sector market development activities, with a prime focus on the development of local uses, including research and demonstration projects, start up grants for local manufacturers and...
- (7) To fund CNMI or private sector education and outreach activities, including personal service contracts, media and publication costs and other related items;
- (8) To partially cover the costs of funding for the position of recycling coordinator or other staff whose duties include the promotion of diversion activities, oversight of diversion grants or contracts or the accounting requirement of the fund;
- (9) Administration of the program including the collection of the fees and oversight of payments to other agencies or the private sector;
- (10) Travel and training pertinent to the improvement of diversion activities for the targeted materials.

Section 7. Inspection of Records and Premises. The DEQ or its agents shall have the authority to inspect the records of any business or individual that may be engaged in import of materials covered by this act, and to promulgate regulations concerning record keeping.

Section 8. Enforcement, Remedies, and Penalties. The enforcement provisions of 1 CMC 3131 et seq., as amended by Public Law 11-103 and any future amendments shall apply to any violation under this act.

Section 9. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 10. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.

Section 12. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

/s/ Diego T. Benavente
DIEGO T. BENAVENTE
SPEAKER
HOUSE OF REPRESENTATIVES

ATTESTED TO BY:

/s/ Evelyn C. Fleming
EVELYN C. FLEMING
HOUSE CLERK

Approved this 10th day of February, 2000

/s/ Pedro P. Tenorio
PEDRO P. TENORIO
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS