

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

§ 3515. 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 Director of the Division of Environmental Quality is authorized to issue emergency permits for debris staging areas.

(1) Emergency permits must be countersigned 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 quantifiable 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.

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Source: PL 6-30, § 5; subsection (b) amended by PL 11-103, § 7.

Commission Comment: With respect to the references to the “chief” of the Division of Environmental Quality and the “Department of Public Works,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

PL 11-103 took effect on September 29, 1999. PL 11-103 contained short title, findings, severability, and savings clause provisions as follows:

Section 1. Short Title. This act may be cited as the “Commonwealth Environmental Amendments Act of 1999”.

Section 2. Findings. The Legislature finds and declares that as a policy, the Commonwealth should update its environmental laws to be consistent and compatible with applicable federal EPA requirements. Towards that end, the amendments made in this Act will make our present environmental laws consistent with applicable federal laws and regulations.

...

Section 10. 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 11. 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.

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§ 3519. Penalties.

(a) The chief may issue any order to enforce the provisions of this chapter. 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;
- (3) To pay a civil fine of not more than \$1,000 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 chapter.

(c) The chief may modify, suspend, summarily suspend, or revoke any permit issued by Division of Environmental Quality for violation of provisions of this chapter, subject to the provisions of the Administrative Procedure Act (1 CMC § 9101 et seq.).

(d) Any person who violates any hazardous waste management provision of this chapter or any regulation issued under the authority of this chapter, 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 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 chapter, a person is guilty of criminal offense if the person knowingly and willingly commits any act prohibited by this chapter. Any violation of this chapter shall be punishable by a fine of not more than \$50,000, or by imprisonment for not more than one year, or both.

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

Source: PL 6-30, § 9.

Commission Comment: With respect to the references to the “chief” of the Division of Environmental Quality and to the division itself, see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

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§ 3121. Issuance of Regulations.

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 chapter and would be in the public interest. The regulations may impose a reasonable fee for any permit issued under this chapter.

Source: PL 3-23, § 7.

Commission Comment: With respect to the references to the “director” and “department” of Public Health and Environmental Services, see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

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§ 3131. Enforcement, Remedies, and Penalties.

(a) The chief, pursuant to regulations issued by the director, shall have the power to issue any necessary order to enforce the provisions of this chapter, any regulation issued under this chapter, and any term of a permit granted pursuant to this chapter. The order may require that any person violating the provision or term cease and desist from such violation immediately or within a stated period of time, and may require that the person take such mitigating measures as may be necessary to reverse or reduce any significant adverse effect of such violation. The order may apply to any person in addition to the violator when necessary to protect the public health or welfare.

(b) At the request of the chief, transmitted through and with the approval of the director, the Attorney General shall institute a civil action in the Commonwealth Trial Court for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this chapter, any regulation or order issued under this chapter, or any term of a permit granted pursuant to this chapter.

(c) If any person fails to comply with any provision of this chapter, or any regulation or order issued under this chapter, or any term of a permit granted pursuant to this chapter, after notice of failure and the expiration of any reasonable period allowed for corrective action, the person is liable for a civil penalty of not more than \$25,000 for each day of the continuance of the violation. A person is liable for an additional penalty for any amount expended by any agency of the Commonwealth in taking any necessary action to reverse or reduce any significant adverse effect of the violation when the person is unwilling or unable to do so. If appropriate, any permit granted to a person pursuant to this chapter may be revoked, suspended, or modified. The director may assess, collect, and compromise any penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing before the director or a person designated by the director for that purpose; provided, in emergencies the director may summarily suspend a permit pending proceedings under this subsection.

(d) Any person who knowingly and willfully:

(1) Violates any provision of this chapter, or any regulation or order issued under this chapter, or any term of a permit granted pursuant to this chapter;

(2) Makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this chapter; or

(3) Falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this chapter, 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 subsection (d)(1) of this section continues, or each day that any device or method of record remains inaccurate or inoperative because of any activity described in subsection (d)(3) of this section, shall constitute a separate violation.

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(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 that subsection.

(f) The remedies and penalties prescribed in this section shall be concurrent and cumulative, and the exercise of one shall not preclude the exercise of the others, and these remedies and penalties are in addition to any other remedy or penalty afforded by any other law or regulation.

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

(h) Any penalty or fine collected pursuant to this section and any permit fee collected pursuant to regulations issued under the authority of 2 CMC § 3121 shall be deposited in the special Division of Environmental Quality fund account established by the Secretary of Finance.

(i) After exhausting administrative appeals procedures, a person shall be allowed under this chapter, as a matter of right, to file a civil action within the limits prescribed by law.

Source: PL 3-23, § 9, modified; new subsection (i) added and subsections (c) and (h) amended by PL 11-103, § 3.

Commission Comment: Section 4 of PL 6-25, the “Commonwealth Judicial Reorganization Act of 1989,” provides that “[w]herever the term ‘Commonwealth Trial Court’ appears in the Commonwealth Code, it is henceforth to be interpreted and understood to refer to the Commonwealth Superior Court.”

With respect to the references to the “chief” of the Division of Environmental Quality and the “director” of the Department of Public Health and Environmental Services, see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

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