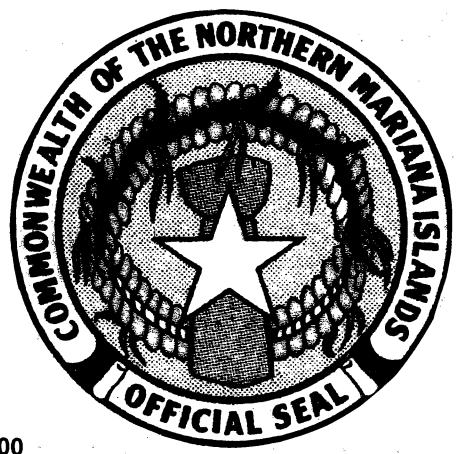
## **VOLUME 22 NUMBER 07**



**JULY 20, 2000** 

# COMMONWEALTH

# REGISTER

## COMMONWEALTH REGISTER

VOLUME 22 NUMBER 07 JULY 20, 2000

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## **PUBLIC NOTICE** SOLID WASTE MANAGEMENT REGULATIONS UNDER THE AUTHORITY OF 2 CMC 3103 to 3134, 2 CMC 3511 to 3521, and PL 11-103

by the

## **DIVISION OF ENVIRONMENTAL QUALITY** OFFICE OF THE GOVERNOR

The Director of the Division of Environmental Quality, of the Commonwealth of the Northern Mariana Islands (CNMI), in accordance with 2 CMC 3103 to 3134, 2 CMC 3511 to 3621, and PL 11-103 has adopted the CNMI's Solid Waste Management Regulations.

Copies of the Regulations are available and may be obtained from the Division of Environmental Quality, located on the third floor of the Morgen Building, San Jose,		
Saipan, MP 96950.		
Date: 7-18-0D	Ignaery Cabrera, Director Division of Environmental Quality Office of the Governor	
Filed by:		
Date: 7/18/80	Soledad B. Sasamoto Registrar of Corporations	
Received by: Date:	$\mathcal{O}(1)_{0}$	
Date:	JOSE F. DELEON GUERRERO Special Assistant for Administration	
Duranant to CMC Cubacati	on 2152 on omended has D. F. 10 50	

Pursuant to/CMC Subsection 2153 as amended by P.L. 10-50, the rules and regulations attached hereto have been reviewed and approved by the CNMI Attorney General's Office.

Dated:

HERBERT D. SOLL ATTORNEY GENERAL

Y PETERSON

ASSISTANT ATTORNEY GENERAL

## NUTISIAN PUPBLIKU SOLID WASTE MANAGEMENT REGULATIONS SIGUN GI ATURIDAT

2 CMC 3103 asta 3134, 2 CMC 3511 asta 3521, yan PL 11-103

## ginen

## DIVISION OF ENVIRONMENTAL QUALITY OFFICE OF THE GOVERNOR

I Direktot i Division of Environmental Quality, gi halom i Commonwealth of the Northern Mariana Islands (CNMI), sigun gi 2 CMC 3103 asta 3134, 2 CMC 3511 asta 3621, yan PL 11-103 manma adapta siha na Regulasion Solid Waste Management gi halom CNMI.

Kopian i manma adapta siha na Regulasion, siña hayi interesao na petsona mañule gi Division of Environmental Quality, mina tres bibenda halo gi Morgen Building, San Jose, Saipan, MP 96950. Ignacio Cabrera Direktot Division of Environmental Quality Office of the Governor Ma file as: Soledad B. Sasamoto Registrar of Corporations Ma risibi gi Ofisan Gobietno: DELEON GUERRERO Special Assistant for Administration Setifikasion ginen i 1 CMC papa seksiona 2153 ni inamenda ni Lai Publiku 10-50, i mapropopone siha na Areklamento yan Regulasion ni chechetton guine esta manmaribia yan apreba komu para u fotma yan sifisient na ligat ginen i Ofisian Attorney General. 18 JUL 2008 Fecha: HERBERT D. SOLL ATTORNEY GENER BY: PETERSON ASSISTANT ATTORNEY GENERAL

## **DIVISION OF ENVIRONMENTAL QUALITY**

Citation of

**Statutory Authority:** 

The Director of the Division of Environmental Quality proposes regulations pursuant to 2 CMC Section 3514; 2 CMC Sections 3121 and 3122; and, Public Law 11-103.

Short Statement of Goals and Objectives:

The proposed SOLID WASTE MANAGEMENT REGULATIONS are made to establish the requirements and criteria for new and existing solid waste management activities and facilities, pursuant to 2 CMC Sections 3511 to 3521; 2 CMC Sections 3101 to 3134; and Public Law 11-103.

**Brief Summary of the Proposed Regulation:** 

These SOLID WASTE MANAGEMENT REGULATIONS authorize the Director of the Division of Environmental Quality to issue permits for solid waste management activities. The regulations establish procedures for applying, modifying, suspending, revoking, renewing and transferring such permits. Finally, the regulations outline the solid waste management facilities inspection process, and implement enforcement measures established in the relevant legislation.

For further

**Information contact:** 

Ignacio Cabrera, Director, Division of Environmental

Quality.

Citation of Related and/ or Affected Statutes,

Regulations, and Orders:

2 CMC Sections 3511 to 3521; 2 CMC Sections 3101 to

3134; and Public Law 11-103.

## COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS SOLID WASTE MANAGEMENT REGULATIONS

## **SECTION 1: APPLICABILITY**

- 1.1 These regulations have been promulgated by the Division of Environmental Quality under the authority of Commonwealth Solid Waste Management Act, 1989, 2 CMC §§3511 to 3521; the Commonwealth Environmental Protection Act, 1982, 2 CMC §§ 3101 to 3134, and the Commonwealth Environmental Amendments Act, 1999, PL 11-103. These regulations shall have the force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands.
- 1.2 These regulations are applicable to all persons involved in the management of solid waste.

## **SECTION 2: PURPOSE & PROHIBITIONS**

- 2.1 The purpose of these regulations is to establish the requirements and criteria for new and existing solid waste management activities and/or facilities including, but not limited to, municipal solid waste landfills and other landfilling operations, incineration, solid waste collection and transfer, materials processing, recycling, composting, and salvage. These requirements and criteria ensure the protection of human health and the environment.
- All new and existing solid waste management activities and/or facilities failing to comply with these regulations and criteria are prohibited. MSWLF units failing to satisfy the requirements of these regulations are considered open dumps, and the use of open dumps is prohibited.

### **SECTION 3: DEFINITIONS**

- 3.1 Definitions from federal regulations incorporated by reference are included herewith in respective appendices.
- 3.2 The following are additional definitions included for clarity as they pertain to these CNMI Solid Waste Management Regulations:
  - "Acts" means the CEPA, SWMA, and the CEAA unless otherwise stated.
  - "Agricultural wastes" means wastes resulting from the production of agricultural products including, but not limited to, manures and carcasses of dead animals.
  - "Appendix I" means Appendix I as it appears in 40 CFR Part 258 (1999).
  - "Appendix If" means Appendix II as it appears in 40 CFR Part 258 (1999).
  - "Ashes" means the residue, including any air pollutant flue dusts or bottom ash, from the combustion or incineration of material including solid and/or hazardous waste.
  - "Best practicable technology" means current state of the art methods and/or procedures which consider the economic capabilities of the owner or operator of an activity or facility.
  - "Bioconversion" means the processing of the organic fraction of the waste stream through biological or chemical means to perform composting or to generate products, including, but not limited to, fertilizers, feeds, methane, alcohols, tars, and other products. This term includes, but is

not limited to, biogassification, acid hydrolysis, pyrolysis, and fermentation. This term does not include any form of incineration or methane gas extraction from a MSWLF.

"Buffer zone" means part of the facility that lies between the active area and the property boundary.

"Bulky waste" means large items of refuse such as appliances, furniture and other oversize wastes which typically would not fit into reusable or disposable containers.

"CAA" means the federal Clean Air Act, 1970, as amended to 1999, 42 USC, Sections 7401 to 7671q.

"CEAA" means Commonwealth Environmental Amendments Act, 1999, PL 11-103.

"CEPA" means Commonwealth Environmental Protection Act, 1982, 2 CMC §§ 3101 to 3134.

"CFR" means the United States Code of Federal Regulations, 1999.

"CWA" means the federal Clean Water Act, 1977, as amended to 1999, 33 USC, Sections 1251 to 1387.

"Clear and grub material" means material consisting of any rock, coral, sand, gravel, and soil in conjunction with a maximum of twenty percent vegetation which includes trees, timber, shrubbery, and plants dislodged or uprooted from the ground.

"Closure" means those actions taken by the owner or operator of a solid waste site/facility to cease disposal operations and to ensure that closure is in conformance with applicable requirements as described in Section 5.

"CNMI" means the Commonwealth of the Northern Mariana Islands.

"Collection" means the removal of solid waste from a generation or transfer point and the subsequent transport of the solid waste to a site/facility for further processing, additional transfer, or disposal.

"Commonwealth" means the Commonwealth of the Northern Mariana Islands.

"Common water pollutants" means those industrial discharges that are point sources subject to permits under the Clean Water Act, 1972, as amended to 1999, 33 USC Section 1342.

"Compliance schedule" means a written schedule of required and enforceable compliance measures in a permit.

"Composting" means a process in which organic solid wastes, such as biosolids (sewage sludge), vegetative waste materials, manures, and non-treated wood chips and shavings, are biologically decomposed and stabilized under controlled conditions to produce a stable humus-like mulch or soil amendment. This term includes the processing of organic and non-treated wood waste materials for the generation of wood chips or other materials that can be used as soil amendment, planting mixes, mulches for horticultural and agricultural applications, landfill cover, and land reclamation.

"Construction and demolition waste" means primarily inert solid waste resulting from the construction or demolition of buildings, roads, or other structures. Such waste includes sheetrock, plaster, concrete, brick, rock, roofing material, steel, and minor amounts of other metals such as

copper. Construction and demolition waste does not include clean-up material contaminated with hazardous substances, friable asbestos, waste paints, solvents, sealers, adhesives, or similar materials.

"Convenience center" means waste handling facilities performing limited transfer station operations and receiving less than five tons per day of exclusively household/residential waste.

"Cover material" means soil or other suitable material that has been approved by the Director of DEQ for use as cover material for solid waste at a MSWLF.

"Debris staging area" means an area for storage of rubble, wreckage, and vegetative remains from typhoons, storms, or other destructive events of an emergency nature as determined by the Director of DEQ.

"DEQ" means the CNMI Division of Environmental Quality.

"Director" means the Director of the CNMI Division of Environmental Quality unless otherwise specified.

"Disposal facility" means a solid waste management facility, or part thereof, where solid waste is intentionally placed and where such solid waste will remain after closure.

"Disposal site" means the location where any final treatment, utilization, or deposition of solid waste occurs.

"DPW" means the CNMI Department of Public Works unless otherwise specified.

"Energy recovery" means recovery of energy in a useable form from high temperature (over 1200°F) combustion of solid waste.

"FML" means flexible membrane liner.

"Foreign waste" means waste generated by carriers originating from foreign ports which have CNMI as the first port of entry into the U.S.

"Garbage" means, but is not limited to, putrescible solid waste including animal and vegetable wastes resulting from the handling, storage, sale, preparation, cooking, or serving of food at markets, restaurants, and other places storing, preparing, or serving wastes.

"Green waste" means vegetative solid waste and includes leaves, grass clippings, garden and yard wastes, tree trunks, holiday trees, tree trimmings, and/or tree prunings.

"Hazardous waste" means any waste defined as hazardous under 40 CFR §261, 1999.

"HDPE" means high density polyethylene.

"Impoundment" means a facility or part thereof that is a natural topographic depression, humanmade excavation, or diked area formed primarily of earthen materials (although it may be lined with human-made materials), that is designed to hold an accumulation of liquid wastes or wastes containing free liquids and that is not an injection well. Examples of impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

"Incineration" means the destruction of solid waste by combustion in a furnace designed for such

purposes where solid waste essentially is reduced to ash, carbon dioxide and water vapor. "Inert wastes" means wastes which are limited to earth and earth-like products, concrete, cured asphalt, rock, bricks, and material which will not cause a leachate of environmental concern.

"Infectious waste" means any waste from health care facilities which may contain pathogens capable of causing infectious disease.

"Karst terrains" means areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terrains include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.

"Landspreading facility" means a facility that applies sludges or other solid waste onto or incorporates solid waste into the soil surface at greater than vegetative utilization and soil conditioner and/or immobilization rates.

"Lift" means compacted layer of solid waste and its overlying earth cover in a landfill.

"Limited purpose landfill" means a landfill that receives solid waste of limited types, known and consistent composition, other than woodwastes, garbage, inert wastes, and demolition waste.

"Liquid" means a substance that flows readily and assumes the form of its containers but retains independent volume.

"MCL" means Maximum Contaminant Level, the maximum permissible level of a contaminant in water according to local, state, and/or federal requirements, which is delivered to any user of a public water system.

"Medical waste" means all the infectious and injurious wastes originating from a medical, veterinary, or intermediate care facility.

"Monofill" means a landfill which accepts only one type of solid waste.

"Nuisance" means an act or an omission of an act which annoys, injures, or endangers the comfort, health, or safety of others, offends decency, or unlawfully interferes with, or obstructs or tends to obstruct, any public park, square, street, or highway, or in any way renders other persons insecure in life, or in the use of property.

"Operations plan" means the written plan developed by an owner or operator of a facility detailing how a facility is to be operated during its active life and during the closure and post-closure periods.

"Performance standard" means the criteria for the performance of solid waste management facility.

"Permeability" means the ease with which a porous material allows liquid or gaseous fluids to flow through it. For water, this is usually expressed in units of centimeters per second and termed hydraulic conductivity. Soils and synthetic liners with permeability for water of 1x10<sup>-7</sup> centimeters/second or less may be considered impermeable.

"Permit" means any authorization, license, or equivalent control document issued under the authority of DEQ regulating the management of solid waste including location, design, construction, operation, ground-water monitoring, corrective action, closure, post-closure care, and financial assurance elements of MSWLFs and other solid waste management facilities.

"Permit by rule" means an abbreviated procedure by which those solid waste management facilities considered by the Director of DEQ to have limited impact to the community and the environment may begin operations in accordance with Section 4.5 of these regulations.

"Permit documents" means permit applications, draft and final MSWLF or solid waste management facility permits, or other documents that include applicable design, construction, and management conditions in accordance with the CNMI Solid Waste Management Regulations, and the technical and administrative information used to support the basis of permit conditions.

"Person" means an individual, firm association, co-partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

"Pile" means any non-containerized accumulation of solid, non-flowing waste that is used for treatment or storage.

"Post-closure" means the requirements placed upon landfill disposal sites after closure to enable their environmental safety for a thirty-year period.

"Premises" means tract or parcel of land with or without buildings.

"Processing" means an operation to convert solid waste or recyclable materials into a useful product or prepare such materials for disposal.

"Pyrolysis" means the process in which solid waste is heated in an enclosed device in the absence of oxygen to vaporize the waste, producing a hydrocarbon-rich gas capable of being burned for recovery or energy.

"RCRA" means the federal Resource Conservation and Recovery Act, 1976, as amended to 1999, 42 USC §6901 to §6992.

"Reclamation facility" means a location used for the handling, processing, or storage of recoverable material including, but not limited to, composting and remediation facilities.

"Recoverable material" means material that can be diverted from disposal for recycling or bioconversion. This term does not include those materials that are generated and normally used on-site for manufacturing facilities.

"Recycling" means the collection, separation, recovery, sale or reuse of secondary or postconsumer resources that would otherwise be disposed of as municipal solid waste.

"Recycling drop-off facility" means a structure or site designated for collection and small scale/low-technology segregation of recyclable materials. The manned or unmarined site will receive and temporarily store recyclables "dropped-off" and no payment is made to the participants depositing recyclables.

"Recycling processing/materials recovery facility" means a facility which collects and bales, shreds, crushes, melts, sorts, or otherwise treats, temporarily stores, brokers, or transports recycled materials for re-use or re-manufacture.

"Refuse" means anything putrescible or non-putrescible that is discarded or rejected as waste.

"Remediation" means a process utilizing physical, chemical, or biological conversion to mitigate or eliminate undesirable or unsafe constituents within the waste material.

"Reserved" means a section having no requirements and which is set aside for future possible rulemaking as a note to the regulated community.

"Salvage" means the incidental removal of solid waste for reuse under the control of the facility owner or operator

"Scavenging" means the removal of materials at a disposal site, or interim solid waste management facility or site, without the approval of DPW and the owner or operator of such site and/or facility.

"Secondary resources" means post-consumer material collected and processed for feedstock in a manufacturing process.

"Sole source aquifer" means an aquifer designated by the USEPA pursuant to Section 1424e of the Safe Drinking Water Act, 1974, as amended to 1999.

"Solid waste disposal facility" means any facility which receives solid waste for ultimate disposal through landfilling or incineration. This term does not include facilities utilized for transfer, storage, processing, or remanufacturing for reuse, or bioconversion of solid waste.

"Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing, or final disposal of solid waste, including the recovery and recycling of materials from solid wastes, the recovery of energy sources from such wastes, or the conversion of the energy in such waste to more useful forms or combinations thereof.

"Solid waste management" means the systematic administration of such activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste.

"Solid waste management facility" (SWMF) means any site at which solid wastes are aggregated for storage, transfer, 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 his/her 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.

"Solid waste management permit" means a permit issued by DEQ to a public or private entity that is involved in the collection and disposal of solid waste.

"Source separation" means separation of solid waste into some or all of its component parts at the point of generation of the solid waste.

"Special wastes" means any solid waste which, because of its source or physical, chemical, or biological characteristics, require special consideration for proper processing or disposal or both. This term includes, but is not limited to: asbestos; used oil; lead acid batteries; municipal waste combustion ash; sewage sludge; medical wastes; tires; white goods; and derelict vehicles.

"Storage" means the holding of solid waste materials for any temporary period.

"Stream" means the point at which any confined freshwater body of surface water reaches a mean annual flow rate of twenty feet per cubic second.

"Surface water" means all lakes, rivers, ponds, streams, inland waters, salt waters and water courses within the jurisdiction of the CNMI.

"SWMA" means Solid Waste Management Act, 1986, 2 CMC §§3511 to 3521.

"Table I" means Table I as it appears in 40 CFR 258, 1999.

"Transfer station" means a site to which solid wastes are brought from their point of generation or previous transfer and where such wastes are temporarily stored prior to transfer to a site of additional transfer or separation, recycling, storage, processing, or disposal.

"Treatment" means the physical, chemical or biological processing of solid waste to make such solid waste safer for storage or disposal, amenable for energy or material source recovery, or reduced in volume.

"Twenty-five year storm" means a storm of particular duration and of such intensity that it has a four percent probability of being equaled or exceeded in one year.

"Twenty-four hour, twenty-five year storm" means a twenty-five year storm of twenty four hours duration.

"Used oil transporter" means a person licensed or certified under local, state, or federal requirements to transport used oil.

"USEPA" means the United States Environmental Protection Agency.

"Waste disposal facility" means a facility or site at which solid waste is disposed.

"Waste management container" means a device used for the collection, storage, or transportation of solid waste, including but not limited to: reusable containers; disposable containers; detachable containers; and tanks, whether fixed or detachable.

"Waste reduction" means reduction of the volume or mass of waste generated.

"Water quality standard" means the local, state, or federal standard set for maximum allowable contamination in surface waters.

"White goods" means electrical or mechanical appliances made primarily of metal parts such as refrigerators, clothes washers, and dryers. Appliances of less than three cubic feet in volume before crushing shall not be included in this definition.

## SECTION 4: GENERAL PERMIT REQUIREMENTS - SOLID WASTE MANAGEMENT ACTIVITIES/FACILITIES

### 4.1 APPLICABILITY

- (A) It shall be unlawful for any person to perform solid waste management activities addressed in these regulations without a permit issued in accordance with these regulations. All permit applications shall be submitted to, and all permits will be issued by DEQ. DEQ shall have the authority to impose requirements for all solid waste management facilities to ensure compliance with these and all applicable regulations.
- (B) Permits issued by DEQ shall be valid for five (5) years following the date of issuance.

## 4.2 EXEMPTIONS

- (A) The following are exempted from requirements of this section. These exemptions do not apply to facilities regulated under 40 CFR Parts 257 and 258, 1999.
  - (1) A single family or multiple residence composting only green or vegetative solid wastes generated on its premises.
  - (2) Minor facilities/activities not involving the disposal of municipal solid waste, as determined in writing by DEQ.

## 4.3 APPLICATION FOR PERMIT

- (A) An application for a permit shall be completed on forms furnished by the Director and shall include, but not be limited to the following:
  - (1) Name, address, and telephone number of the applicant;
  - (2) Type of application (new, revision, or renewal);
  - (3) A description of how the proposed solid waste management facility/activities complies with applicable regulations; Certification of compliance with local ordinances and zoning requirements;
  - (4) A written description of the proposed solid waste management facility/activities, including information such as general plan of operation of the solid waste management facility/activities (e.g., collection, segregation, disposal, etc.); proposed method and length of operation; area/population to be served; characteristics, quantity, and source material to be managed; the use and distribution of processed materials; method of processed residue disposal; type of equipment to be used; number of solid waste management personnel and the responsibilities of personnel; source and type of cover material (if applicable); emergency operating procedures; frequency and proposed routes of transportation to be used for the solid waste management facility/activities;
  - (5) Detailed description of plans and specifications for the solid waste management facility/activities and a detailed map showing the location of the solid waste management facility/activities. Final design specifications shall comply with all applicable regulations and criteria including those found in Section 5 and 6 of these regulations and be submitted to DEQ for approval prior to commencement of operations/activities;
  - (6) For MSWLF and Non-Municipal Non-Hazardous Waste Disposal Units receiving CESQG wastes, a description of the plans for ground-water monitoring and corrective action as required in Section 5 and 6 of these regulations;
  - (7) For MSWLF, description of the plans for the closure and post-closure as required in Section 5 of these regulations;
  - (8) For MSWLF, description of the how the facility will meet the financial assurance requirements as required in Section 5 of these regulations;
  - (9) Other specific requirements as stated for each facility/activity.

- 4.4 FEES [Reserved]
- 4.5 PERMIT BY RULE [Reserved]
- REGULATORY AGENCY REVIEW 4.6
  - (A) DEQ may require any additional information necessary to issue permits that are adequate to ensure compliance with the local and federal regulations and to ensure protection of public health and the environment of the CNMI.
  - (B) DEQ shall within a reasonable amount of time from the date the application is received with the payment of the application fee, notify the applicant in writing if any additional information or items are required. Within 180 days of the initial application DEQ will notify the applicant of approval or disapproval.
  - The 180 days time period will be tolled for any requests for additional information and for (C) the public comment period.
- 4.7 PUBLIC NOTICE, PUBIC COMMENT PERIOD, AND PUBLIC HEARING
  - Before issuing a permit for a MSWLF and before issuing any other permits covered by (A) these regulations which DEQ determines warrant public participation, representatives of DEQ shall conduct a public hearing pursuant to CEPA, 2 CMC § 3122 (d) regarding DEQ's intention to issue such a permit and give public notice providing for a forty-five (45) day public review and comment period of the MSWLF permit application documents and on the proposed action. The contents of the public notice shall include at least the following:
    - Name, address, and phone number of DEQ and applicant; (1)
    - Brief description of each applicant's activities or operations; (2)
    - A short description of the location of the MSWLF, or other facility/operation/activity (3)indicating whether such a MSWLF, or facility/operation/activity is new or existing;
    - Address and phone numbers of premises at which interested persons may obtain (4) further information and inspect a copy of the application and supporting documents:
  - A public hearing shall be held no less than twenty-one (21) days from the start of the public (B) comment period. DEQ shall address public comments at the hearing. Comments received at the public hearing and during the public comment period shall be considered in making a decision and DEQ shall prepare written responses to all significant comments. The response to comments shall be made available to the public upon request.
  - Within one hundred eighty (180) days of receiving a complete application, and after (C) consideration of public comments, DEQ shall:
    - Approve an application for a permit if the application and the supporting (1) information clearly show that the issuance thereof does not pose a threat to the environment, public health, or welfare, and the municipal solid waste landfill facility is designed, built, and equipped to operate without causing a violation of applicable rules and regulations;

- (2) Deny an application for a permit if the application and supporting information clearly show that the issuance, thereof, poses a threat to the environment, public health, or welfare, or that the municipal solid waste landfill facility is not designed, built, and equipped to operate in compliance with applicable rules and regulations.
- (3) With the exception of all federally-approved and delegated programs, if no determination on a permit application has been made one hundred eighty (180) days after receipt of a complete application, the application shall be considered approved provided that the applicant acts consistently with the application and all plans, specifications, and other information contained therein. The permitee shall be subject to all applicable or relevant and appropriate federal and CNMI laws and regulations.

## 4.8 PUBLIC NOTIFICATION OF PERMIT DETERMINATION.

(A) Pursuant to CEPA, DEQ shall make known to the public through public notice or public hearing, its determinations regarding the MSWLF permit within thirty (30) days of such a determination.

## 4.9 EFFECT OF THE PERMIT

- (A) Written acceptance of any and all permit conditions by the applicant shall be necessary prior to any commencement of facility construction/operation or prior to commencement of any activities for which the permit is required;
- (B) The owner or operator must notify DEQ that construction, operations, or activities have been completed in accordance with the approved plans and specifications;
- (C) Prior to commencement of the permitted facility, operation, or activity, an inspection will be conducted by DEQ to confirm that the facility, operations, or activities are ready to commence in compliance with applicable requirements.

## 4.10 MODIFICATION OF EXISTING PERMITS.

- (A) DEQ may, on its own motion or the application of any person, modify a permit if, after affording the applicant an opportunity for a hearing, the Director determines that:
  - (1) Any condition of the permit has been violated or due to change in any condition requiring either a temporary or permanent reduction or elimination of the permitted disposal.
  - (2) There is a change in the applicable laws or regulations governing solid waste management.
  - (3) Such an action is in the public interest.
- (B) DEQ shall develop a schedule to revisit and reissue all existing permits affected by the change in the law or regulations at the time of the change. Modification of the permit shall become final ten (10) days after service of notice of the final decision to modify the permit.

## 4.11 SUSPENSION OF PERMIT.

(A) DEQ may, on its own motion or based on the application of any person, suspend a permit

if, after affording the applicant an opportunity for a hearing, DEQ determines that:

- (1) any condition of the permit has been violated;
- (2)any statute or regulation of the local or federal government has been violated; or
- (3)or such an action is in the public interest.
- (B) The permit shall be suspended until all conditions of the permit are met or all violations have been properly corrected. Suspension of a permit shall become final ten (10) days after service of notice of the final decision to suspend on the holder of the permit.

#### 4.12 REVOCATION OF PERMIT.

- DEQ may on his own motion or the application of any person, revoke any permit if, after (A) affording the applicant an opportunity for a hearing, DEQ determines that:
  - There is a violation of any condition of the permit; (1)
  - The permit was obtained by misrepresentation, or failure to disclose fully all (2)relevant facts;
  - There is change in any condition that requires either a temporary or permanent (3)reduction or elimination of the permitted disposal; or
  - (4) Such an action is in the public interest.
- Revocation of a permit shall become final ten (10) days after service of notice of the final (B) decision to revoke on the holder of the permit.

#### 4.13 PERMIT RENEWAL.

(A) The permitee must apply for renewal of the permit sixty (60) days before the permit expires. At the time of renewal of a municipal solid waste management permit, the facility is reevaluated and the permit conditions updated to reflect changes to the current operational procedures. The criteria for permit renewal determination is the same as for the initial application and shall be in accordance with Sections 4.3 through 4.9 of these regulations.

#### TRANSFER OF PERMIT. 4.14

A permit shall not be transferable, whether by operation of law of or otherwise, either from (A) one location to another, from one SWMF to another or from one person to another, without the written approval of DEQ. A transfer shall not be approved by the Administrator unless he determines that all applicable laws and regulations have been and will continue to be complied with after the transfer and only if the transferee provides a written assurance that it will so comply.

#### REPORTING TERMINATION. 4.15

Sixty (60) days prior to closure any person issued a permit shall report the permanent (A) termination of SWMF for which the permit has been issued to DEQ and within the thirty (30) days after the closure shall surrender the permit to DEQ. DEQ may approve immediate

closure of any SWMF if the facility poses a major threat to human health and the environment.

#### 4.16 POSTING OF A PERMIT.

(A) Upon granting an approval for a permit, DEQ shall issue to the applicant a permit which also shall be posted in a conspicuous place at or near the operation site for which the permit was issued.

## FALSIFYING OR ALTERING A PERMIT. 4.17

(A) No person shall knowingly deface, alter, forge, counterfeit, or falsify a permit. If the permit holder, his agents or employees, are found responsible for any such activity it shall bring about immediate revocation of the permit.

#### 4.18 ANNUAL REPORTING.

(A) The permittee shall submit an annual report to DEQ with information including the total volume and types of solid waste collected and the average number of individual residences or households and businesses serviced by the permittee on a weekly basis. The annual reports also shall be submitted with the application for a MSWLF permit renewal.

#### 4.19 CONFORMANCE WITH OTHER CNMI AND FEDERAL REGULATIONS.

(A) The owner or operator of a MSWLF must comply with any other applicable Commonwealth or Federal rules, laws, regulations, or other requirements

HOUSE, HOW

#### 4.20 INSPECTION

- (A) Representatives of DEQ, in accordance with the law, may enter and inspect a facility for the purpose of conducting inspections adequate to determine compliance with the solid waste management regulations including the terms of a permit. The inspections may be made with or without advance notice, with good purpose, and at the discretion of the Director of DEQ. The authority to inspect shall include the ability:
  - (1) to obtain any and all information, including records and reports, from an owner/operator of a MSWLF necessary to determine whether the owner/operator is in compliance with the solid waste management regulations;
  - (2)to inspect any equipment.
  - (3)to collect samples of waste, and conduct monitoring or testing to ensure that the owner/operator is in compliance with these solid waste management regulations.
  - to observe operations involving the use or disposal of waste. (4)

#### (B) RIGHTS TO ENTRY.

- (1)In accordance with 2 CMC §3132(a), for purposes of enforcing the provisions of the Commonwealth of the Northern Mariana Islands Solid Waste Management Regulations, the Director of DEQ is authorized:
  - to enter, at reasonable times, any establishment, site, premise subject or a) other place subject to the permit program or where solid waste is

- disposed, stored for transfer, or processed; including where records relevant to the operation of regulated facilities or activities are kept.
- (b) to enter any premises at any time if there is substantial reason to believe that any waste disposed or stored, or otherwise present on such premises is, through accident, carelessness, or other circumstance, producing adverse effects on human health or the environment, for the purpose of taking such action as may be necessary to prevent or mitigate further adverse effects.
- 4.21 VARIANCES [Reserved]

### 4.22 EXISTING FACILITIES

(A) All owners of existing municipal solid waste landfill facilities shall file immediately an application for permit to continue to operate. Permit applications for existing facilities will be reviewed from according to Section 4 of these regulations.

### SECTION 5: MUNICIPAL SOLID WASTE LANDFILL CRITERIA

5.1 40 CFR Part 258, 1999, is hereby adopted by reference in its entirety and is attached in Appendix 1 of these regulations.

### SECTION 6: NON-MUNICIPAL NON-HAZARDOUS WASTE DISPOSAL FACILITY

6.1 40 CFR Part 257, 1999, is hereby adopted by reference in its entirety and is attached in Appendix II of these regulations.

**SECTION 7: TRANSFER STATIONS [Reserved]** 

**SECTION 8: CONVENIENCE CENTERS [Reserved]** 

**SECTION 9: RECYCLING [Reserved]** 

**SECTION 10: COLLECTION: Requirements for Commercial Waste Haulers** 

- 10.1 It shall be unlawful for any person to initiate the commercial collection of municipal solid waste without first registering with the DEQ. The annual registration fee shall be \$25 initially, and may be revised, in writing, by the Director of DEQ.
- 10.2 All applicants shall complete and submit their registration on forms furnished by the DEQ and provide the following information for approval determination:
  - (1) A copy of their current business license.
  - (2) A list of all trucks and other equipment involved in the operation.
  - (3) The location of any vehicle or equipment storage facility.
- 10.3 Each registration form shall contain the original signature of the owner and applicant and shall constitute acknowledgment that the applicant will assume responsibility for operation of the collection business in accordance with these rules and regulations and any conditions made part of registration.

- 10.4 Registration applications containing all required information shall be considered approved 30 days following submittal, unless specific action is taken by DEQ. Commercial waste hauler registrations shall be renewed annually. The annual fee shall be \$25 initially, and may be revised in writing, by the Director of DEQ.
- 10.5 The registration may not be modified or transferred (including change of business address) without approval from the Director of DEQ. The Director, as specified under Section 4.10, 4.11, or 4.12 of these regulations, may modify, suspend, or revoke any commercial waste hauler's registration, if, the Director determines any of the standard conditions or any of the provisions of 2 CMC 3511 to 3521 or 2 CMC 2648 to 3134 have been violated, or that such modification, suspension, or revocation is in the public interest. Modifications, suspensions, or revocations shall become final 10 days after service of the notice of final decision on the holder of the registration.

#### Standard Conditions: 10.6

- (1) All employees shall have received proper safety training as required by OSHA.
- (2)All loads shall be covered or otherwise managed to prevent windblown debris.
- The operator shall have in place management standards to minimize public nuisances (3)such as odors and vectors (i.e. flies and rodents) or leaking loads.
- All refuse shall be managed in such a manner as to prevent any impact on public health (4) and safety.
- All employees shall be made aware of any DEQ or DSWM disposal restrictions. (5)
- All employees shall strictly follow any instructions given by DSWM personnel at the solid (6)waste management facility.

## SECTION 11: MISCELLANEOUS FACILITIES/ACTIVITIES [Reserved]

## SECTION 12: FINANCIAL ASSURANCE FOR NON-MSWLF FACILITIES/OPERATIONS/ACTIVITIES [Reserved]

## **SECTION 13: ENFORCEMENT AUTHORITY**

- 13.1 The Director of DEQ is hereby authorized to impose the following remedies for violation of the CNMI Solid Waste Management Regulations.
  - In accordance with 2 CMC §3131(b) of the Commonwealth Environmental Protection Act, (A) at the request of the Director of DEQ and with the approval of the Attorney General may issue an administrative order to restrain immediately and effectively any person from engaging in any activity which may endanger or cause damage to human health or the environment.
  - In accordance with 2 CMC § 3131(b) of the Commonwealth Environmental Protection Act, (B) the Director of DEQ through the CNMI Attorney General may institute a civil action in the Commonwealth Trial Court to:
    - (1) Enjoin any threatened or continuing activity which violates any statute, regulation, order, or permit which is part of or issued pursuant to the CNMI Solid Waste

## Management Regulations;

- (2) Recover civil penalties for violations of a statute or regulation which is part of the CNMI Solid Waste Management Regulations or of an order or permit which is issued pursuant to the state program.
- In accordance with 2 CMC § 3131(i), of the Commonwealth Environmental Protection Act, any citizen having an interest that is or may be adversely affected, shall have the authority that allows intervention as a tight in any civil action to obtain remedies specified in §17.2 and § 17.1.
- 13.2 If appropriate and consistent with Section 4.10, 4.11, and 4.12 of these regulations, the Director of DEQ may suspend, revoke, or modify any permit, license, or certification issued by the DEQ for violation of these Acts, any regulations adopted pursuant to such Acts, any permit or license issued pursuant to such Acts and such regulations.
- A person shall be liable for an additional penalty for any amount expended by any agency of the Commonwealth in taking any action necessary to mitigate or reduce any significant adverse effect caused by the person's failure to comply with the Acts, regulations, permit, license, or any order issued thereunder.
- Any person who knowingly and willfully commits any criminal act in violation of the Acts, regulations, permit, or license, and who is found guilty by a court of competent jurisdiction may be punished by a fine and/or imprisonment in accordance with the law. Any other penalties or remedies provided by these regulations, the law and/or ordered by the Director shall also remain in effect.
- The Director of DEQ may issue and order any person to pay a civil fine in accordance with the law for each violation of these Acts, regulations adopted pursuant to the Acts, any permit or license issued pursuant to the Acts and such regulations, or any hazardous waste management related violations. Any other penalties or remedies provided by these regulations, the law and/or ordered by the Director shall also remain in effect.

## 13.6 PROCEDURES FOR ADMINISTRATIVE ORDERS.

- (A) Any person who is subject to civil penalties, revocation, or suspension pursuant to Section 16 may be served with an Administrative Order and Notice of Violation and may upon written request seek an appeal hearing before the Director of DEQ or designee. Request for appeal may be served upon the Division within seven (7) calendar days from receipt of the Administrative Order. Failure to request an appeal within seven (7) calendar days shall result in the person's waiving the right to any appeal or hearing.
- (B) The written request for a hearing shall serve as the answer to the complaint. The request for hearing or "answer" shall clearly and directly admit, deny, or explain each of the factual allegations contained in the complaint with regard to which the alleged violator (respondent) has any knowledge. Where respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. The answer shall also state (1) the circumstances or arguments which are alleged to constitute the grounds of defense, (2) the facts which respondent intends to place at issue, and (3) whether a hearing is requested. Failure to admit, deny, or explain any material factual allegation contained in the complaint constitutes an admission of the allegations. An oral answer may also be given at the time of hearing should a hearing be requested.
- (C) The respondent may also request an informal Settlement Conference. An Informal

- Settlement Conference shall not affect the respondent's obligation to file a timely request for hearing. If a settlement is reached the parties shall forward a proposed consent order for the approval by the Director of DEQ.
- (D) If a hearing is conducted the Director or his designee will preside over the hearing. The Director of DEQ shall control the taking of testimony and evidence and shall cause to be made an audio, audio-video, or stenographic record of the hearing. The type of record made shall be at the discretion of the Director of DEQ. Evidence presented at such a hearing need not conform with the prescribed rules of evidence, but may be limited by the Director of DEQ in any manner the Director reasonably determines to be just and efficient and promote the ends of justice. The Director of DEQ shall issue a written decision within 15 working days of the close of the enforcement hearing. The decision shall include written findings of fact and conclusions of law. The standard of proof for such a hearing and decisions shall be the preponderance of the evidence.
- (E) Upon issuance of the written decision, the respondent may seek a discretionary review of the decision by the Office of the Governor. The request for the discretionary review must be filed within 10 working days of the date of issuance of the decision. The request must concisely state the specific objections to the decision. There is no right to a hearing before the Office of the Governor. A copy of the request of review must be filed with the Director of DEQ on the same day it is filed with the Office of the Governor. The Office of the Governor may elect to review the case and issue a written decision or affirm the Director's decision. The Director of DEQ will issue a written decision within 30 calendar days.
- (F) The Office of the Governor's decision shall be final. An appeal from the final enforcement decision shall be to the Commonwealth Superior Court within thirty (30) calendar days following service of the final agency decision.
- (G) For filing deadline purposes counting of the days shall start on the day after issuance or receipt (whichever is specified). If any filing date falls on a Saturday, Sunday, or Commonwealth Holiday, the filing date shall be extended to the next working day.

- 13.7 The Director of DEQ, shall have the responsibility to prepare, issue, modify, revoke and enforce orders for compliance with any of the provisions of these regulations or of any rules and regulations issued pursuant thereto and requiring the taking of such remedial measures as may be necessary or appropriate to implement or effectuate the provisions and purposes of these regulations.
- 13.8 The Director of DEQ may initiate civil actions through the Commonwealth Courts which shall be transmitted through and with the approval of the Office of the Governor and the Attorney General as necessary to enforce these regulations. The Attorney General will institute legal actions to enjoin a violation, continuing violation, or threatened violation of these regulations.
- 13.9 If the Director of DEQ has probable cause to believe there has been a violation of these regulations, upon receipt of an order or warrant from the Commonwealth Trial Court or the District Court, DEQ may enter upon and search any property, take necessary samples or readings therefrom, seize evidence found therein and examine or impound any book or record found therein or specified in such order or warrant.
- 13.10 The Director of DEQ or his authorized representative may enter property for purposes specified in 4.20 of these regulations without a warrant if: a violation has occurred or is imminent; the violation poses a serious, substantial and immediate threat to public health or welfare; or the process of obtaining a warrant or order would prolong or increase the threat, impair discovery of evidence of a violation or impair mitigation of the treat.

## **SECTION 14: SEVERABILITY**

14.1 Should any part, section, paragraph, sentence, clause, phrase, or application of these rules and regulations be declared unconstitutional or invalid for any reason by competent authority, the remainder or any other application of these rules and regulations shall not be affected in any way

Dated: 7-18-00

Ignación. Cabrera, Director División of Environmental Quality

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## COMMONWEALTH HEALTH CENTER

Office of the Secretary

GOVERNMENT OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF PUBLIC HEALTH SERVICES

## **PUBLIC NOTICE**

NOTICE OF ADOPTION OF THE AMENDMENTS TO THE RULES AND REGULATIONS GOVERNING THE ADMINISTRATION OF THE MEDICAL REFERRAL PROGRAM

NOTICE IS HEREBY GIVEN that the Secretary of the Department of Public Health of the CNMI in accordance with the authority vested in him pursuant to 1 CMC §2605 adopt the amendments to the Rules and Regulations Governing the Administration of the Medical Referral Program. These Regulations were originally published in the May 19, 2000 Commonwealth Register, Volume 22, Number 5, pages 17229-17235. No comments were received in response to the publication of the proposed Rules and Regulations. Copies of the Rules and Regulations Governing the Administration of the Medical Referral Program may be obtained from the Office of the Secretary of the Department of Public Health, located on the ground floor of the Commonwealth Health Center.

By signature below, the Secretary of Health hereby certifies that the amendments to the Rules and Regulations Governing the Administration of the Medical Referral Program that were previously published are a true, complete, and correct copy of the Rules and Regulations now adopted by the Department of Public Health. The Secretary further requests and directs that this certification be published in the Commonwealth Register and then be attached by both the Office of the Registrar of Corporations and the Office of the Governor to the Rules and Regulations.

JOSEPH K.P. VILLASOMEZ Secretary of Health

Department of Public Health

Filed By:

SOLEDAD B. SASAMOTO Registrar of Corporations

Date: <u>6 28 200 0</u>

Date: 18 JUL 2000

VOLUME 22 NUMBER 07 JULY 20, 2000

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COMMONWEALTH REGISTER

Received By: \_

JOSE I DELEON GUERRERO Special Assistant for Administration Date: 7/18/50

## Certification by Office of the Attorney General

Pursuant to 1 CMC §2153 as amended by PL 10-50, the rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Office of the Attorney General.

HERBERT I. SOLL Attorney General Date: 7 13 60