

SENATE

S. No. 879



'19 AUG -7 P1 :56

Introduced by Senator Manuel "Lito" M. Lapid

RECEIVED

AN ACT
REGULATING THE USE OF TREATMENT TECHNOLOGY FOR MUNICIPAL AND
HAZARDOUS WASTES, REPEALING FOR THE PURPOSE SECTION 20 OF REPUBLIC
ACT NO. 8749, OTHERWISE KNOWN AS
"THE PHILIPPINE CLEAN AIR ACT OF 1999"

EXPLANATORY NOTE

Section 16, Article II of the 1987 Constitution provides that the State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature. Pursuant to this constitutional mandate, Republic Act No. 8749, otherwise known as the "Philippine Clean Air Act of 1999", was enacted in 1999. Section 20 thereof prohibited the incineration of municipal, biomedical and hazardous waste, which process emits poisonous and toxic fumes. In consonance with this policy, Republic Act No. 9003, also known as the "Ecological Solid Waste Management Act of 2000, was also passed into law which mandated the adoption of a systematic, comprehensive and ecological solid waste management program to ensure the proper segregation, collection, transport, storage, treatment and disposal of solid waste through the formulation and adoption of the best environmental practice in ecological waste management, excluding "incineration".

However, twenty (20) years since their enactment and implementation, new technologies have emerged that made it possible and feasible to convert waste into energy resources. Waste to Energy (WTE), is a term that is used to describe various technologies that convert non-recyclable waste into usable forms of energy including heat, fuels and electricity. WTE can occur through a number of processes

such as incineration, gasification, pyrolysis, anaerobic digestion, and landfill gas recovery. Adopting WTE technologies will enable our communities to lessen the volume of garbage and waste being dumped at landfills while at the same time, harnessing a sustainable source of energy.

This bill seeks to repeal Section 20 of Republic Act No. 8749 and other provisions of Republic Act No. 9003 to pave the way for the implementation of modern technologies to address the persistent garbage problem of our country. To jump-start the adoption of these initiative, fiscal and non-fiscal incentives will be offered to interested investors and innovators.

In view thereof, the early approval of this bill is being earnestly sought.



MANUEL "LITO" M. LAPID
Senator



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*Be it enacted by the Senate and the House of Representatives of the Philippines
in Congress assembled:*

1 SECTION 1. *Short Title.* This Act shall be known and referred to as the
2 "Regulation of Waste Treatment Technology Act".

3 SECTION 2. *Regulation of Waste Treatment Technology.* Thermal and other
4 treatment technologies for the disposal of municipal and hazardous wastes, or for the
5 processing of any material for fuel, whether for commercial use or not, shall be
6 designed and operated to meet the standards established in this Act and its
7 implementing rules and regulation: Provided, That these technologies shall be fitted
8 with equipment that will continuously monitor, record and make publicly available the
9 reported data on their emissions or air pollutant concentrations: Provided, however,
10 That units that recover energy shall be prioritized: Provided, further, That entities
11 utilizing units shall incorporate in their facilities or operations proper materials recovery
12 program: Provided, finally, That thermal treatment units shall treat wastes at a
13 temperature of not less than eight hundred fifty degrees centigrade (850°C).

14 SECTION 3. *Role of the Department of Environment and Natural Resources*
15 (DENR). The DENR shall be primarily responsible for the implementation and
16 enforcement of this Act. It shall likewise promote the use of state-of-the-art,
17 environmentally-sound and safe technologies for the handling, treatment, thermal or
18 non-thermal destruction, utilization, and disposal of residual wastes.

1 SECTION 4. *Role of Local Government Units (LGUs) in Setting Up Treatment*
2 *Facilities.* The LGUs are hereby mandated to promote, encourage and implement in
3 their respective jurisdiction a comprehensive solid waste management plan that
4 includes waste segregation, recycling and composting.

5 The establishment of treatment facilities shall be facilitated by LGUs within
6 a region, province, or strategically clustered LGUs in consonance with their ten (10)-
7 year solid waste management plans made consistent with the national solid waste
8 management framework established pursuant to R.A. No. 9003, otherwise known as
9 the Ecological Solid Waste Management Act of 2000. The solid waste management
10 plans of all the LGUs shall be subjected to the approval of the National Solid Waste
11 Management Commission (NSWMC).

12 SECTION 5. *Role of the National Solid Waste Management Commission*
13 *(NSWMC).* Pursuant to the provisions of R.A. 9003, the NSWMC shall ensure the
14 establishment of a comprehensive solid waste management plan in all LGUs, which
15 shall incorporate waste segregation, recycling and composting, and disposal. The
16 NSWMC shall approve or deny the plan, or supplemental disposal plan of all LGUs,
17 which may carry out treatment projects, within ten (10) working days from its
18 submission. The Department of Science and Technology (DOST) shall likewise process
19 the application of said projects for the necessary technology verification within the
20 same period. However, for new technology, the DOST shall have twenty (20) working
21 days from the receipt of the application of said projects to process the verification. In
22 all cases, the approving body shall put in writing the reasons for either approving or
23 denying the plan.

24 SECTION 6. *Responsibility of Owner and Operator.* Responsibility for
25 compliance with the standards promulgated for the establishment and operation of
26 waste treatment facilities shall rest with the owner and/or operator thereof. If by
27 contract the operator is bound to be held primarily responsible and solely responsible
28 for compliance with the standards, the same shall not relieve the owner of the
29 requirement to exercise due diligence to assure that the required compliance by
30 operators are met. In the event that the ownership of the facility is transferred to
31 another person, the previous owner shall notify the new owner of the standards and
32 the conditions set for the operation of said facility, and the laws and regulations that
33 the new owner has to comply with. The standards for operation of waste treatment
34 facility may be made more stringent by five percent (5%): Provided, That the same
35 shall be effected ten (10) years following the commencement of the operation of the
36 facility established after the effectivity of this Act.

1 SECTION 7. *Incentives.* (a) Fiscal Incentives. The following tax incentives shall
2 be granted to registered enterprises which shall invest in waste treatment facilities:

3 1) Income Tax Holiday. Within the first seven (7) years of its operations, the
4 treatment facility shall be exempt from income taxes levied by the national government.

5 2) Tax and Duty Exemption on Imported Capital Equipment and Vehicles.
6 Within the first ten (10) years of operations, registered enterprises which invested in the
7 treatment facility shall enjoy tax and duty-free importation of machinery, equipment,
8 vehicles and spare parts used for setting up the treatment facility: Provided, That the
9 importation of such machineries, equipment, garbage collection vehicles, and spare
10 parts shall comply with the following conditions:

11 (i) They are not manufactured domestically in sufficient quantity, of
12 comparable quality and reasonable prices;

13 (ii) They are reasonably needed and will be used exclusively by the
14 registered enterprise in the manufacture of its products, unless prior approval of
15 the Board of Investments (BOI) of the Department of Trade and Industry (DTI) is
16 secured for the part-time utilization of the said equipment in a non-registered
17 activity to maximize usage thereof or the proportionate taxes and duties are paid
18 on the specific equipment and machinery being permanently used for non-
19 registered activities;

20 (iii) The importation of such machinery, equipment, vehicle and spare
21 parts has been approved by the Board of Investments (BOI) of the Department of
22 Trade and Industry (DTI).

23 Provided, further, That the sale, transfer or disposition of such machinery,
24 equipment, vehicle and spare parts within five (5) years from the date of acquisition
25 shall be prohibited, without prior approval of the BOI, otherwise, the registered
26 enterprise and the vendee, transferee, or assignee shall be solitarily liable to pay twice
27 the amount of tax and duty exemption given it.

28 3) Tax Credit on Domestic Equipment. A tax credit equivalent to one
29 hundred percent (100%) of the amount of the value-added tax and custom duties that
30 would have paid on the machinery, equipment, components, parts and materials had
31 these items been imported shall be given to a contract holder who purchases
32 machinery, equipment, component, parts and materials: Provided, That such are
33 directly needed and shall be used exclusively by the waste treatment facility.

1 4) Tax and Duty Exemption of Donations, Legacies and Gifts. All legacies,
2 gifts and donations to LGUs, enterprises or private entities, including non-government
3 organizations (NGOs) for the support and maintenance of the program for setting up of
4 treatment technologies shall be exempt from all internal revenue taxes and custom
5 duties, and shall be deductible in full from the gross income of the donor for income tax
6 purposes.

7 (b) Non-Fiscal Incentives. LGUs, enterprises or private entities availing the
8 tax incentives under this Act shall also be entitled to applicable non-fiscal incentives
9 provided for under the Omnibus Investments Code.

10 The NSWMC shall provide incentives to businesses and industries that are
11 engaged in the treatment of wastes which are registered with the NSWMC and have
12 been issued the required Environmental Compliance Certificate (ECC) in accordance
13 with guidelines established by the NSWMC. Such incentives shall include simplified
14 procedures for the importation of equipment, spare parts, new materials, and supplies,
15 and for the export of processed products.

16 (c) Financial Assistance Program. Government financial institutions such as
17 the Land Bank of the Philippines (LBP), Development Bank of the Philippines (DBP),
18 Government Service Insurance System (GSIS), and such other government institutions
19 providing financial services shall, in accordance with and to the extent allowed by the
20 enabling provisions of their respective charters or applicable laws, accord high priority
21 in the extension of financial services to individuals, enterprises, or private entities
22 engaged in putting up treatment facilities: Provided, That these institutions shall
23 allocate five percent (5%) of their loan portfolio to waste treatment projects.

24 (d) Extension of Grants to LGUs. Provinces, cities and municipalities whose
25 treatment facilities plans have been duly approved by the NSWMC or who have been
26 commended by the NSWMC for adopting innovative waste treatment program.

27 (e) Incentives to Host LGUs. LGUs who host common treatment facilities
28 shall be entitled to incentives as may be determined by the NSWMC.

29 SECTION 8. *Fines and Penalties.* Violations of the provisions of this Act, or the
30 standards or rules and regulations promulgated for treatment facilities shall be fined
31 and penalized under the provisions of Presidential Decree No. 1586; Republic Act No.
32 6969, otherwise known as the "Toxic Substances and Hazardous and Nuclear Wastes
33 Control Act of 1990"; Republic Act No. 8749, otherwise known as the "Philippine Clean
34 Air Act of 1999"; and Republic Act No. 9275, otherwise known as the "Philippine Clean
35 Water Act of 2004". For waste-to-energy facilities, the penal schemes established

1 under the Philippine Grid Code and Philippine Distribution Code pursuant to Republic
2 Act No. 9136, also known as the "Electric Power Industry Reform Act of 2001" shall
3 likewise apply for this purpose.

4 SECTION 9. *Implementing Rules and Regulations.* The DENR, in coordination
5 with the NSWMC, Department of Energy (DOE), BOI, Bureau of Internal Revenue (BIR),
6 Bureau of Customs (BoC), academe or research institutions, and other concerned
7 agencies, shall promulgate the implementing rules and regulations for this Act, within
8 three (3) months after its enactment.

9 SECTION 10. *Annual Report.* The NSWMC shall submit an annual report to the
10 President of the Philippines and to Congress on the status of disposal management
11 and the use of treatment facilities in the country not later than March 30 of every year
12 following the approval of this Act.

13 SECTION 11. *Separability Clause.* If any part or section of this Act is declared
14 unconstitutional, such declaration shall not affect the other parts or sections of this Act.

15 SECTION 12. *Repealing Clause.* Section 20 of Republic Act No. 8749 is hereby
16 repealed. Provisions of Republic Act No. 9003, and other laws, presidential decrees,
17 executive orders, rules and regulations inconsistent with any provision of this Act shall
18 be deemed repealed or modified accordingly.

19 SECTION 13. *Effectivity.* This Act shall take effect fifteen (15) days after its
20 publication in the Official Gazette or in a newspaper of general circulation.

21 *Approved,*