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CHAPTER 51
SOLID WASTE MANAGEMENT AND LITTER CONTROL

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ARTICLE 1
SOLID WASTE MANAGEMENT

SOURCE: GC § 57170 et seq. (1974 GC Supplement). Repealed and reenacted by P.L. 14-37:1 (June 18, 1977); P.L. 17-87 (Jan. 18, 1985); and P.L. 23-64 (Dec. 5, 1995). Further amended as indicated herein.

NOTE: This Article was amended in part by P.L. 24-139 (Feb. 7, 1998) and P.L. 24-272 (Oct. 2, 1998), which were found by the Guam Supreme Court in *Pangelinan v. Gutierrez*, 2000 Guam 11 (Mar. 10, 2000) and 2004 Guam 16 (Sept. 9, 2004), to be invalid. **Thus, the amendments by P.L.s 24-139 and 24-272 are void and of no effect.** However, notwithstanding the aforementioned court holdings and without consideration thereof, parts of this Article were amended or added by P.L. 24-309 (Dec. 18, 1998); P.L. 25-70 (July 15, 1999); P.L. 25-93 (Dec. 29, 1999); P.L. 25-175 (Dec. 14, 2000); P.L. 26-35 (Oct. 1, 2001); P.L. 28-11 (Mar. 9, 2005); and P.L. 28-56 (June 30, 2005). Therefore, until this Article is corrected by the legislature, it is presented here in the form repealed and reenacted by P.L. 24-272 and amended by subsequent laws as indicted in SOURCE comments. **However, reference must be made to the Article as it existed prior to P.L. 24-139.** Thus, the Article, as repealed and reenacted by P.L. 23-64, is included in its entirety in a NOTE at the end of this Article.

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§ 51101. Legislative Findings.

(a) The Guam Legislature finds:

(1) the Ordot Landfill is a threat to the health and safety of the residents of Guam, and specifically for the residents of Ordot-Chalan Pago, Yona and the villages down river and downwind;

(2) solid waste collection and disposal on Guam does not adequately eliminate the threat that improperly disposed solid waste poses to the health, safety, and welfare of Guam residents;

(3) under the Government of Guam Property Act, the Ordot Landfill shall be converted to a public park after it is closed in accordance with applicable U.S. E.P.A. and government of Guam regulations. In order to protect the health and welfare of the residents of Chalan Pago-Ordot and the people of Guam, the Agency shall monitor the landfill on an on-going basis for compliance with this Section and take proper measures to mitigate environmental damage;

(4) the Ordot Landfill reached its capacity in the 1990's, and the closure of the dump is necessary in order to eliminate this existing serious environmental hazard. The dump should be converted to a public park;

(5) even with closure of the Ordot Landfill and construction of a new landfill at the same or any other site, landfilling cannot continue as the sole method of waste disposal for Guam due to the shortage of land on Guam, and the general aversion of any community to the location of a landfill within their proximity;

(6) it is in the best interest of the government to privatize through free and fair competition, the solid waste management operations of the Island, from collection to disposal, without jeopardizing the job

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security for the employees of the Solid Waste Management Division of the Department of Public Works as well as the private businesses currently engaged in solid waste collection, recycling and other solid waste management operations;

(7) it is in the best interest of the government to establish a funding procedure or financial arrangement which will pay for operations and meet the requirements for a totally funded program for solid waste management;

(8) Guam contains approximately 215 square miles of landmass. Over half of that mass is located over the northern Guam Lens, a pure groundwater resource that requires protection. Thus, any landfill more likely should be located in southern Guam, south of a line running approximately from Cabras Island to Pago Bay. With the pristine south already imposed upon by this geological and environmental constraint, and in order to protect the cultural traditional nature of the villages in the south and the unique environments there, a source and waste disposal reduction policy shall be implemented to minimize the requirement for landfilling;

(9) source reduction shall include a conservation and recycling program. It shall also consider the disposal of green waste through mulching or composting, or the recovery of resources through recycling of the green waste. Construction or demolition waste and metallic debris shall be addressed alternately, and the alternate plan should include hardfilling or quarrying, recycling or disposal other than at the landfill. Rubber tires, rubber products, and batteries shall be addressed and recycled, recovered or disposed of at alternate sites;

(10) a solid waste management plan for Guam shall address typhoon and other disaster recovery; it is estimated that Super Typhoon Paka produced over 750,000 cubic yards of waste, which should be recycled or disposed of; Guam is in: the typhoon belt; in an active volcanic range; and, an active seismic zone so disasters will happen on a regular basis;

(11) the Guam Legislature further finds that while other communities with alternative sites for landfilling enjoy the option of not paying for source reduction and resource recovery, we must establish a Guam site-specific solid waste management policy,

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because we have very limited alternative acceptable sites for future disposal requirements;

(12) in 1983, the Guam Environmental Protection Agency ('GEPA') adopted a Solid Waste Management Plan for Guam and also adopted regulations for solid waste collection and disposal;

(13) the government must now establish an updated Solid Waste Management Plan ('SWMP' or the 'Plan') , which shall include the closure and beneficial use of the Ordot Landfill, the privatization of the complete solid waste program, including landfill operations and provisions for job protection for the employees of the Solid Waste Division, source reduction, recycling, composting, resource recovery, waste reduction and regulated landfill disposal in an integrated program for solid waste collection and disposal, and the funding for the Plan. The SWMP shall also address construction debris or demolition waste; metallic debris; tires; waste oil; household hazardous waste; abandoned vehicles and other bulky metallic waste; white goods, such as washers, dryers and refrigerators; and green waste, which may be useful in some form, but unnecessarily contribute to landfill volume;

(14) the Department of Public Works shall implement the updated Solid Waste Management Plan, as approved by the Guam Legislature, regulated by GEPA;

(15) any and all solid waste handling and disposal contemplated by and authorized under this Act shall obtain and operate under any and all permits required by laws, rules and regulations applicable to Guam; and

(16) The government of Guam shall not direct or regulate existing permitted private entities actively engaged in solid waste collection or recycling beyond the scope and extent of Federal statutory and regulatory requirements. The standings of such private businesses permitted to actively engage in solid waste collection shall be given maximum protection and support under this Act to promote their viability and longevity under a free enterprise system.

(b) The purposes of this Chapter are to:

(1) plan for and regulate the storage, collection, transportation, separation, processing and disposal of solid waste to protect the public

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safety, health and welfare, and to enhance the environment of the people of Guam;

(2) provide the authority and resources, including funding to plan for, establish, finance, operate and maintain efficient, environmentally acceptable solid waste management systems, privatized, but administered by the Department of Public Works and regulated by GEPA;

(3) privatize Guam's Solid Waste Management System ('SWMS') subject to all applicable laws and Public Law Number 24-06;

(4) establish the SWMS to be operated by private ventures, entities or individuals, to promote land conservation by limiting landfilling requirements consistent with the SWMP, and to establish as a limit the reusing, recycling and composting of no less than twenty percent (20%) of the total solid waste generated on Guam from all sources within the time frame established by the Plan and a comprehensive solid waste disposal and resource recovery program that ultimately will minimize Guam's need for additional landfills beyond replacing the Ordot Landfill; quantitative factors to meet such an objective shall be specified and substantiated in the SWMP;

(5) continue authority to regulate solid waste storage practices within the Department of Public Health and Social Services pursuant to Chapter 33 of this Title and, where applicable, establish such authority in the Department of Public Works to insure that such practices do not constitute a danger to human health, safety and welfare;

(6) continue authority in GEPA to review the design of and to issue permits for the operation of solid waste collection, transport, processing and disposal activities;

(7) continue authority in GEPA to undertake a comprehensive investigation of and set minimum standards for the transportation, processing, storage, treatment, and disposal of hazardous waste, and conduct surveys for special disposal facilities for hazardous waste, to protect public health, other living organisms and the environment through an effective and efficient hazardous waste management system;

(8) continue authority in GEPA to establish and implement an enforcement system to prevent the improper disposal of solid waste;

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(9) promote the application of a Solid Waste Management System which preserves and enhances the quality of air, water and land resources;

(10) promote and assist in the development of markets for recovered and recycled materials;

(11) support and encourage the rapid and efficient removal, recycling, processing, or disposal of abandoned vehicles and other bulky waste, and to assure that the recovery of resources is facilitated;

(12) authorize the closure and beneficial use of the Ordot Landfill site, and promote, assist and support the construction and operation of a privatized sanitary landfill, resource recovery and other solid waste management facilities;

(13) require consideration and evaluation of treatment of bottom and fly ash generated from resource recovery facilities that any municipal solid waste incinerator company which operates a facility which generates bottom and fly ash or waste ash shall be responsible for the collection and disposal thereof and cost of the collection and disposal thereof; and

(14) authorize GEPA to establish such advisory committees as are necessary to carry out its planning and solid waste management responsibilities; the committees shall include but limited to representatives of GEPA, DPW, the Department of Public Health and Social Services, collectors, operators, applicable Federal agencies, educational/environmental groups and the public at large.

SOURCE: Repealed and reenacted by P.L. 24-139:2. Repealed and reenacted by P.L. 24-272:1.

§ 51102. Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings given herein, unless their use in the text of the Chapter clearly demonstrates a different meaning.

(1) *Administrator* means the Administrator of GEPA or his designee.

(2) *Agency* means GEPA.

(3) *Best public interest* means any activity which: lessens the demand for landfill sites, conserves land resources and serves to insure proper, cost

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effective and environmentally sound disposal of solid waste; and, does not pose health risks to human life or endanger plant and animal life.

(4) *Board* means the Board of Directors of GEPA.

(5) *Business* means and includes any activity or conduct, whether proprietary, partnerships, corporate or whatever form, engaged in, or caused to be engaged in, with the object of gain or economic benefit, either direct or indirect, but shall not include casual sales, personal service contracts, fundraising activities by political candidates or the activities of non-profit associations.

(6) *Collection* or *Collect* means the act of removing solid waste from a generator.

(7) *Collector* means any individual, governmental organization or business which has received a permit to collect and transport waste in accordance with applicable laws and regulations.

(8) *Combustion* means to thermally break down certain types of solid waste in an enclosed device using controlled temperatures.

(9) *Composting* means the controlled degradation of organic solid waste.

(10) *Department* means the Department of Public Works ('DPW') .

(11) *Director* means the Director of DPW.

(12) *Disposal* means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water.

(13) *Division* means the Division of Solid Waste Management of the DPW.

(14) *Dump* means a land site where solid waste is disposed without a valid permit or a landfill that has historically been in regulatory noncompliance.

(15) *Dwelling* means a building or portion thereof designed exclusively for residential occupancy by one (1) family for living and sleeping purposes and not to exceed two (2) dwelling units.

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(16) *Dwelling unit* means one (1) or more rooms and a single kitchen in a dwelling, designed as a unit for occupancy by one (1) family for living and sleeping purposes.

(17) *Financial assurance* means a financial guarantee assuring that funds are available to pay for the design, construction, operation and closure of a solid waste landfill facility, for rendering post-closure at a solid waste landfill facility, for corrective action and to compensate third parties for bodily injury and property damage caused by sudden and non-sudden accidents related to the operation of a solid waste landfill facility.

(18) *Generator* means any person that generates or produces solid waste.

(19) *Government* means the government of Guam, all of its agencies, whether line or autonomous, and all public corporations.

(20) *Hardfill* shall mean a method of compaction and earth cover of solid wastes other than those containing garbage or other putrescible (putrescent) waste, including, *but not limited to*, demolition material, and like materials not constituting a health or nuisance hazard, where cover need not be applied on a per day used basis. No combustible materials shall be deposited in a hardfill.

(i) *Combustible Materials* shall mean any solid or liquid that may be ignited.

(a) *Combustible Solids*, as defined in Title 49 of the Code of Federal Regulations, Chapter 1, Subtitle B, Part 173.124, are those capable of igniting and burning.

(b) *Combustible Liquids*, as defined in Title 29 of the Code of Federal Regulations, Chapter 17, Subtitle B, Part 1910.106, shall mean any materials having a flash point at or above 100 degrees Fahrenheit (37.8 degrees Celsius) , but below 200 degrees Fahrenheit (93.3 degrees Celsius) , except any mixture having components with flashpoints of 200 degrees Fahrenheit (93.3 degrees Celsius) , or higher, the total volume of which make up ninety-nine percent (99%) or more of the total volume of the mixture.

(21) *Hazardous Waste* means any material or substance which, by reason of its composition or characteristics,

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(i) is hazardous waste as defined in the Solid Waste Disposal Act, 42 USC §6901, et seq., as amended, replaced or superseded and the regulations implementing same,

(ii) is a hazardous substance as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC § 9601, et seq.,

(iii) is material the disposal of which is regulated by the Toxic Substances Control Act, 15 USC § 2601, et seq., as amended, replaced or superseded, and the regulations implementing same,

(iv) is special nuclear or by-products material within the meaning of the Atomic Energy Act of 1954,

(v) is pathological, infectious or biological waste,

(vi) is treated as hazardous waste or as a hazardous substance under applicable law,

(vii) requires a hazardous waste or similar permit for its storage, treatment, incineration or disposal,

(viii) may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness, or

(ix) may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise damaged.

(22) *Highway* means the entire width between the boundary lines of every right-of-way or publicly maintained travel ways when any part thereof is open to the use of the public for purposes of vehicular travel.

(23) *Incinerator* means an enclosed device using controlled flame combustion, the primary purpose of which is to thermally break down solid waste.

(24) *Multi-family dwelling* means a building containing three (3) or more dwellings.

(25) *Office* means the Office of Recycling of the Division.

(26) *Operator* means any person who accepts solid waste from a collector for transfer, storage, recycling, combustion, processing or disposal.

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(27) *Performance bond* means a security for financial loss caused by the act or default performance of a person or by uncontrollable conditions.

(28) *Person* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, or any agency, department, or instrumentality of the Federal or local government, or any other legal representatives, agents or assigns.

(29) *Plan* means the interim or final Solid Waste Management Plan ('SWMP') to be prepared and adopted by the Agency in accordance with the Administrative Adjudication Law.

(30) *Plasma torch heating technology* means converting electrical energy into heat energy producing clean fuel gas and recyclable slag.

(31) *Plasma Remediation In-Situ Materials* ('PRISM') means a plasma torch technology process that melts down and converts landfill material into slag and fuel gas.

(32) *Pollution* means the condition caused by the presence in the environment of substances of such character and in such quantities that the quality of the environment is impaired or rendered offensive to life.

(33) *Processing* means any method, system or other treatment designed to change the physical, chemical or biological character or composition of any solid waste. This includes the neutralization of any hazardous waste; the rendering of any hazardous waste non-hazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume; or any other activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it non-hazardous.

(34) *Recyclable materials* includes the following materials discarded from households, businesses, commercial and industrial establishments, hotels, government, agricultural, landscaping, yard maintenance and military operations which may be reused or for which a market exists:

(i) *aluminum* means any product manufactured of aluminum or aluminum alloy;

(ii) *battery* means any lead acid battery or dry cell battery discarded on Guam, independent of intended use;

(iii) *biomass* means any large biomass source, such as trees, wood, grass, hedge cuttings, jungle growth, yard waste and sewage sludge;

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(iv) *construction debris* means the materials from building construction;

(v) *corrugated cardboard* means kraft, jute or test liner pulp which is made by combining two (2) or more webs of paper and formed or shaped into wrinkles or folds or into alternate ridges and grooves;

(vi) *demolition waste* means the materials obtained from the demolition or razing of buildings;

(vii) *glass* means any product manufactured from a mixture of silicates, borates or phosphates;

(viii) *metal scrap* means any metal, in whole or in parts, from buildings, equipment, machinery or vehicles;

(ix) *newspaper* means a publication which is distributed and contains news articles, opinions, features, and advertising and is printed on impermanent wood pulp materials;

(x) *office paper* means computer paper and white and colored ledger paper;

(xi) *used oil* means any petroleum-based, mineral, or synthetic oil which through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties; and

(xii) such other materials which the Department determines, from time to time, may be recycled.

(35) *Recycle* or *Recycling* means the method by which recovered resources are converted for use as raw material or feedstock to make new products.

(36) *Recycling Officer* means the head of the Office of Recycling.

(37) *Resource recovery* means the process of recovering recyclable materials or the recovery of energy from solid waste.

(38) *Resource Recovery Facility* ('RRF') is a facility which recovers for sale or reuse of recyclable materials.

(39) *Reusing* means the reintroduction of a commodity in the economic stream without any changes.

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(40) *Sanitary landfill* means an approved site where solid waste and ash are disposed using modern sanitary landfilling techniques in accordance with Federal and local regulations.

(41) *Sanitary landfilling* means an engineered method of disposing of solid waste on land in accordance with Federal and local regulations in a manner that protects the environment by spreading the waste in thin layers, compacting it to the smallest practical volume, and covering it with approved material at the end of each working day.

(42) *Separation* means the systematic division of solid waste into designated components.

(43) *Solid waste* means any garbage, refuse or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded and/or spilled materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, mining, commercial, and agriculture operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under §402 of the Federal Water Pollution Control Act, as amended (68 Stat. 880) , or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923) .

(44) *Solid waste management* means the purposeful, systematic control of the generation, storage, collection, transportation, separation, processing and disposal of solid waste.

(45) *Solid waste management facilities* means any facility, or any machinery, equipment, vehicles, structures or any part of accessories thereof installed or acquired for the primary purpose of: collection, transportation, storage, recycling, processing or disposal of solid waste, and shall include sanitary landfills, resource recovery facilities, or plasma torch.

(46) *Solid Waste Management Plan* means a comprehensive plan and all amendments and revisions thereto for provisions of solid waste management throughout Guam.

(47) *Solid waste management practices* means the actions to effectuate the generation, storage, collection, transportation, processing, recycling, incineration, plasma torch or resource recovery or disposal of solid waste.

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(48) *Solid Waste Management System* ('SWMS') means the entire system covered in the SWMP and designated by the Director for the storage, collection, generation, transportation, processing, recycling, incineration, plasma torch and disposal of solid waste within Guam.

(49) *Source separated waste* means recyclable materials which are set aside by the generator for segregated collection and transport to solid waste management facilities.

(50) *Storage* means the interim containment of solid waste in accordance with Federal and local regulations.

(51) *Transfer station* shall mean any intermediate waste facility in which solid waste collected from any source is temporarily deposited and stored while awaiting transportation to another solid waste management facility.

(52) *Duplex* means a residential building containing two (2) separate dwelling units either side by side or one above the other.

(53) *Single Family Residence* means a detached building designed for and/or occupied exclusively by one (1) family, or one (1) of two (2) dwelling units on a duplex.

SOURCE: Repealed and reenacted by P.L. 24-139:3. Repealed and reenacted by P.L. 24-272:1. Subsection (17) repealed and reenacted by P.L. 24-309:2. Subsection (52) added by P.L. 25-93:12. Subsection (53) added by P.L. 25-93:13. Subsection (20) repealed and reenacted by P.L. 28-11:2 and subsection 20(i) added by P.L. 28-11:3.

§ 51103. Powers and Duties of the Agency and the Department.

(a) The Agency shall have the authority under this Act and other laws of Guam, pursuant to the Administrative Adjudication Law, to:

(1) prepare and adopt in accordance with the Administrative Adjudication Law an interim Solid Waste Management Plan, consistent with the provisions of this Act, within one hundred eighty (180) days of the effective date of this Act;

(2) prepare and adopt in accordance with the Administrative Adjudication Law a final Solid Waste Management Plan, consistent with the provisions of this Act, within three hundred (300) days of the effective date of this Act. The Plan shall be revised at least every five (5) years, or sooner as needed;

(3) administer Guam's Solid Waste Management Program pursuant to provisions of this Chapter;

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(4) prepare, adopt, promulgate, modify, update, and repeal rules and regulations in cooperation with appropriate government agencies, industries and private parties, for the collection, transportation, storage and disposal of hazardous waste;

(5) prepare, adopt, promulgate, modify, update, repeal, and enforce rules and regulations setting environmental standards for collection, transportation, separation, processing, recycling, materials and resource recovery, incineration, plasma torch and disposal of solid waste in order to conserve the air, water, and land resources of Guam, protect the public health, prevent environmental pollution and public nuisances, and enable it and the Department to carry out the purposes and provisions of this Chapter and the Plan;

(6) establish the procedures for review and issuance of permits governing the design, operation, closure, and post-closure of solid waste management facilities, which procedures shall be consistent with the procedures used by the United States Environmental Protection Agency in the issuance of similar permits;

(7) enforce compliance with any of its rules and regulations issued pursuant to this Chapter and require the taking of such remedial measures for solid waste management or solid waste management practices as may be necessary or appropriate to implement or effectuate its responsibilities under this Chapter;

(8) prepare, adopt, promulgate, modify, update, repeal, and enforce such other rules and regulations as may be necessary to establish a hazardous waste program which meets the requirements of Section 3006 of the Federal Resource Conservation and Recovery Act (42 U.S.C. 6926, et seq.) and regulations promulgated pursuant thereto;

(9) prepare, issue, modify, remove and enforce orders for compliance with any of the provisions of this Chapter or of any rules and regulations issued pursuant thereto and requiring the taking of such remedial measures for solid waste management as may be necessary or appropriate to implement or effectuate the provisions and purposes of this Chapter;

(10) impose and collect penalties against any person for the violation of any of its rules, regulations or compliance orders issued under this Chapter;

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(11) require a financial guarantee assuring that funds are available to pay for the design, construction, operation and closure of a solid waste landfill facility, for rendering post-closure at a solid waste landfill facility, for corrective action and to compensate third parties for bodily injury and property damage caused by sudden and non-sudden accidents related to the operation of solid waste landfill facility.

(12) serve as the official government of Guam representative for all purposes of the Federal Solid Waste Disposal Act, (P.L. No. 91-512), or as subsequently amended, and for the purpose of such other local or Federal legislation as has been or may hereafter be enacted to assist in the management of solid waste;

(13) provide technical assistance to local and Federal agencies, and other persons, and cooperate with appropriate local agencies and private organizations in carrying out the duties under this Chapter;

(14) encourage and recommend procedures for private financing to develop, design, construct and operate solid waste management system in accomplishing the desired objectives of this Chapter; and

(15) insure that the interest of existing permitted private entities actively engaged in solid waste management operations are duly and lawfully protected and are not unfairly jeopardized or removed.

(16) determine the applicability, type and sum required for posting a performance bond on solid waste management facilities that are not municipal solid waste landfills.

(b) The Department shall have the following powers and duties pursuant to the Administrative Adjudication Law to:

(1) adopt and enforce rules, regulations and other procedures for the implementation of the solid waste management system created by the Plan and such other rules and regulations as are necessary to fulfill the Department's powers and duties under this Act;

(2) privatize all other solid waste management facilities and operations not addressed above in Subsection (2) and within the policy guidelines of the Solid Waste Management Plan, including the closure and beneficial use of the Ordot Landfill site, source reduction, recycling, composting, resource recovery, waste reduction, new landfill and transfer stations. This responsibility shall also address

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construction debris or demolition waste, metallic debris, white goods, tires and green waste; contracts with private entities shall fully encompass development, financing, construction and operation of any such facilities;

(3) fulfill any of its duties under this Act and consistent with the SWMP by entering into contracts with private entities; all such new contracts shall be entered into according to the procedures of the Guam Procurement Law, Chapter 5, Division 1 of Title 5 of the Guam Code Annotated, and other applicable laws of Guam;

(4) establish administrative procedures for the dissemination of rates and fee schedules and the collection of fees and charges authorized and duly adopted or set under this Act for the collection, processing, resources recovery or disposal of solid waste within Guam, including, but not limited to, fees assessed to owners of dwellings, fees assessed to any other generators or collectors, and fees assessed for solid waste received at designated solid waste management facility within Guam;

(5) administer, supervise and fulfill the responsibilities of the government in any contract entered into pursuant to provisions of the Guam Procurement Law (5 GCA Chapter 5) for the development, construction, operation or closure of landfills, RRF or any other solid waste management facility contracted or prescribed in the Plan and legally established under Guam and Federal laws, rules and regulations;

(6) organize, plan for, secure and manage resources and promote the implementation of the Plan;

(7) evaluate and promote capital improvements and maintenance programs to the solid waste management system;

(8) address the necessity for a facility for the shredding of tires for recycling or for use as rubberized asphalt;

(9) address the necessity for a facility for the recycling of glass, including its use as glassphalt;

(10) address the necessity for a facility for the recycling of scrap metals, including discarded vehicles, appliances and equipment, including shredding for containerization or other shipment;

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(11) require the preparation of any necessary environmental impact assessments or environmental impact reports;

(12) mandate the inspection and monitoring of all solid waste management facilities to assure compliance with this Act, the Plan, other law, rules and regulations applicable to Guam; and

(13) apply for all grants-in-aid requests and administration of any such programs or funds, except those established for recycling.

(c) There is established within the Division of Solid Waste of the Department, the Office of Recycling and the position of Recycling Officer who shall head the Office. The Office shall be responsible for the following:

(1) establishing and managing in conjunction with the Plan a promotional program for recycling, composting and the recovery of resources, including recommendations on the size, character, location and ownership of any RRF or composting facility;

(2) evaluating and insuring adequate capacities within the solid waste management system for recycling;

(3) plan, organize, coordinate and pursue the following objectives:

(i) publish and disseminate guidebooks, newsletters and instruction manuals to promote recycling;

(ii) in conjunction with the Mayors Council of Guam, conduct public outreach activities to promote recycling;

(iii) establish a recycling demonstration project in at least six (6) selected villages throughout Guam, wherein compartmentalized containers will be located and serve as recycling drop-off centers for the community; the Department shall contract for the supply of the containers and their hauling for recycling or other disposal; all revenues generated by the sale of recyclable materials shall be paid to the Mayors and be used by the Mayors to support programs which further encourage recycling; moreover, individual accounts shall be established for each Mayor to record all costs and revenues in order to evidence the commercial feasibility, or lack thereof, of recycling;

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(iv) develop a recommended program for composting of biomass on government property;

(v) formulate and recommend other recycling demonstration projects and initiatives;

(vi) identify economically priced products manufactured of recycled material which are usable by the government in the place of products manufactured of virgin material;

(vii) study recycling techniques to determine the most cost-effective manner of collecting, processing, storing, marketing, transporting or reusing recyclable materials;

(viii) establish a recycling telephone hotline serving to take inquiries and disseminate information on recycling;

(ix) recommend the establishment or revision of administrative or procurement practices which will promote recycling;

(x) determine and report through the Director to the Guam Legislature the costs and benefits of establishing a system for source separated waste;

(xi) recommend new legislation to facilitate recycling through planning, market research, source separated waste, surcharges, fees, operational subsidies, tax incentives and other similar means;

(xii) identify and promote businesses reusing or converting recyclable materials;

(xiii) advise and assist collectors on efficient techniques for recycling; and

(xiv) conduct media advertising, public opinion surveys, seminars, workshops and community relations campaigns to promote public awareness of the benefits and methods of recycling.

SOURCE: Repealed and reenacted by P.L. 24-139:4. Repealed and reenacted by P.L. 24-272:1. Subsection (a) (11) repealed and reenacted by P.L. 24-309:3. Subsection (a) (16) added by P.L. 24-309:4.

§ 51104. Permits.

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(a) The Administrator is authorized and directed to issue permits for all collectors, operators and solid waste management facilities, their design, operation, maintenance, substantial alteration, modification or enlargement. All such permits shall be non-transferable and conditioned upon the observance of the laws of Guam and rules, compliance orders or regulations authorized in this Chapter. All such permits shall include provisions to hold the permittee liable during the duration of the permit and twenty-five (25) years after the expiration of the permit for all costs related to health and environmental restoration attributed to the operation of the facility.

(b) Each permit holder shall apply for the renewal of each permit held, upon forms provided by the Agency, not less than sixty (60) days prior to the expiration date of such solid waste management permit to be renewed, or not less than one hundred eighty (180) days prior to the expiration date of each hazardous waste management permit to be renewed.

(c) Each permit application and each permit renewal application shall be submitted with proof of financial assurance, of a type and in a sum established by the Administrator conditioned on the fulfillment by the permit holder of the requirements of this Chapter and the rules and regulations authorized therein. No financial assurance mechanism required under this Chapter may be canceled by the guarantor unless the Administrator has received written notice thereof and there has been a lapse of one hundred twenty (120) days between receipt of notice and cancellation date.

(d) Before issuing a solid waste management permit to any person with respect to any facility for the processing, storage or disposal of solid waste, the Administrator shall:

(1) Cause to be published in a major local newspaper or newspaper of general circulation, and broadcast over a local radio station or stations, notice of the Agency's intention to issue such a permit.

(2) If, within forty-five (45) days after publication and broadcast, the Agency receives written notice of opposition to the Agency's intention to issue such permit and a request for a hearing is made, the Agency shall provide for a hearing in accordance with the Administrative Adjudication Law, if requested by a substantially affected party or an informal public meeting if requested by any other person.

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(e) Before issuing a hazardous waste management permit to any person with respect to any facility for the processing, storage or disposal of hazardous waste, the Administrator shall:

(1) cause to be published in a major local newspaper or newspaper of general circulation, and broadcast over a local radio station or stations, notice of the Agency's intention to issue such a permit; and

(2) if, within forty-five (45) days after publication and broadcast, the Agency receives written notice of opposition to the Agency's intention to issue such permit and a request for a hearing is made, the Agency shall provide for a hearing in accordance with the Administrative Adjudication Law, if requested by a substantially affected party or an informal public meeting if requested by any other person.

(f) The Administrator is authorized and directed to suspend, revoke, condition, modify or terminate any permit issued under Subsection (a) of this Section for non-compliance with any of the rules, compliance orders, regulations or permit conditions authorized in this Chapter.

(g) The Administrator shall determine the applicability for requiring a performance bond for permit applications and permit renewal applications for solid waste management facilities that are not landfills. Upon the determination that a performance bond is required, that Administrator will decide the type and sum required to ensure fulfillment by the permit holder of the requirements of this Chapter and the rules and regulations authorized therein.

SOURCE: Repealed and reenacted by P.L. 24-139:5. Repealed and reenacted by P.L. 24-272:1. Subsection (g) added by P.L. 24-309:5.

§ 51105. Permit Fees.

Each application for a permit, or renewal application, shall be accompanied by a certified check or money order in the amount prescribed by regulations. All fees required by the section shall be non-returnable and shall be placed in the revolving fund established under Section 51117 of this Chapter.

§ 51106. Inspections.

(a) The Agency is hereby authorized to inspect all solid waste and hazardous waste management facilities at all reasonable times to insure

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compliance with the laws of Guam, the provisions of this Chapter and the rules and regulations authorized herein. This authority shall include access to and authority to copy all records relating to solid or hazardous waste, as well as the authority to obtain samples, or require monitoring or testing to ensure that the owner or operator is in compliance.

(b) The Agency is authorized to have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to solid or hazardous waste on Guam.

(c) It shall be a misdemeanor for any person to interfere with such inspections or investigations.

(d) Administrative Inspection Warrants.

(i) The Agency, by its duly authorized representatives, shall have the power to enter and inspect any property, premises or place for the purpose of determining the compliance or noncompliance with any provision of this Chapter, any rule and regulations promulgated thereto, or any order or permit or term or condition thereof, issued pursuant to this Chapter rule and regulation promulgated thereto.

(ii) *Unless* an emergency exists or the Agency has reason to believe that any unlawful activity is being conducted, or will be conducted, the Agency shall provide prior notification of such inspection, and the inspection shall be during normal business hours. If such entry or inspection is denied or *not* consented to *and* no emergency exists, the Agency is empowered to and shall obtain from the appropriate court a warrant to enter and conduct an inspection. The courts on Guam are empowered to issue such warrants upon a showing that such entry and inspection is required to verify that the purposes of the Act are being carried out. *If* samples are taken, the owner and operator of the premises for which such samples are taken shall be entitled to a receipt for such samples and, upon request, a sufficient portion to perform an analysis equivalent to that which the Agency may perform.

(iii) In the event of an emergency which presents an immediate and substantial threat to the public health and safety or the environment, the Agency shall have the authority to issue such orders as may be appropriate to protect the public health and safety or the environment, including emergency authorization for procurement.

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(iv) Any person against whom an emergency order is issued shall be entitled to a hearing within twenty-four (24) hours. The GEPA Board shall affirm, modify or set aside the order of the Agency.

SOURCE: Repealed and reenacted by P.L. 24-309:6.

§ 51106.1. Criminal Search Warrants.

A search warrant relating to offenses of environmental laws may be served at any time of the day or night *if* the judge or magistrate issuing the warrant is satisfied that there is probable cause to believe that grounds exist for the warrant.

SOURCE: Added by P.L. 24-309:7.

§ 51107. Inspection Fees.

The Agency is hereby authorized to include as part of permit fees under § 51105, fees for inspections conducted of all solid waste management facilities, hazardous waste treatment, storage and disposal facilities, hazardous waste transporters, generators of hazardous waste, waste oil generators, recyclers, marketers, brokers and all other waste oil facilities including boilers and industrial furnaces as well as waste to energy facilities.

§ 51108. Notice.

Any notice, order or other official correspondence affecting the rights of any person under this Chapter shall be delivered by personal service or sent by registered or certified mail with a return receipt to the address of such person as shown by the records of the Agency. The return receipt, signed by the addressee, or his agent, shall be conclusive proof of delivery.

§ 51109. Hearings.

(a) Any person who received an order from the Administrator as authorized by this Chapter and any person whose permit application is disapproved by the Administrator may, within fifteen (15) days of the date of receipt of such order or disapproval, file a Notice of Intent to appeal with the Board, setting forth in such Notice a verified petition outlining the legal and factual basis for such appeal.

(b) The Board of Directors shall, not more than sixty (60) days after receipt of such Notice of Appeal, hold a public hearing at which time the person appealing may appear and present evidence in person or through counsel in support of this petition.

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(c) The Agency is hereby authorized to administer oaths, examine witnesses and issue subpoenas to compel the attendance of witnesses and the production of evidence relevant to the matter involved in the hearing.

(d) The Board shall affirm, modify or revoke any action which is appealed and shall notify the appellant of its decision not more than thirty (30) days after the conclusion of the hearing. Such notice shall be in writing and shall state the reasons for the decision.

(e) Any person may appeal such decision to the Superior Court of Guam by filing with the Agency a written notice of such intent to appeal within ten (10) days of the notice in subsection (d) of this Section and shall have a transcript of the proceedings upon request.

§ 51110. Prohibited Solid Waste Activities.

(a) It shall be unlawful for any person to:

(1) Violate any provision of this Chapter or any rule, regulation, standard, or order issued pursuant to this Chapter;

(2) Own, operate or use a dump for the disposal of solid waste;

(3) Place, or allow to be placed, any solid waste upon the highways, public or private property contrary to the provisions of this Chapter;

(4) Manage solid waste facilities without a permit issued pursuant to this Chapter;

(5) Store, collect, transport, process, or dispose of solid waste in such a manner as to degrade the environment, create a public nuisance, create a health or safety hazard, or violate any provisions of this Chapter;

(6) Transport any solid waste in any vehicle in any street or highway unless adequate precautions are taken to prevent such solid waste from falling or from being dislodged from such vehicle upon any street, highway, or any other public or private property;

(7) Not immediately pick up and remove waste which has fallen off the vehicle they are operating during the course of transportation upon any street, highway or any other public or private property;

(8) No person shall destroy or attempt to destroy by burning, except as authorized by 10 GCA §73113, any garbage, dead animals or other offensive substances, the burning of which may give off foul and

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noisome odor. Nothing in this Section shall preclude the burning of trees, brush, grass and other vegetable matter authorized by the Administrator.

(9) Improperly manage or operate a solid waste management facility.

(10) Improperly manage or operate a hazardous waste management facility.

(b) Each day of continued violation of this section or the provisions of this Chapter or rules and regulations authorized herein shall be deemed a separate offense or violation.

SOURCE: Subsection (a) (8) repealed and reenacted by P.L. 24-139:6; P.L. 25-175:6. Subsection (a) (9) added by P.L. 24-139:7. Subsection (a) (8) repealed and reenacted by P.L. 24-272:1. Subsection (a) (9) repealed and reenacted by P.L. 24-272:1. Subsection (a) (10) repealed and reenacted by P.L. 24-272:1.

§ 51111. Prohibited Hazardous Waste Activities.

(a) It shall be unlawful for any person to:

(1) Violate any provision of this Chapter or any rule, regulation, standard, or order issued pursuant to this Chapter;

(2) Own, operate or use a dump for the disposal of hazardous waste;

(3) Place, or allow to be placed, any hazardous waste upon the highways, public or private property contrary to the provisions of this Chapter;

(4) Manage hazardous waste facilities without a permit issued pursuant to this Chapter;

(5) Store, collect, transport, process or dispose of hazardous waste in such a manner as to degrade the environment, create a public nuisance, create a health or safety hazard as determined by the Director of the Department of Public Health and Social Services or the Administrator or violate any provision of this Chapter;

(6) Knowingly make any false statement or representation in any hazardous waste application, label, manifest, record, report, permit or other document filed, maintained, or used for purposes of compliance with the provisions of this Chapter.

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(7) Improperly manage or operate a hazardous waste management facility.

(b) Each day of continued violation of this section or the provisions of this Chapter or rules and regulations authorized herein shall be deemed a separate offense or violation.

SOURCE: Subsection (a) (7) added by P.L. 24-139:8.

§ 51112. Injunction.

The Agency shall maintain an action to restrain any violation or threatened violation of the provisions of this Chapter or the rules and regulations authorized herein. Such right to injunctive relief is in addition to any other powers or penalties conferred by this Chapter.

§ 51113. Plats.

All persons operating a sanitary landfill, hardfill, or other approved disposal site under permits issued pursuant to this Chapter shall, upon completion of the sanitary landfill or hardfill, file with the Department of Land Management and the Building Permit Section of the Department of Public Works, a plat of each site, together with a description of the waste placed therein and in conformance with rules and regulations adopted pursuant to § 51103(a) (8) of this Chapter.

§ 51114. Applicability to Government Agencies.

Government agencies shall comply with all provisions of this Chapter including planning, review, and permit requirements, with the exception of § 51104(c) . Government agencies may contract with any person to carry out their responsibilities under this Chapter. Such contractors shall also comply with the provisions of this Chapter.

§ 51115. Penalties.

(a) Solid Waste-Criminal Penalties. Any person who knowingly violates any solid waste management provision of this Chapter, or any valid solid waste management rule or regulation promulgated under this Chapter, or who refuses or neglects to comply with any lawful order issued by the Administrator in carrying out the provisions of this Chapter shall, upon conviction, be imprisoned for a term of not more than one (1) year, and/or be fined not more than \$1,000 per day for each violation or noncompliance, and shall make restitution.

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(b) **Solid Waste-Civil Penalties.** Any person who violates any solid waste management provision of this Chapter, or any valid solid waste management rule or regulation promulgated under this Chapter, or who refuses or neglects to comply with any lawful order issued by the Administrator in carrying out the provisions of this Chapter shall, in addition to clean-up costs and other damages, forfeit and pay a civil penalty of not more than \$1,000 per day for each violation or noncompliance.

(c) **Hazardous Waste-Criminal Penalties.** Any person who knowingly violates any hazardous waste management provisions of this Chapter, or any valid hazardous waste management rule or regulation promulgated under this Chapter, or who refuses or neglects to comply with any lawful order issued by the Administrator in carrying out the provisions of this Chapter shall be guilty upon conviction of a felony of the third degree, and be fined not less than \$10,000 per day for each violation and/or noncompliance, and shall make restitution.

(d) **Hazardous Waste-Civil Penalties.** Any person who violates any hazardous waste management provision of this Chapter, or any valid hazardous waste management rule or regulation promulgated under this Chapter, or who refuses or neglects to comply with any lawful order issued by the Administrator in carrying out the provisions of this Chapter shall, in addition to clean-up costs and other damages, forfeit and pay a civil penalty of not less than \$10,000 per day for each violation or noncompliance.

(e) **Administrative Penalties.** In addition to any other administrative or judicial remedy provided by this Chapter, or by rules adopted under this Chapter, the Administrator is authorized to impose by order the penalties specified in § 51115(b) and (d) respectively. Factors to be considered in imposing an administrative penalty include the nature and history of the violation and of any prior violations, and the opportunity, difficulty, and history of corrective action. It is presumed that the violator's economic and financial conditions allow payment of the penalty, and the burden of proof to the contrary is on the violator. In any proceeding to recover the civil penalty imposed, the Administrator need only show that notice was given, a hearing was held or the time granted for requesting a hearing has expired without such a request, the civil penalty was imposed, and that the penalty remains unpaid.

§ 51116. Citizen's Suits.

(a) Any person may commence a civil action on his behalf:

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(1) Against any person (including the United States, and any other governmental instrumentality or agency, to the extent permitted by law) who is alleged to be in violation of any permit, standard, regulation, condition, requirement, prohibition, or order which has become effective pursuant to this Chapter; or

(2) Against any person, including the United States, and any other governmental instrumentality or agency, to the extent permitted by law, and including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility, who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment; or

(3) Against the Administrator where there is alleged a failure of the Administrator to perform any duty under this Chapter which is not discretionary with the Administrator.

Any action under paragraph (a) (1) , (a) (2) , or (a) (3) of this Section shall be brought in the Superior Court of Guam. The Superior Court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the permit, standard, regulation, condition, requirement, prohibition, or order referred to in paragraph (a) (1) , to restrain any person who has contributed or is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste referred to in paragraph (a) (2) , to order such person to take such further action as may be necessary, or both, or to order the Administrator to perform the act or duty referred to in paragraph (a) (3), as the case may be, and to apply any appropriate civil penalties under § 51115(b) and (d) . No bond shall be required for issuance of an injunction or temporary injunction after a duly noticed hearing.

(b) Except for injunctive relief, no action may be commenced under subsection (a) (1) or (a) (2) of this Section:

(1) Prior to ninety (90) days after the plaintiff has given notice of the violation or endangerment to (i) the Administrator; (ii) the government of Guam; and (iii) to any alleged violator of such permit, standard, regulation, condition, requirement, prohibition, or order

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referred in subsection (a) (1) of this Section if applicable or to any person alleged to have contributed or to be contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste referred to in subsection (a) (2) of this Section if applicable.

(2) Except for injunctive relief, if the Administrator or government of Guam has commenced and is diligently prosecuting a civil or criminal action to require compliance with such permit, standard, regulation, condition, requirement, prohibition, or order pursuant to subsection (a) (1) of this Section or if the Administrator or government of Guam, in order to restrain or abate acts or conditions which may have contributed or are contributing to the activities which may present the alleged endangerment under subsection (a) (2) of this Section has commenced and is diligently prosecuting an action under local law or under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or is actually engaging in a removal action under CERCLA or has incurred cost to initiate a remedial Investigation and Feasibility Study under CERCLA and is diligently proceeding with a remedial action.

(c) Except for injunctive relief, no action may be commenced under subsection (a) (3) of this Section prior to sixty (60) days after the plaintiff has given notice to the Administrator and the government of Guam in which the failure has occurred that he will commence such action.

§ 51117. Solid Waste Management Fund.

There is established a non lapsing, revolving fund, hereafter referred to as the "Solid Waste Management Fund" which shall be maintained separate and apart from any other funds of the Government of Guam, and shall be administered by the Administrator. Independent records and accounts shall be maintained in connection therewith. All fees, reimbursements, assessments, fines, bail forfeitures, and other funds collected or received pursuant to this Article shall be deposited in this Fund and used for the administration and implementation of this Article, including purchase of equipment and payment of personnel costs of the Agency.

§ 51118. Tipping/User Fees and Solid Waste Operations Fund.

(a) Legislative Intent. Tipping and user fees shall provide a financing source for government of Guam costs and expenses directly related to the closure of the Ordot landfill, the development, design, construction,

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operation and final closure of a new sanitary landfill and the Ordot Landfill, as well as other solid waste management facilities that are contracted or may be established by this Act and in accordance with the plan and annual fiscal year appropriation for the Division of Solid Waste Management of DPW.

(1) Tipping/user fees will vary depending on the nature of collection, privatized contract for residential dwellings or hired commercial collectors for other municipal solid wastes outlets.

(2) For residential or dwelling, the charge is a user fee which includes the collection fee with the disposal tipping fee.

(3) For commercial, including multi-family dwellings and government agencies, the charge is a disposal tipping fee and does not include collection fees independently charged by commercial waste haulers.

(b) Effective Date of Charging Tipping Fees. The commercial and residential tipping fees established in this § 51118 are charged beginning the first day of the month following the adoption of supporting rules and regulations by DPW under the Administrative Adjudication Law.

(c) Business and Governmental Tipping Fees. A tipping fee of Four Dollars (\$4.00) per cubic yard, uncompacted, is hereby established for business and government generators. For compacted trash, a tipping fee of Four Dollars (\$4.00) per cubic yard multiplied by the compaction ratio of any vehicle or container with compaction equipment, is hereby established for business and government generators. Commercial and government collectors shall provide the Department of Public Works the compaction ratios of all equipment used to haul solid waste to the landfill to insure the accurate assessment of tipping fees for compacted trash. This fee does *not* include collection charges that are independently set by licensed commercial collectors.

(d) Residential Tipping Fees. A residential tipping fee, which includes collection charges, is hereby established for residential generators in the amount of Eight Dollars (\$8.00) per dwelling per month.

(e) PUC Rate-making. The Public Utilities Commission of Guam [‘PUC’] is hereby authorized to establish and amend commercial, government and residential tipping and user fees [including without limitation a self-drop fee, a variable residential tipping fee and a targeted lifeline rate for residential tipping fee, *collectively referred to as ‘tipping*

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fees'], which when established shall replace those previously created by law or by the Department of Public Works ['DPW']. Tipping fees established by PUC shall be based on volume and on an actuarial analysis of costs of service. Rate-making authority, which was previously given to the DPW under this Section, is hereby *revoked*. PUC is empowered to undertake a focused management audit of the existing operations of the DPW Division of Solid Waste Management. In performing its duties under this Section, PUC shall have the full authority and powers conferred upon it by its enabling legislation, 12 GCA 12000 *et. sec.*, including the audit power conferred upon it by Public Laws 25-05:12 and 26-78:2.

(f) Solid Waste Operations Fund. All tipping, user and other fees authorized under this Section and collected based on duly established rules and regulations or on a PUC rate order shall be deposited in a special fund designated and hereby established as the Solid Waste Operations Fund. All tipping/user fees in the Fund shall be used *solely* for solid waste management practices and, pursuant to PUC order, for the payment of regulatory costs and expenses as may be incurred by PUC in performing its regulatory duties under Subsection (e).

(g) Notification to Department of Interior. Within thirty (30) days of the enactment of this Act, the Governor shall notify the Department of Interior of the establishment of tipping fees, for the purpose of releasing Federal funds available to resolve environmental issues relative to the Ordot Landfill. Unless otherwise restricted by any conditions, Federal-funding will be allocated between the Ordot Landfill compliance mitigation work and closure.

(h) DPW to Develop Variable Residential Tipping Fees In recognition of the fact that the initial residential tipping fee established by Public Law Number 24-272 is a flat fee, which discourages trash reduction, penalizes smaller families and subsidizes large residential generators of waste, the Department of Public Works shall develop a plan to institute a sliding scale of residential tipping fees. The sliding scale shall, at a minimum, charge residential generators based on the amount of waste produced and picked up by the department. The plan shall also address the methodology for billing individual residential customers based on the revised variable tipping fee. The plan shall be submitted to *I Liheslaturan Guåhan* within four (4) months of enactment of this Act.

(h) (1) Lifeline Rates for Tipping Fees. Notwithstanding any other provision of law, the Department of Public Works shall, through the

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development of rules and regulations pursuant to the Administrative Adjudication Law, establish and modify from time to time, Targeted Lifeline Rates for Residential Tipping Fees covering pick-up and delivery of residential trash *only* that are consistent with and meeting the low income eligibility criteria, requirement, policies or procedures established by the Guam Housing and Urban Renewal Authority ('GHURA') applicable to their Low Income Public Housing Program.

(i) Self-Drop Fee Established. Any person or entity that is *not* a business or government generator shall be billed Two Dollars (\$2.00) per vehicle load of solid waste delivered to a landfill operated by the Department or its contractor; provided, that the vehicle load capacity is one (1) ton or less. Vehicles in excess of said load capacity shall be billed a rate that is based on an established formula developed by the Department.

(j) Temporary Exemption from Tipping Fees for Municipal Waste Collection. For a period of one (1) year commencing the date of the enactment of this Act, all waste collected by any Mayor or Vice-Mayor in the performance of their official duties, and transported to a landfill operated by the Department or its contractor, shall be exempt from all tipping fees. The Department of Public Works shall monitor and record the amount of solid waste delivered by Mayors and Vice-Mayors under this Section. This information shall be provided on a quarterly basis to the Mayors Council, *I Maga'lahen Guåhan*, and *I Liheslaturan Guahån* for the purpose of determining an appropriate budget for each municipality following the end of the exemption.

(k) 'Good Citizen' Exemption Established. Any individual, registered non-profit organization, or other person who intends to volunteer their resources for the purpose of cleaning up and collecting trash and litter from public places or facilities may be granted a temporary exemption from the fees established herein by securing a written exemption from the Department of Public Works in advance of their planned collection activities. The Department of Public Works shall determine the manner, time limit and procedure by which such an exemption may be granted and honored.

(l) Temporary Exemption of Tipping Fees Following a Force Majeure. Following a force majeure, *I Maga'lahen Guåhan* shall be authorized to suspend tipping fees for all solid waste collected and transported to a landfill that is operated by the Department or its contractor for a period *not to exceed* sixty (60) days.

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(m) Exemption from Tipping Fees for Municipal Waste Collection. All Mayors or Vice-Mayors who collect waste in the performance of their official duties shall be allowed to dump the waste at the Ordot landfill, the Agat transfer station and any other landfill or transfer station operated by the Department of Public Works ('DPW'), or its contractor. The Mayors or Vice-Mayors shall be exempt from all tipping fees when dumping the waste collected in their official capacity.

SOURCE: Added by P.L. 24-139:9. Repealed and reenacted by P.L. 24-272:1. Subsection (c) amended by P.L. 25-70:2 & P.L. 25-93:1. Subsection (d) amended by P.L. 25-93:2. Subsection (e) amended by P.L. 25-70:3; repealed and reenacted by P.L. 28-56:1 (June 30, 2005). Subsection (f) amended by P.L. 28-56:2 (June 30, 2005). Subsection (h) added by P.L. 25-93:3. Subsection (i) added by P.L. 25-93:4. Subsection (j) added by P.L. 25-93:5. Subsection (k) added by P.L. 25-93:6. Subsection (l) added by P.L. 25-93:7. Subsection (m) added by P.L. 26-35:III:23(c).

§ 51119. The Solid Waste Management Plan.

(a) The Plan to be adopted by the Agency shall address a solid waste management system for Guam which shall include, but not be limited to, source reduction, recycling, composting, resource recovery and sanitary landfilling, with the objective of reducing the amount of solid waste to be processed, landfilled or otherwise legally disposed of. It shall also require the application of plasma torch or flame technology, if permitted and cost effective, to stabilize materials at the Ordot Landfill. It shall also include:

(1) a program for the privatization of all solid waste management and operations within the authorized frameworks as enacted by this Article; the Agency shall submit a privatization plan to the Guam Legislature. The Guam Legislature shall have up to ninety (90) calendar days after official receipt to review and amend the plan as appropriate, and approve or disapprove the plan;

(2) an inventory of current residential, business, military and other institutional solid waste generation;

(3) an inventory of existing publicly available solid waste management facilities and an inventory of existing collection systems and routes;

(4) projections of residential, business, military and other institutional solid waste that will be generated within Guam during the five (5) and ten (10) year periods following the effective date of this Section;

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(5) projections for decrease in solid waste disposal as a result of source reduction, recycling and solid waste management facilities;

(6) an identification of potential sites for future sanitary landfills;

(7) projections for potential requirements for monofills at future sanitary landfill for special wastes, such as asbestos or ash;

(8) provide for and incorporate recycling activities required in Item (3) of Subsection (b) of § 51120 of this Article;

(9) provide guidelines for the orderly collection, transportation, storage, separation, processing, recycling, combustion and disposal of all solid waste;

(10) provide programs for the educational training of collectors, operators and other solid waste management professionals;

(11) provide for a public education program encouraging recycling and source reduction and explaining the Plan;

(12) suggest new legislation to improve solid waste management;

(13) evaluate and determine markets for recycled materials;

(14) investigate and recommend new technologies for source reduction, recycling, composting, sanitary landfill and other solid waste disposal; and

(15) provide guidelines, including timeline for converting the Ordot Landfill to beneficial use.

(b) The Plan shall be revised and updated by the Agency every five (5) years.

SOURCE: Added by P.L. 24-139:10. Repealed and reenacted P.L. 24-272:1.

NOTE: As stated above, because P.L.s 24-179 and 25-272 were found to be invalid by the Supreme Court of Guam, Article 1 repealed and reenacted by P.L. 23-64, is presented herein:

ARTICLE 1
SOLID WASTE MANAGEMENT

§ 51101. Findings of Necessity and Declaration of Purposes

§ 51102. Definitions

§ 51103. Powers and Duties

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- § 51115. Penalties
- § 51116. Citizen's Suits
- § 51117. Solid Waste Management Fund

§ 51101. Findings of Necessity and Declaration of Purposes.

(a) The people of this Territory find:

(1) Continuing technological changes in methods of packaging and marketing of consumer products, together with the economic and population growth of the Territory, the rising affluence of its citizens, and its expanding industrial activity have created new and ever mounting problems involving disposal of garbage, refuse, and solid waste materials resulting from domestic, commercial, agricultural, institutional and industrial activities.

(2) Traditional methods of disposing of solid waste in the Territory are no longer adequate to meet the ever-increasing problem. Improper methods and practices of handling and disposal of solid wastes pollute our land, air and water resources, blight our countryside, adversely affect land values and damage the overall quality of our environment.

(b) It is hereby declared to be the purpose of this Chapter to:

(1) Plan for and regulate the storage, collection, transport, separation, processing and disposal of solid waste in order to protect the public safety, health and welfare and to enhance the environment of the people of the Territory;

(2) Continue authority to regulate solid waste storage practices within the Department of Public Health and Social Services pursuant to Chapter 33 of this Title to ensure that such practices do not constitute a danger to human health and welfare;

(3) Provide the authority and resources to operate and maintain efficient, environmentally acceptable solid waste management systems within the Department of Public Works;

(4) Establish permanent responsibility for long range solid waste management planning with the Guam Environmental Protection Agency. Operational planning necessary for daily activities of the Solid Waste Division shall remain the responsibility of the Department of Public Works. The Guam Environmental Protection Agency shall be responsible to provide technical assistance in solid waste management and shall have

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the authority to establish such advisory committees as are necessary to carry out the planning and assistance functions. Such committees should be composed of representatives from concerned government agencies, private solid waste operators, educational groups, federal agencies when applicable, and the public at large;

(5) Require review of the design and the issuance of permits for the operation of solid waste collection, transport, transport-related, processing, and disposal activities by the Guam Environmental Protection Agency;

(6) Promote the application of resource recovery systems which preserve and enhance the quality of air, water and land resources;

(7) Promote and assist in the development of markets for recovered and recycled materials;

(8) Support and encourage the rapid and efficient removal of abandoned vehicles and bulky waste from public and private premises to assure that related resource recovery is facilitated, and for other purposes;

(9) Undertake a comprehensive investigation of and set minimum standards for the generation, transportation, processing, storage, treatment and disposal of hazardous waste; conduct surveys for special disposal facilities, to protect public health, other living organisms and the environment through an effective and efficient hazardous waste management system;

(10) Establish an effective enforcement system to prevent the improper disposal of solid wastes.

§ 51102. Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meaning given herein unless their use in the text of the Chapter clearly demonstrates a different meaning.

(1) Administrator shall mean the Administrator of the Guam Environmental Protection Agency or his designee.

(2) Agency shall mean the Guam Environmental Protection Agency.

(3) Board shall mean the Board of Directors of the Guam Environmental Protection Agency.

(4) Collection shall mean the act of removing solid waste from the central storage point of the source of generation.

(5) Disposal shall mean the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water.

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(6) Dump shall mean a land site where solid waste is disposed without a valid permit.

(7) Financial Assurance shall mean a financial guarantee assuring that funds are available to pay for closure of a solid waste management facility, rendering post-closure at a solid waste management facility, and to compensate third parties for bodily injury and property damage caused by sudden and non-sudden accidents related to the operation of a solid waste management facility.

(8) Government shall mean the government of Guam.

(9) Hardfill shall mean a method of compaction and earth cover of solid wastes other than those containing garbage or other putrescible (putrescent) waste, including, but not limited to, tree limbs and stumps, demolition material, and like materials not constituting a health or nuisance hazard, where cover need not be applied on a per day used basis.

(10) Hazardous Waste shall mean a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

(a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

(b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise damaged.

(11) Highway means the entire width between the boundary lines of every right-of-way or publicly maintained travel ways when any part thereof is opened to the use of the public for purposes of vehicular travel.

(12) Incinerator shall mean an enclosed device using controlled flame combustion, the primary purpose of which is to thermally break down solid waste.

(13) Person shall mean any individual, partnership, co-partnership, firm, company, trust, estate, or any agency, department or instrumentality of the Federal Government or Government of Guam, or any other legal representative, agent or assigns.

(14) Pollution shall mean the condition caused by the presence in the environment of substances of such character and in such quantities that the quality of the environment is impaired or rendered offensive to life.

(15) Public Nuisance shall anything which is dangerous to life, injurious to health, or renders soil, or water or food impure or unwholesome.

(16) Processing shall mean any method, system, or other treatment designed to change the physical, chemical or biological character or composition of any solid waste. This includes the neutralization of any

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hazardous waste; the rendering of any hazardous waste non-hazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume; or any other activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it non-hazardous.

(17) Resource Recovery shall mean the act of recycling or reusing materials which still have useful physical or chemical properties after serving a specific purpose for the same or other purposes.

(18) Recycling shall mean the process by which recovered resources are transformed into new products in such a manner that products lose their identity.

(19) Reusing shall mean the reintroduction of a commodity in the economic stream without any change.

(20) Sanitary Landfill shall mean an approved site where solid waste is disposed using sanitary landfilling techniques.

(21) Sanitary Landfilling shall mean an engineered method of disposing of solid waste on land in an approved manner that protects the environment by spreading the waste in thin layers, compacting it to the smallest practical volume, and covering it with soil by the end of each working day.

(22) Separation shall mean the systematic division of solid waste into designated components.

(23) Solid Waste shall mean any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded and/or spilled materials, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct materials as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

(24) Solid Waste Management shall mean the purposeful, systematic control of the generation, storage, collection, transportation, separation, processing, recovery and disposal of solid waste.

(25) Solid Waste Management Facilities shall mean machinery, equipment, vehicles, structures or any part of accessories thereof installed or acquired for primary purpose of collecting, transporting, storage, processing or disposing of solid waste.

(26) Solid Waste Management Practices shall mean the actions to effectuate the generation, storage, collection, transportation, processing or

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the ultimate disposal of solid waste.

(27) Solid Waste Management System shall mean the entire process of storage, collection, transportation, processing and disposal of solid waste by any person engaging in such process as a business or any government agency.

(28) Storage shall mean the interim containment of solid waste in approved manner.

(29) Territorial Solid Waste Management Plan shall mean a comprehensive plan and all amendments and revisions thereto for provisions of solid waste management throughout the Territory.

(30) Transfer Station shall mean any intermediate waste facility in which solid waste collected from any source is temporarily deposited and stored while awaiting transportation to another solid waste management facility.

§ 51103. Power and Duties.

(a) The Agency shall have the responsibility to:

(1) Administer the territorial solid waste management program pursuant to provisions of this Chapter;

(2) Provide technical assistance to local and federal agencies, and other persons, and cooperate with appropriate local agencies and private organizations in carrying out the duties under this Chapter;

(3) Encourage and recommend procedures for the utilization of self-financing solid waste management systems and agencies in accomplishing the desired objectives of this Chapter;

(4) Promote the planning and application of resource recovery to preserve and enhance the quality of air, water and land resources;

(5) Serve as the official territorial representative for all purposes of the Federal Solid Waste Disposal Act, (Public Law 91-512), or as subsequently amended, and for the purpose of such other territorial or federal legislation as has been or may hereafter be enacted to assist in the management of solid waste;

(6) Survey the solid waste management practices within the territory and prepare a solid waste management plan; such plan to include but not necessarily be limited to the development, investigation and research, including the preparation of legislative action as may be required for new disposal sites, processes, recycling facilities or methods. The plan shall be revised at least every five (5) years, or sooner as needed;

(7) Develop regulations in cooperation with appropriate

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government agencies, industrial and private parties, for the generation, collection, transportation, storage, processing and disposal of hazardous waste, in accordance with the Administrative Adjudication Act;

(8) Prepare, adopt, promulgate, modify, update, repeal, and enforce rules and regulations governing solid waste collection, transport, separation, processing, and disposal in order to conserve the air, water, and land resources of the Territory, protect the public health, prevent environmental pollution and public nuisances, and enable it to carry out the purposes and provisions of this Chapter and the adopted Territorial Solid Waste Management Plan;

(9) Establish the procedures for review and issuance for permit application, governing the design, operation, closure and post-closure of solid waste management facilities;

(10) Prepare, issue, modify, remove and enforce orders for compliance with any of the provisions of this Chapter or of any rules and regulations issued pursuant thereto and requiring the taking of such remedial measures for solid waste management as may be necessary or appropriate to implement or effectuate the provisions and purposes of this Chapter;

(11) Prepare, adopt, promulgate, modify, update, repeal, and enforce such other rules and regulations as may be necessary to establish a hazardous waste program which may be at least equivalent to or more stringent, or broader in scope than the requirements of Section 3006 of the Federal Resource Conservation and Recovery Act (42 U.S.C. 6926, et seq.) and regulations promulgated pursuant thereto.

(b) The Department of Public Works shall be responsible for:

(1) Public solid waste collection, transport and disposal. Such collection and disposal services shall be furnished to all villages and urban areas, and may be extended to further areas by administrative action. The Director of Public Works may by regulation prescribe requirements with regards to solid waste containers, and collection of solid and bulky waste. Public sanitary landfills, hardfills, transfer stations, processing or recycling plants as currently exist or may be established will be operated and maintained by the Department of Public Works. The Director of Public Works, with the approval of the Governor, may execute a contract after public bid with a private party or firm for the collection and disposal of any solid or bulky waste, or other offensive substances, or separate items thereof including the operation of any sanitary landfill, hardfill, transfer station, processing, recycling, or storage plant which is publicly owned provided that any employee whose job is adversely affected by any such contract shall be given first preference for any other job for

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which he qualifies in the Government of Guam.

(2) Operational and logistic planning for solid and bulky waste management to include collection, routing equipment, material and equipment procurement disposal, transfer and storage site operations, processing and recycling plant operations and maintenance, and engineering functions related thereto. The Director of Public Works is authorized to negotiate for and approve contracts for recycling and composting at the Order Landfill, or at any other site approved by the Guam Environmental Protection Agency, under the following procedures: The Director, after duly advertising for a request for proposals for the removal or composting of recyclable materials from the landfill, shall enter into a contract with any interested business organization, either local or off island, to collect and recycle or compost such materials.

The successful bidder or bidders shall not be charged for the materials. The Department may assist successful bidders in collecting storage batteries and waste oil which are to be found in the various villages of Guam.

§ 51104. Permits.

(a) The Administrator is hereby authorized and directed to issue permits for solid waste management facilities and hazardous waste management facilities, including design, operation, maintenance, substantial alteration, modification or enlargement. All such permits shall be non-transferable and conditioned upon the observance of the laws of the territory and rules and regulations authorized herein.

(b) Each permit holder shall apply for the renewal of each permit held, upon forms provided by the Agency, not less than sixty (60) days prior to the expiration date of such solid waste management permit to be renewed, or not less than one hundred eighty (180) days prior to the expiration date of each hazardous waste management permit to be renewed.

(c) Each permit application and each permit renewal application shall be submitted with proof of financial assurance, of a type and in a sum established by the Administrator conditioned on the fulfillment by the permit holder of the requirements of this Chapter and the rules and regulations authorized therein. No financial assurance mechanism required under this Chapter may be canceled by the guarantor unless the Administrator has received written notice thereof and there has been a lapse of one hundred twenty (120) days between receipt of notice and cancellation date.

(d) Before issuing a solid waste management permit to any person with respect to any facility for the incineration, recycling, or disposal of solid waste, the Administrator shall:

(1) Cause to be published in a major local newspaper or

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newspaper of general circulation, and broadcast over a local radio station or stations, notice of the Agency's intention to issue such a permit.

(2) If, within forty-five (45) days after publication and broadcast, the Agency receives written notice of opposition to the Agency's intention to issue such permit and a request for a hearing is made, the Agency shall provide for a hearing in accordance with the Administrative Adjudication Act if requested by a substantially affected party.

(e) Before issuing a hazardous waste management permit to any person with respect to any facility for the processing, storage, or disposal of hazardous waste, the Administrator shall:

(1) Cause to be published in a major local newspaper or newspaper of general circulation, and broadcast over a local radio station or stations, notice of the Agency's intention to issue such a permit.

(2) If, within forty-five (45) days after publication and broadcast, the Agency receives written notice of opposition to the Agency's intention to issue such permit and a request for a hearing is made, the Agency shall provide for a hearing in accordance with the Administrative Adjudication Act if requested by a substantially affected party or an informal public meeting if requested by any other person.

§ 51105. Permit Fees.

Each application for a permit, or renewal application, shall be accompanied by a certified check or money order in the amount prescribed by regulations. All fees required by the section shall be non-returnable and shall be placed in the revolving fund established under Section 51117 of this Chapter.

§ 51106. Inspections.

The Agency is hereby authorized to inspect all solid waste management facilities and hazardous waste management facilities at all reasonable times to insure compliance with the laws of the Territory, the provisions of this Chapter and the rules and regulations authorized herein. This authority shall include access to and authority to copy all records relating to hazardous waste, as well as the authority to obtain samples of any waste handled in the facilities. It shall be a misdemeanor for any person to interfere with such inspections. It shall also constitute a violation of Prohibited Solid Waste Activities and Prohibited Hazardous Waste Activities and shall carry the Solid Waste Civil Penalties and Hazardous Waste Civil Penalties as set forth respectively in § 51114(b) and § 51114(d) below.

§ 51107. Inspection Fees.

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The Agency is hereby authorized to include as part of permit fees under § 51105, fees for inspections conducted of all solid waste management facilities, hazardous waste treatment, storage and disposal facilities, hazardous waste transporters, generators of hazardous waste, waste oil generators, recyclers, marketers, brokers and all other waste oil facilities including boilers and industrial furnaces as well as waste to energy facilities.

§ 51108. Notice.

Any notice, order or other official correspondence affecting the rights of any person under this Chapter shall be delivered by personal service or sent by registered or certified mail with a return receipt to the address of such person as shown by the records of the Agency. The return receipt, signed by the addressee, or his agent, shall be conclusive proof of delivery.

§ 51109. Hearings.

(a) Any person who received an order from the Administrator as authorized by this Chapter and any person whose permit application is disapproved by the Administrator may, within fifteen (15) days of the date of receipt of such order or disapproval, file a Notice of Intent to appeal with the Board, setting forth in such Notice a verified petition outlining the legal and factual basis for such appeal.

(b) The Board of Directors shall, not more than sixty (60) days after receipt of such Notice of Appeal, hold a public hearing at which time the person appealing may appear and present evidence in person or through counsel in support of this petition.

(c) The Agency is hereby authorized to administer oaths, examine witnesses and issue subpoenas to compel the attendance of witnesses and the production of evidence relevant to the matter involved in the hearing.

(d) The Board shall affirm, modify or revoke any action which is appealed and shall notify the appellant of its decision not more than thirty (30) days after the conclusion of the hearing. Such notice shall be in writing and shall state the reasons for the decision.

(e) Any person may appeal such decision to the Superior Court of Guam by filing with the Agency a written notice of such intent to appeal within ten (10) days of the notice in subsection (d) of this Section and shall have a transcript of the proceedings upon request.

§ 51110. Prohibited Solid Waste Activities.

(a) It shall be unlawful for any person to:

- (1) Violate any provision of this Chapter or any rule, regulation, standard, or order issued pursuant to this Chapter;
- (2) Own, operate or use a dump for the disposal of solid

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waste;

(3) Place, or allow to be placed, any solid waste upon the highways, public or private property contrary to the provisions of this Chapter;

(4) Manage solid waste facilities without a permit issued pursuant to this Chapter;

(5) Store, collect, transport, process, or dispose of solid waste in such a manner as to degrade the environment, create a public nuisance, create a health or safety hazard, or violate any provisions of this Chapter;

(6) Transport any solid waste in any vehicle in any street or highway unless adequate precautions are taken to prevent such solid waste from falling or from being dislodged from such vehicle upon any street, highway, or any other public or private property;

(7) Not immediately pick up and remove waste which has fallen off the vehicle they are operating during the course of transportation upon any street, highway or any other public or private property;

(8) No person shall destroy or attempt to destroy by burning, except in an incinerator the construction and operation of which is approved by the Administrator, or as may otherwise be authorized by the Administrator, any garbage, dead animals, or other offensive substances, the burning of which may give off foul and noisome odor. Nothing in this Section shall preclude the burning of trees, brush, grass and other vegetable matter authorized by the Administrator.

(b) Each day of continued violation of this section or the provisions of this Chapter or rules and regulations authorized herein shall be deemed a separate offense or violation.

§ 51111. Prohibited Hazardous Waste Activities.

(a) It shall be unlawful for any person to:

(1) Violate any provision of this Chapter or any rule, regulation, standard, or order issued pursuant to this Chapter;

(2) Own, operate or use a dump for the disposal of hazardous waste;

(3) Place, or allow to be placed, any hazardous waste upon the highways, public or private property contrary to the provisions of this Chapter;

(4) Manage hazardous waste facilities without a permit issued pursuant to this Chapter;

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(5) Store, collect, transport, process or dispose of hazardous waste in such a manner as to degrade the environment, create a public nuisance, create a health or safety hazard as determined by the Director of the Department of Public Health and Social Services or the Administrator or violate any provision of this Chapter;

(6) Knowingly make any false statement or representation in any hazardous waste application, label, manifest, record, report, permit or other document filed, maintained, or used for purposes of compliance with the provisions of this Chapter.

(b) Each day of continued violation of this section or the provisions of this Chapter or rules and regulations authorized herein shall be deemed a separate offense or violation.

§ 51112. Injunction.

The Agency shall maintain an action to restrain any violation or threatened violation of the provisions of this Chapter or the rules and regulations authorized herein. Such right to injunctive relief is in addition to any other powers or penalties conferred by this Chapter.

§ 51113. Plats.

All persons operating a sanitary landfill, hardfill, or other approved disposal site under permits issued pursuant to this Chapter shall, upon completion of the sanitary landfill or hardfill, file with the Department of Land Management and the Building Permit Section of the Department of Public Works, a plat of each site, together with a description of the waste placed therein and in conformance with rules and regulations adopted pursuant to § 51103(a)(8) of this Chapter.

§ 51114. Applicability to Government Agencies.

Government agencies shall comply with all provisions of this Chapter including planning, review, and permit requirements, with the exception of § 51104(c). Government agencies may contract with any person to carry out their responsibilities under this Chapter. Such contractors shall also comply with the provisions of this Chapter.

§ 51115. Penalties.

(a) Solid Waste-Criminal Penalties. Any person who knowingly violates any solid waste management provision of this Chapter, or any valid solid waste management rule or regulation promulgated under this Chapter, or who refuses or neglects to comply with any lawful order issued by the Administrator in carrying out the provisions of this Chapter shall, upon conviction, be imprisoned for a term of not more than one (1) year, and/or be fined not more than \$1,000 per day for each violation or noncompliance, and shall make restitution.

(b) Solid Waste-Civil Penalties. Any person who violates any solid waste management provision of this Chapter, or any valid solid

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waste management rule or regulation promulgated under this Chapter, or who refuses or neglects to comply with any lawful order issued by the Administrator in carrying out the provisions of this Chapter shall, in addition to clean-up costs and other damages, forfeit and pay a civil penalty of not more than \$1,000 per day for each violation or noncompliance.

(c) **Hazardous Waste-Criminal Penalties.** Any person who knowingly violates any hazardous waste management provisions of this Chapter, or any valid hazardous waste management rule or regulation promulgated under this Chapter, or who refuses or neglects to comply with any lawful order issued by the Administrator in carrying out the provisions of this Chapter shall be guilty upon conviction of a felony of the third degree, and be fined not less than \$10,000 per day for each violation and/or noncompliance, and shall make restitution.

(d) **Hazardous Waste-Civil Penalties.** Any person who violates any hazardous waste management provision of this Chapter, or any valid hazardous waste management rule or regulation promulgated under this Chapter, or who refuses or neglects to comply with any lawful order issued by the Administrator in carrying out the provisions of this Chapter shall, in addition to clean-up costs and other damages, forfeit and pay a civil penalty of not less than \$10,000 per day for each violation or noncompliance.

(e) **Administrative Penalties.** In addition to any other administrative or judicial remedy provided by this Chapter, or by rules adopted under this Chapter, the Administrator is authorized to impose by order the penalties specified in § 51115(b) and (d) respectively. Factors to be considered in imposing an administrative penalty include the nature and history of the violation and of any prior violations, and the opportunity, difficulty, and history of corrective action. It is presumed that the violator's economic and financial conditions allow payment of the penalty, and the burden of proof to the contrary is on the violator. In any proceeding to recover the civil penalty imposed, the Administrator need only show that notice was given, a hearing was held or the time granted for requesting a hearing has expired without such a request, the civil penalty was imposed, and that the penalty remains unpaid.

§ 51116. Citizen's Suits.

(a) Any person may commence a civil action on his behalf:

(1) Against any person (including the United States, and any other governmental instrumentality or agency, to the extent permitted by law) who is alleged to be in violation of any permit, standard, regulation, condition, requirement, prohibition, or order which has become effective pursuant to this Chapter; or

(2) Against any person, including the United States, and any other governmental instrumentality or agency, to the extent

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permitted by law, and including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility, who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment; or

(3) Against the Administrator where there is alleged a failure of the Administrator to perform any duty under this Chapter which is not discretionary with the Administrator.

Any action under paragraph (a)(1), (a)(2), or (a)(3) of this Section shall be brought in the Superior Court of Guam. The Superior Court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the permit, standard, regulation, condition, requirement, prohibition, or order referred to in paragraph (a)(1), to restrain any person who has contributed or is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste referred to in paragraph (a)(2), to order such person to take such further action as may be necessary, or both, or to order the Administrator to perform the act or duty referred to in paragraph (a)(3), as the case may be, and to apply any appropriate civil penalties under § 51115(b) and (d). No bond shall be required for issuance of an injunction or temporary injunction after a duly noticed hearing.

(b) Except for injunctive relief, no action may be commenced under subsection (a)(1) or (a)(2) of this Section:

(1) Prior to ninety (90) days after the plaintiff has given notice of the violation or endangerment to (i) the Administrator; (ii) the government of Guam; and (iii) to any alleged violator of such permit, standard, regulation, condition, requirement, prohibition, or order referred in subsection (a)(1) of this Section if applicable or to any person alleged to have contributed or to be contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste referred to in subsection (a)(2) of this Section if applicable.

(2) Except for injunctive relief, if the Administrator or government of Guam has commenced and is diligently prosecuting a civil or criminal action to require compliance with such permit, standard, regulation, condition, requirement, prohibition, or order pursuant to subsection (a)(1) of this Section or if the Administrator or government of Guam, in order to restrain or abate acts or conditions which may have contributed or are contributing to the activities which may present the alleged endangerment under subsection (a)(2) of this Section has commenced and is diligently prosecuting an action under local law or under the Comprehensive Environmental Response, Compensation and Liability Act

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(CERCLA) or is actually engaging in a removal action under CERCLA or has incurred cost to initiate a remedial Investigation and Feasibility Study under CERCLA and is diligently proceeding with a remedial action.

(c) Except for injunctive relief, no action may be commenced under subsection (a)(3) of this Section prior to sixty (60) days after the plaintiff has given notice to the Administrator and the government of Guam in which the failure has occurred that he will commence such action.

§ 51117. Solid Waste Management Fund.

There is established a non lapsing, revolving fund, hereafter referred to as the "Solid Waste Management Fund" which shall be maintained separate and apart from any other funds of the Government of Guam, and shall be administered by the Administrator. Independent records and accounts shall be maintained in connection therewith. All fees, reimbursements, assessments, fines, bail forfeitures, and other funds collected or received pursuant to this Article shall be deposited in this Fund and used for the administration and implementation of this Article, including purchase of equipment and payment of personnel costs of the Agency.

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ARTICLE 2
LITTER CONTROL

SOURCE: Added by P.L. 14-37:1 (June 18, 1977). Repealed and reenacted by P.L. 17-87 (Jan. 18, 1985) and P.L. 23-64 (Dec. 5, 1995). Further amended as indicated herein.

- § 51201. Declaration of Purpose
- § 51202. Definitions
- § 51203. Powers and Duties
- § 51204. Litter Control Revolving Fund
- § 51205. Prohibited Activities
- § 51206. Enforcement
- § 51207. Penalties
- § 51208. Severability Clause

§ 51201. Declaration of Purpose.

It is hereby declared to be the purpose of this Article to define and prescribe procedures pertaining to littering, and to provide authority for the regulation of littering in order to enhance the environment for the people of Guam.

§ 51202. Definitions.

For the purpose of this Article, the following words shall have the meaning given herein unless their use in the text clearly demonstrates a different meaning:

(a) *Apprehending Officers* shall mean any designated individual with the Department of Parks and Recreation, the Department of Agriculture, the Guam Environmental Protection Agency, the Department of Public Health and Social Services, the Department of Public Works, all village mayors and assistant mayors, and any peace officer in the Guam Police Department.

(b) *Litter* shall mean discarded, used or leftover solid materials, including but not limited to garbage, trash, rubbish, refuse, paper, containers, bulky metallic waste, packing or construction materials or carcasses of dead animals.

(c) *Littering* shall mean willful or negligent throwing, dropping, placing, depositing, or sweeping, allowing or causing such acts, of any litter on land or water, in other than appropriate storage containers or areas designated for such purpose.

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(d) *Vehicle* shall mean a device in, upon or by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human or animal power.

(e) *Watercraft* shall mean any boat, ship, vessel, barge or other floating craft.

§ 51203. Power and Duties.

(a) The Administrator of the Guam Environmental Protection Agency, in consultation with the Attorney General's Office, is empowered to prescribe and amend such rules and procedures as are necessary for the efficient implementation of this Article.

(b) Violations of this Article will be recorded on forms approved by and prosecuted within the Traffic Division of the Superior Court of Guam.

(c) Apprehending officers, as defined herein, shall have the power to apprehend persons violating this Article and issue citations for such violation.

§ 51204. Litter Control Revolving Fund.

There is established a fund to be known as the Litter Control Revolving Fund which shall be maintained separate and apart from any other fund of the Government of Guam and shall be administered by the Administrator. Independent records and accounts shall be maintained in connection therewith. Except as provided in §40115 of Title 5, Guam Code Annotated, 50 percent (50%) of all assessments, fines, bail forfeitures and other funds collected or received pursuant to this Article shall be deposited in the Litter Control Revolving Fund and used for the administration and implementation of this Article; for education programs and advertisement promotions aimed at increasing awareness of litter and defacement problems; for the placement of anti-litter and anti-graffiti signs around the island; and for the cleanup of litter and defacement from public highways, streets, alleys, roads, bridges, buildings, signs, restrooms, public recreational areas or other public lands that are most visible to the public, and 50 percent (50%) shall be deposited in the Guam Beautification Fund as provided in 21 GCA §77114.1.

§ 51205. Prohibited Activities.

(a) It shall be unlawful for any person to willfully or negligently dump, deposit, throw, leave or abandon any litter upon any public highway, street, alley or road, upon public parks or recreation areas or upon any other public

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property except as designated for such use, or upon property owned by another person without written permission of the owner, or into any bay, channel, harbor, river, creek, stream, reservoir, coastal waters, or other waters of the Territory.

(b) Apprehension of Violation. Apprehension for violation of prohibitions may be initiated by an apprehending officer who witnessed an offense or discovered an article bearing a person's name on the property of another, or any public property except as designated for such use, or by any private citizen, who witnessed an offense or discovered incriminating evidence, who is willing to make the initial charge and testify for the Government.

(c) Any person who shall witness the throwing, dumping, or depositing of litter from a vehicle or water craft which is in violation of prohibitions may report the date, time of day and location of the littering and the license registration number to apprehending officers. The registration number as recorded shall constitute prima facie evidence that the littering was done by the person to whom such vehicle or water craft is registered. Nothing in this Section shall be construed to modify or change the burden of the Government to prove the defendant guilty beyond a reasonable doubt.

(d) Any person who violates this section while occupying a motor vehicle which is moving, or located on public property or a public right of way, shall be deemed to have committed a violation not only of this section, but of 16 GCA Chapter (Rules of the Road) , and shall be guilty of a petty misdemeanor.

SOURCE: Subsection (d) added by P.L. 25-170:4.

§ 51206. Enforcement.

Any person apprehended for violation of any of the above prohibitions shall be served by the apprehending officer with a citation and an order to appear at the Traffic Court Division of the Superior Court of Guam for prosecution. Parents or legal guardians will assume all responsibility for any violations of this Chapter committed by any minors under their care.

§ 51207. Penalties.

(a) Littering shall be punishable by a fine of *not less than* One Hundred Dollars (\$100.00) , nor more than One Thousand Dollars (\$1,000.00) . Any person convicted of a second or subsequent litter offense shall be required by the Court to pick up and remove litter from a public place under the

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supervision of the Superior Court of Guam's Probation Office, or its designee, or as the Court shall otherwise provide, for a period of *not less than* eight (8) hours for each offense.

Any person convicted of any litter offense may also be required by the Court to pay the cost of removing the litter they caused. The Superior Court of Guam shall transfer all money collected to pay fines imposed under this Section to the Guam Environmental Protection Agency for use in the Litter and Defacement Control Revolving Fund established by § 51204 of Title 10 of the Guam Code Annotated. Any peace officer, as that term is defined by 8 GCA § 5.55, may issue a citation for a litter offense.

(b) A person charged with a first violation may avoid a court hearing by posting bail in the amount of the minimum fine or paying such prescribed fine as the Traffic Court Division of the Superior Court shall prescribe.

SOURCE: Subsection (a) amended by P.L. 25-170:5.

§ 51208. Severability Clause.

The provisions of this Chapter are severable and if any provision or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of this Chapter.

ARTICLE 3
ANNUAL CONTRACT FOR SCRAP REMOVAL

SOURCE: Added by P.L. 23-64 (Dec. 5, 1995). Further amended as indicated herein.

- § 51301. Contract to Remove Scrap
- § 51302. Yearly Contract
- § 51303. Environmental Impact Study
- § 51304. Conformity to Waste Removal Regulations

§ 51301. Contract to Remove Scrap.

The Director of Public Works, after duly advertising for a request for proposals for the removal of scrap metal, shall enter into a contract with any interested business organization, either local or off-island, to collect and remove from Guam scrap metal. The successful offeror may not be charged

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for the scrap metal but may post a one hundred thousand dollars (\$100,000) performance bond to assure its completion of the removal project within twelve (12) months from receiving from the Director a Notice to Proceed. "Scrap Metal" for the purpose of this Article means abandoned vehicles and other abandoned metal implements of which the Department of Public Works has jurisdiction and the right to dispose. In so disposing of such scrap metal, the Director shall not charge any fees to the owner of the same.

§ 51302. Annual Contract.

The Director shall advertise for and execute such a contract each year with any qualified party on the same terms as are set out in § 51301 of this Article.

§ 51303. Environmental Impact Study.

The Guam Environmental Protection Agency (GEPA) shall annually cause an environmental impact study to be undertaken by the successful offeror to ensure that there are no potential adverse ecological damage to aquifers caused by the annual scrap removal contract.

§ 51304. Conformity to Waste Removal Regulations.

The successful offeror shall perform all work under this Article in compliance with applicable rules and regulations of GEPA on the removal of scrap metal and hazardous waste. As a minimum, the Department of Public Works Director shall ensure that all successful offerors include as part of their processing, an intake system to screen and remove batteries and other potentially hazardous residual material including, engine oil, hydraulic fluids and coolant and Freon from air conditioning units.

ARTICLE 4
CONTRACT FOR COLLECTION OF RECYCLABLE PAPER.

SOURCE: Added by P.L. 24-246:3. (Aug. 14, 1998) except for § 51404 and any following.

- § 51401. Contract to Accept and Collect Recyclable Paper.
- § 51402. Biennial Contract.
- § 51403. Conformity to All Laws and Rules and Regulations.
- § 51404. Reports.

§ 51401. Contract to Accept and Collect Recyclable Paper.

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The Director of Public Works, in accordance with the applicable procurement laws, and after advertising for a request for proposals ('RFP') for the collection of recyclable paper, shall enter into a two (2) - year contract with any qualified local interested business or nonprofit organization, to accept and collect recyclable paper to include newsprint, office paper and magazines from the public, and to implement a plan to prevent them from entering Guam's waste stream. The qualified local business or nonprofit organization shall have active recycling experience and knowledge in Guam. The RFP shall include the requirement that the prospective contractor accepts and pays for all recyclable paper, to include newsprint, office paper and magazines offered by the public. The successful offeror shall be one who bids the highest amount per pound to be paid to the public for the recyclable paper for the duration of the contract term. The contractor shall be granted One Hundred Fifty Thousand Dollars (\$150,000.00) per annum, to be appropriated from the Solid Waste Operations Fund established in this Chapter, to supplement its operations in accordance with the terms and conditions negotiated between the successful offeror and the Department of Public Works. No part of the contract shall require the government to grant more than the annual sum granted at the beginning of the contract period.

§ 51402. Biennial Contract.

The Director shall advertise for and execute such a contract every two (2) years with any qualified party on the same terms as are set out in § 51401 of this Article.

§ 51403. Conformity to All Laws and Rules and Regulations.

The successful offeror shall perform all work under this Article in compliance with all applicable laws, including those of this Chapter, and rules and regulations of GEPA as may be established. As a minimum, the Department of Public Works Director shall ensure that all offerors include as part of their processing, a plan to remove the collected paper from Guam's waste stream.

§ 51404. Report.

Each successful bidder shall file a report on a quarterly basis with I Maga'láhen Guåhan [the Governor] and I Liheslaturan Guåhan [the Legislature], outlining the following:

- (a) total type and amount of paper recycled;

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(b) cost comparison of the cost of the paper-recycling program versus landfill disposal of paper, or any less-than-conventional methods of paper waste reduction; and

(c) recommendations for permanent implementation and improvements to the recycling program.

SOURCE: Added by P.L. 26-147:3.

ARTICLE 5
RECYCLING REVOLVING FUND

SOURCE: Added by P.L. 27-38:2 (Nov. 13, 2003). This Article was repealed and reenacted in its entirety by P.L. 28-171:2 (Jan. 29, 2007).

§ 51501. Definitions.

§ 51502. Recycling Revolving Fund.

§ 51503. Continuing Appropriation.

§ 51504. Administration of the Recycling Fund

§ 51505. Levy and Collection of Recycling Fees.

§ 51506. Recycling Fees.

§ 51507. Authorization for Department of Public Works (“DPW”) to Contract with Recycling Companies.

§ 51508. Adjustment of Recycling Fees.

§ 51501. Definitions.

As used in this Article, and except as otherwise provided, the following words and phrases shall mean:

(a) ‘Administrator’ shall mean the Administrator of the Guam Environmental Protection Agency, or his designee.

(b) ‘DPW’ shall mean the Department of Public Works.

(c) ‘Director’ shall mean the Director of the Department of Public Works.

(d) ‘Enameled white goods’ shall mean appliances for home or commercial use including, but *not limited to*, refrigerators, water heaters, air conditioners, washers, dryers, and stoves.

(e) ‘GEPA’ shall mean the Guam Environmental Protection Agency.

(f) ‘Gross Vehicle Weight’ or ‘Gross Vehicle Weight Rating’ means

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the value specified by the manufacturer as the loaded weight of a single vehicle.

(g) ‘Heavy Equipment’ shall mean any equipment, motor vehicle or motor carrier, or non-road motor vehicle with a gross weight or gross vehicle weight of five (5) tons or more.

(h) ‘Junk Vehicle’ means a motor vehicle, regardless of operating condition, that the registered owner has declared to have no value or no use, or that is abandoned by being placed, discarded, or disposed of on public or private property without approval by owners of said property for more than seven (7) calendar days, or that is no longer registered in accordance with Chapter 7 of Title 16 GCA.

(i) ‘Motor Vehicle’ or ‘motorized vehicle’ shall mean automobiles, automobile trucks, automobile wagons, buses, trucks, motorcycles or other self propelled wheeled conveyances that are primarily for use on Guam’s public streets, roads, and highways that are required to be registered with the Motor Vehicles Division, Department of Revenue and Taxation, Government of Guam.

(j) ‘Municipal Solid Waste’ is a subset of solid waste and is defined as durable goods (e.g., appliance, batteries, tires), nondurable goods (e.g., newspapers, books, magazines), containers and packaging, food wastes, yard trimmings, and miscellaneous organic wastes from residential, commercial, and industrial non-process sources.

(k) ‘Recyclable materials’ means materials which still have useful physical or chemical properties after serving a specific purpose for the same or other purpose. Recyclable materials are as follows:

- (1) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium, sealed types for power backup);
- (2) automobiles, buses, and trucks or any motor vehicle;
- (3) tires (passenger/commercial);
- (4) enameled white goods;
- (5) home appliances (other small appliances that are not considered enameled white goods);
- (6) glass and plastic bottles;
- (7) foam padding;

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- (8) lead;
- (9) metals (ferrous/non-ferrous);
- (10) organic material (i.e., tree trimmings, palm fronds, grass, food waste, soiled cardboard);
- (11) paper products;
- (12) wood pallets and scrap wood;
- (13) construction and demolition debris ('C&D');
- (14) x-ray film;
- (15) automobile oil and fluids;
- (16) freon and other refrigerant gases;
- (17) electronic waste (i.e., computers, circuit boards, televisions, and portable phones);
- (18) heavy equipment; and
- (19) other recyclable materials deemed recyclable by GEPA pursuant to its rules and regulations.

(l) 'Recycle or Recycling' means a method by which recovered resources are converted for use as raw materials or feedstock to make new products, as defined in § 51102 (35) of Chapter 51 of Title 10 GCA.

(m) 'Recycling Company' shall mean any business licensed by the Department of Revenue and Taxation, and permitted, as required in § 51104 of Chapter 51 of Title 10 GCA, by the Guam Environmental Protection Agency to conduct business on Guam.

(n) 'Recycling Facility' shall mean all contiguous land, structures, and other appurtenances, and improvements on land used for the collection, separation, recovery, and sale or reuse of recovered resources that would otherwise be disposed of as municipal solid waste, and is an integral part of a manufacturing process aimed at producing a marketable product made of post consumer material.

(o) 'Recycling fee' shall mean an annual fee levied upon the registered owner of a motor vehicle to assist in the recycling and disposal of motor vehicles and other recyclable materials in accordance with this Article.

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§ 51502. Recycling Revolving Fund.

There is hereby created the Recycling Revolving Fund ('Fund'), which shall be maintained separate and apart from any other funds, including the General Fund of the government of Guam, and independent records and accounts shall be maintained thereof. All revenue generated from recycling fees collected pursuant to this Article, including interest earned, shall be deposited into the 'Recycling Revolving Fund', hereinafter in this Article referred to as the 'Fund'.

§ 51503. Continuing Appropriation

All revenues from the Recycling Revolving Fund are hereby appropriated to the Department of Public Works to fund costs associated with the administration and implementation of this Article.

§ 51504. Administration of the Recycling Revolving Fund.

The Director of Public Works shall administer the Fund and shall encumber all amounts available in the Fund as expeditiously as possible for the purposes of assisting and encouraging recycling of recyclable materials. The Director shall administer the Fund in accordance with this Article to cause the following material/waste to be recycled or otherwise disposed according to the following priority:

- (a) First Priority - junk vehicles, tires, batteries, waste oil, white goods/appliances,
- (b) Second Priority - paper, cardboard, plastic, and glass,
- (c) Third Priority - other recyclable materials as determined by the Director.
- (d) *Not more than* one (1) FTE employee at Guam Environmental Protection Agency to administer this Article.

The Director of Public Works, *no later than* ten (10) days after the end of each fiscal year, shall transfer from the Recycling Revolving Fund three percent (3%) of the total amount collected during that fiscal year to fund one (1) FTE employee at the Guam Environmental Protection Agency. The Fund shall be subject to audits by the Public Auditor.

§ 51505. Levy and Collection of Recycling Fees.

The Director of Revenue and Taxation is hereby authorized to levy a

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Recycling Fee on individuals who are renewing their annual motor vehicle registration with the Department of Revenue and Taxation Division of Motor Vehicles, through the vehicle registration system. The Director of Revenue and Taxation shall collect the Recycling Fees mandated by this Article and transmit the fees to the Director of DPW for deposit in the Recycling Revolving Fund.

§ 51506. Recycling Fees.

The Recycling Fees authorized in § 51505 are hereby imposed as follows:

(a) *Twenty Five Dollars (\$25.00)* annually for each automobile, bus and truck registered by the Department of Revenue and Taxation through the annual vehicle registration system.

(b) *Three Dollars (\$3.00)* for each motorcycle and trailer registered by the Department of Revenue and Taxation through the annual vehicle registration system.

(c) *Thirty Dollars (\$30.00)* for each piece of heavy equipment registered by the Department of Revenue and Taxation through the annual vehicle registration system.

§ 51507. Authorization for DPW to Contract with Recycling Companies.

(a) DPW is authorized, in accordance with the applicable procurement laws, to enter into contracts with recycling companies for the collection, recycling, disposal, and processing, or any combination thereof, of automobiles, buses, heavy equipment, trucks, batteries, tires, white goods, and other recyclable materials, and as required by, or in accordance with, Articles 3 and 4 of Title 10 GCA, Chapter 51. The Director of DPW shall submit any proposed Requests for Proposals to *I Liheslaturan Guahan* within three (3) months of the enactment hereof.

(b) At a minimum, the Director of Department of Public Works shall require that all offerors include, as part of their written offers, proof of current approved permits, certification of compliance with Title 10 GCA Chapter 51 from GEP A and a plan to remove collected recyclable materials, including abandoned vehicles, from Guam's waste stream. Contractors employed under this Section shall perform all work under this Article in compliance with all applicable laws, including those of this Chapter, and the applicable Rules and Regulations of GEP A and DPW.

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(c) DPW shall promulgate the necessary rules and regulations, in accordance with the Administrative Adjudication Law, to properly implement this Article.

§ 51508. Adjustment of Recycling Fees.

The Director shall review the fee authorized by § 51506, supra, every twenty four (24) months and is authorized to adjust the fee by *not more than* twenty-five percent (25%) in accordance with the Administrative Adjudication Law.

ARTICLE 6
MUNICIPAL RECYCLING PROGRAM

SOURCE: Added by P.L. 27-37:2 (Nov. 14, 2003).

§ 51601. Definitions.

§ 51602. Creation of Municipal Recycling Proceeds Fund for each village.

§ 51603. Creation of the Municipal Recycling Program.

§ 51604. Authorization for Municipal Planning Councils to Use The Proceeds from the Sale of Recyclable Materials for Village Needs.

§ 51601. Definitions.

For purposes of this Article, except as otherwise provided, the following words and phrases, together with all of the common derivatives thereof, shall have the meaning ascribed to them as follows:

(a) ‘GEPA’ shall mean the Guam Environmental Protection Agency.

(b) ‘Recycling’ means the process by which recovered resources are transformed into new products in such a manner that products lose their initial identity, as defined in § 51102 (18) of Chapter 51 of Title 10 of the Guam Code Annotated.

(c) ‘Recyclable materials’ means materials which still have useful physical or chemical properties after serving a specific purpose for the same or other purpose. Recyclable materials are as follows:

(1) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium, sealed types for power backup);

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- (2) automobiles, buses, and trucks or any form of motorized vehicle;
- (3) tires (passenger/commercial);
- (4) enameled white goods;
- (5) home appliances (other small appliances that are not considered enameled white goods);
- (6) glass and plastic bottles;
- (7) foam padding;
- (8) lead;
- (9) metals (ferrous/non-ferrous);
- (10) organic material (i.e., tree trimmings, palm fronds, grass, food waste, soiled cardboard);
- (11) paper products;
- (12) wood pallets and scrap wood;
- (13) construction and demolition debris ('C&D');
- (14) x-ray film;
- (15) automobile oil and fluids;
- (16) Freon and other refrigerant gases;
- (17) electronic waste (i.e., computers, circuit boards, televisions, and portable phones);
- (18) heavy equipment; and
- (19) other recyclable materials deemed recyclable by GEPA pursuant to the Rules and Regulations.

(d) 'Recycling company' means any business licensed by the Department of Revenue and Taxation, and issued a permit, as required in § 51104 of Chapter 51 of Title 10 of the Guam Code Annotated, from the Guam Environmental Protection Agency to conduct business on Guam.

(e) 'DPW' means the Department of Public Works.

SOURCE: Added by P.L. 27-37:2 as section 61601 and renumbered by Compiler to section 51601 to fit within the appropriate chapter and article.

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§ 51602. Creation of Municipal Recycling Proceeds Fund for Each Village.

There is hereby established a Municipal Recycling Proceeds Fund for each municipality which shall be maintained separate and apart from any other funds, including the General Fund of the government of Guam, and independent records and accounts shall be maintained in connection therewith. The proceeds from the sale of recyclable materials collected, in accordance with the Municipal Recycling Program, from each village shall be deposited in the respective Municipal Recycling Proceeds Fund. All revenue deposited in each Municipal Recycling Proceeds Fund shall not be commingled with General Fund monies and shall be kept in a separate bank account. All proceeds from fees collected in accordance with §61603 of this Article shall be deposited in the Municipal Recycling Proceeds Fund for the respective village and used exclusively for the purposes authorized in §61604 of this Article. The Municipal Planning Council of each municipality shall administer the Municipal Recycling Proceeds Fund for its municipality which shall be subject to audits by the Public Auditor.

SOURCE: Added by P.L. 27-37:2 as section 61602 and renumbered by Compiler to section 51602 to fit within the appropriate chapter and article.

§ 51603. Creation of the Municipal Recycling Program.

There is hereby created a Municipal Recycling Program within the Recycling Office of the Department of Public Works to promote recycling on the municipal level in partnership with the village mayors. The program shall incorporate the following components:

(1) Recycling Drop-Off Bins. DPW shall solicit drop-off bins from recycling companies that would be made available to each mayor participating in the Municipal Recycling Program. The recycling drop-off bins shall be rust-proof, and located at a suitable site within the respective villages so that the residents will have a repository to which they can bring recyclable materials in accordance with guidelines established by DPW. The mayors of each village participating in the program will be responsible for the security and cleaning of the bins and the supervision of their use for recycling purposes.

(2) Village Education Program. In coordination with the village mayors, DPW and GEPA shall create educational programs to promote recycling and the use of the recycling drop-off bins within each village.

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(3) Sale of Recyclable Materials. In partnership with the village mayors, DPW shall arrange for the sale of recyclable materials, collected at the Recycling Drop-off Bins in each village, to recycling companies. The proceeds from the sale of recyclable materials shall be deposited into the respective Municipal Recycling Proceeds Fund of the village from which the recyclable materials were collected.

(4) The Program shall first begin with pilot programs at three (3) villages; one (1) each from northern, central, and southern Guam. The selection of the three (3) villages shall be made by DPW in concert with the village mayors.

SOURCE: Added by P.L. 27-37:2 as section 61603 and renumbered by Compiler to section 51603 to fit within the appropriate chapter and article.

§ 51604. Authorization for Municipal Planning Councils to Use the Proceeds from the Sale of Recyclable Materials for Village Needs.

The proceeds from the sale of recyclable materials from a village site shall be retained for use by the municipal government of that village in its Municipal Recycling Proceeds Fund. Expenditures from a village's Municipal Recycling Proceeds Fund shall be exclusively for the needs of that village as determined by the respective Municipal Planning Council through adoption of a resolution.

SOURCE: Added by P.L. 27-37:2 as section 61604 and renumbered by Compiler to section 51604 to fit within the appropriate chapter and article.

ARTICLE 7
RECYCLING ENTERPRISE ZONE

SOURCE: Added by P.L. 28-92 (Dec. 12, 2005), An Act to Create a Recycling Enterprise Zone at the Jose D. Leon Guerrero Commercial Port," as an uncodified permanent law. Codified here as Article 7 of this Chapter by the Compiler of Laws.

- § 51701. Definitions.
- § 51702. Establishment of Recycling Enterprise Zone.
- § 51703. Eligibility of Recycling Companies for use of the Recycling Enterprise Zone.

§ 51701. Definitions.

For purposes of this Act, and except as otherwise provided, the

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following words and phrases, together with all of the common derivatives thereof, shall have the meaning ascribed to them as follows:

(a) ‘JLGCP’ shall mean the Jose D. Leon Guerrero Commercial Port.

(b) ‘Recycle’ or ‘Recycling’ means the method by which recovered resources are converted for use as raw material or feedstock to make new products, as defined in §51102 (35) of Chapter 51, Title 10 of the Guam Code Annotated.

(c) ‘Recycling company’ means any business licensed by the Department of Revenue and Taxation, and has been issued a permit as required in §51104 of Chapter 51, Title 10 of the Guam Code Annotated by the Guam Environmental Protection Agency (‘GEPA’) to conduct business on Guam and that specifically commits eighty percent (80%) of its operations to recycling.

(d) ‘Transshipment’ shall mean to transfer for further transportation from one (1) ship or conveyance to another.

(e) ‘Recyclable materials’ means materials that still have useful physical or chemical properties after serving a specific purpose for the same or other purpose. Recyclable materials are as follows:

- (1) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium, sealed types for power backup);
- (2) automobiles, buses, and trucks or any form of motorized vehicle;
- (3) tires (passenger/commercial);
- (4) enameled white goods;
- (5) home appliances (other small appliances that are not considered enameled white goods);
- (6) glass and plastic bottles;
- (7) foam padding;
- (8) lead;
- (9) metals (ferrous/non-ferrous);
- (10) organic material (i.e., tree trimmings, palm fronds, grass, food waste, soiled cardboard);

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- (11) paper products;
- (12) wood pallets and scrap wood;
- (13) construction and demolition debris ('C&D');
- (14) x-ray film;
- (15) automobile oil and fluids;
- (16) freon and other refrigerant gases;
- (17) electronic waste (i.e., computers, circuit boards, televisions, and portable phones);
- (18) heavy equipment; and
- (19) other recyclable materials deemed recyclable by GEPA pursuant to the Rules and Regulations.

§ 51702. Establishment of Recycling Enterprise Zone.

There is established a "Recycling Enterprise Zone" at the Jose D. Leon Guerrero Commercial Port for use by recycling companies for the processing of automobiles, trucks, and tires for recycling purposes and the transshipment of recyclable materials. The size of the zone and its site on the JLGCP property shall be designated by the Board of Directors of the Port Authority of Guam and guided by the provisions of Section 7.10.4 of the Integrated Solid Waste Management Plan. Such designation shall be made within sixty (60) days of the enactment hereof and the site shall be made available for lease to recycling companies eligible under Section 4 of this Act. The Board of Directors of the Port Authority of Guam shall determine and charge a reasonable rate for the lease of said property.

§ 51703. Eligibility of Recycling Companies for use of the Recycling Enterprise Zone.

Lease space in the Recycling Enterprise Zone shall only be available to companies that qualify for Qualifying Certificates as recycling companies under guidelines established by the Guam Economic Development and Commerce Authority.
