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DIV. IV. SOLID WASTE REGULATIONS

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**CHAPTER 20
SOLID WASTE DISPOSAL REGULATIONS**

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NOTE: Rule-making authority cited for formulation of solid waste and litter control by the Guam Environmental Protection Agency, 10 GCA §45106. These rules were filed with the Legislative Secretary on June 6, 1982.

Regulatory power for the control of solid waste disposal was originally vested in the Guam Environmental Protection Agency, §9970.5, Government Code, renumbered to §57005, Government Code by Public Law 12-191 and later amended by Public Law 14-22, and codified in the Guam Code Annotated as §45106.

The solid waste disposal regulations of the Guam Environmental Protection Agency are reprinted here in form as exact as possible to those filed with the Legislative Secretary. The substance of the

regulations has not been changed. However, for the purpose of uniformity and ease of use, a new system of numbering has been adopted by the Editor.

§20101. Purpose and Objectives. Whereas, open dumping and improperly operated landfills foster the creation of public nuisances, environmental pollution, health hazards, safety hazards including, but not limited to:

- (a) insect and rodent breeding;
- (b) noise;
- (c) dust;
- (d) fire;
- (e) explosion;
- (f) smoke;
- (g) odors;
- (h) human stress; and
- (i) danger of physical, chemical and bacteriological contamination of potable drinking water and ground and surface water.

Open burning and improperly operated landfills further create environmental pollution which is obnoxious to the human senses and which degrades and depletes natural resources. Therefore, it is the objective of these Regulations to protect, preserve and promote the physical health, mental health and social well-being of the people of Guam, by requiring adequate planning for solid waste disposal and by requiring that the disposal of solid waste be accomplished in such a manner as to create a healthful, aesthetically desirable and useful environment.

§20102. Definitions. For the purposes of these regulations the following definitions are in effect:

(a) *Administrator* shall mean the Administrator of the Guam Environmental Protection Agency or his duly authorized agent, officer or inspector.

(b) *Agency* shall mean the Guam Environmental Protection Agency.

(c) *Alternate Boundary* shall mean a boundary line that may be used in lieu of the disposal facility's property line, subject to the Administrator's approval.

(d) *Base Flood* shall mean a flood that has a one percent (1%) or greater chance of occurring in any year or a flood

of a magnitude equalled or exceeded once in one hundred (100) years.

(e) *Cell* shall mean compacted solid wastes that are enclosed by natural soil or cover material in a sanitary landfill.

(f) *Cover Material* shall mean soil or other approved suitable material that is used to cover compacted solid wastes in a land disposal site.

(g) *Daily Cover* shall mean cover material that is spread and compacted on the top and side slopes of a solid waste cell at the end of each operating day in order to control vectors, fire, moisture and erosion and to assure aesthetic appearance.

(h) *Endangered or Threatened Species* shall mean any species listed as such pursuant to Guam's Endangered Species Act (P.L. 13-83) and the United States Endangered Species Act of 1973, as amended.

(i) *Final Cover* shall mean cover material which is placed on the completed portion of the landfill, that serves the same functions as daily cover.

(j) *Floodplain* shall mean the lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands which are inundated by the base flood.

(k) *Free Moisture* shall mean liquid that will drain freely by gravity from solid materials.

(l) *Groundwater* shall mean water beneath the land surface in the zone of saturation.

(m) *Hazardous Waste* shall mean solid waste or combination of solid waste determined to be hazardous under Section IV (CRITERIA FOR HAZARDOUS WASTE DETERMINATION) of Guam's Hazardous Waste Management Regulations, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in the mortality or an increase in serious irreversible, or incapacitating reversible illness, or pose substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed, or otherwise managed.

(n) *Infectious Waste* shall mean:

(1) equipment, instruments, utensils and formate of a disposed nature from the rooms of patients who are suspected to have or have been diagnosed as having a communicable disease and must therefore be isolated as required by public health agencies;

(2) Laboratory wastes, including pathological specimens (i.e., all tissues, specimens of blood elements, excreta and excretion obtained from patients or laboratory animals) and disposal fomites attendant thereto and similar disposal materials from out-patient areas and emergency rooms; and

(3) carcass of any animal that has died from a communicable disease.

(o) *Intermediate Cover* shall mean cover material that serves the same functions as daily cover, but must resist erosion for a longer time, because it is applied on areas where additional cells will not be constructed for extended periods of time.

(p) *Leachate* shall mean liquid that has percolated through solid waste and has extracted dissolved or suspended materials from it.

(q) *Lower Explosive Limit* shall mean the lowest percent by volume of a mixture of explosive gases which will propagate a flame in air at 25_ centigrade and atmospheric pressure.

(r) *Open Burning* shall mean the combustion of solid waste without control of combustion air to maintain adequate temperature for efficient combustion, without containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and without control of the emission of the combustion products.

(s) *Open Dump* shall mean a land disposal site which does not meet standards set forth in "Criteria for Classification of Solid Disposal Facilities and Practices" and where solid wastes are disposed in a manner that does not protect the environment, is susceptible to open burning, and is exposed to the elements, vectors and scavengers.

(t) *Owner* shall mean any person, including government entities, who alone or in conjunction with others owns or leases the real property upon which is located a solid waste disposal facility subject to these Regulations.

(u) *Person* shall mean the territory of Guam or any local or federal governmental instrumentality therein, or any individual, firm, corporation, association or partnership, or any organized group of persons whether incorporated or not.

(v) *Plans* shall mean reports and drawings, including a narrative operating description, prepared to describe the land disposal site and its proposed operation.

(w) *Residue* shall mean all the materials that remain after completion of thermal processing, including bottom ash, fly ash and grate shifting.

(x) *Runoff* shall mean that portion of precipitation that drains from an area as surface flow.

(y) *Salvaging* shall mean the controlled removal of waste materials for utilization.

(z) *Sanitary Landfill* shall mean a land disposal site, with a permit issued in accordance with these Regulations, employing an engineered method of disposing of solid waste on land in a manner that minimizes environmental hazards by spreading the solid wastes in thin layers, compacting the solid waste to the smallest practicable volume, and applying and compacting cover material at the end of each operating day.

(aa) *Scavenging* shall mean uncontrolled and unauthorized removal of solid waste materials.

(bb) *Sludge* shall mean the accumulated semi-liquid suspension of settled solids deposited from wastewaters or other fluids in tanks or basins.

(cc) *Solid Waste* shall mean any garbage, refuse, sludge or any other solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining or agricultural operations or community activities which is discarded; disposed; abandoned; has served its original intended use; or is being accumulated, stored or physically, chemically or biologically treated prior to being discarded or

disposed; or is burned or incinerated, except as fuel for energy recovery.

(dd) *Taking* shall mean harassing, harming, pursuing, hunting, wounding, killing, trapping, capturing or collecting, or attempting to engage in such conduct.

(ee) *Vector* shall mean any insect or other arthropod, rodent or other animal capable of transmitting the causative agents of human disease, or disrupting the normal enjoyment of life by adversely affecting the public health and well-being.

(ff) *Water Table* shall mean the upper water level of a body of groundwater.

(gg) *Working Face* shall mean that portion of the sanitary landfill where solid wastes are discharged and are spread and compacted prior to the placement of cover material.

§20103. Solid Waste Management Permit System: Permits Required. It shall be unlawful for any person to establish, or operate any solid waste disposal facility or modify an existing disposal facility without a permit issued in accordance with the provisions of these Regulations. All permitted solid waste disposal facilities shall be operated in accordance with the provisions of P.L. 14-37 and these Regulations.

§20104. Same: Application for Permit. (a) Application for a permit shall be completed on forms furnished by the Administrator and shall include the following information:

(1) Detailed plans and specifications for the facility.

(2) Certification of compliance with zoning requirements and local ordinances (e.g. clearing and grading permit, etc.) by the Department of Land Management, Department of Public Works and Guam Environmental Protection Agency.

(3) An operations plan detailing the proposed method and length of operation, population and area to be served, the characteristics, quantity and source of material to be disposed, the type of equipment to be used, the number and responsibilities of site personnel, source and type

of cover material, emergency operating procedures, and the proposed ultimate use of the disposal site. In those cases where only landfilling with demolition debris will take place, certain items may be excluded from the application form by the Administrator.

(4) The Administrator may require information under §20112 through §20126 that is necessary to adequately assess the environmental impact of the proposed landfill and prevent injury to the public health, welfare or environment of the territory of Guam.

(b) A proof of performance bond obtained from a bonding company authorized to do business in Guam may be required by the Administrator. The bond shall be payable to the territory of Guam and conditioned on the fulfillment by the holder of the requirements of these Regulations.

(c) All owners of existing solid waste disposal facilities shall file, within sixty (60) days after the effective date of these Regulations, an application for permit to continue to operate.

(d) Each application shall be signed by the owner and shall constitute an agreement that the owner will assume responsibility for the construction or modification and operation of the facility in accordance with these Regulations. If the owner is a partnership or group other than a corporation, the application shall be signed by one (1) individual who is a member of the group. If the owner is a corporation, the application shall be signed by an officer of the corporation or general manager of the facility.

§20105. Same: Action on Application. (a) The Administrator shall act on an application within a reasonable time, not to exceed thirty (30) days from the date the application is received and shall notify the applicant in writing of the approval or denial of the application. If the Administrator has not acted within the thirty (30) day period, the application shall be deemed to have been approved, provided that the Administrator may request additional information from the applicant and the thirty (30) day period shall commence on the day the supplementary information is received.

(b) The applicant may submit questions and comments, in duplicate, in response to the Administrator's action on the application.

(c) The Administrator shall consider the applicant's questions and comments and shall notify the applicant in writing of his final approval or denial of the application.

(d) If a permit is denied, the applicant shall have the opportunity to appeal the decision at a hearing by the Board of Directors of Guam Environmental Protection Agency in accordance with the Administrative Adjudication Law.

(e) The Administrator shall approve an application for permit if the application and supporting information clearly show that the issuance thereof does not pose a threat to the environment, public health or welfare and that the solid waste disposal facility is designed, built and equipped in accordance with the best practicable technology so as to operate without causing a violation of applicable rules and regulations.

(f) The Administrator may issue to the applicant a conditional approval. Under such an authority the Administrator may:

(1) Require the applicant to provide such facilities as are necessary for sampling and testing to determine the degree of pollution from the solid waste disposal facility.

(2) Specify conditions which will bring the operation of the solid waste disposal facility described in the application within the conditions of this Rule.

(g) Written acceptance of any and all permit conditions by the applicant shall be necessary prior to any construction for which a permit is required.

§20106. Same: Duration of Permit. The Administrator shall grant a permit for two (2) years following the date of issuance and upon application may renew a permit.

§20107. Same: Modification, Suspension or Revocation of Permit. The Administrator may, on his own motion or the application of any person, modify, suspend or revoke a permit if, after affording the permit holder a hearing, he determines that any

condition of the permit has been violated or any regulation of the Agency has been violated, or that such action is in the public interest. Modification, suspension or revocation of a permit shall become final ten (10) days after service of notice of the final decision to modify, suspend or revoke, on the holder of the permit.

§20108. Same: Transfer of Permit. A permit shall not be transferable, whether by operation of law or otherwise, either from one location to another, from one solid waste disposal facility to another or from one person to another, without the written approval of the Administrator.

§20109. Same: Reporting Termination. Sixty (60) days prior to closure, any person issued a permit shall report the permanent termination of a solid waste processing or disposal facility for which the permit has been issued to the Administrator and within thirty (30) days after closure shall surrender the permit to the Administrator.

§20110. Same: Posting of Permit. Upon granting an approval for a permit, the Administrator shall issue to the applicant a permit which shall be posted in a conspicuous place at or near the operation site for which the permit was issued.

§20111. Same: Falsifying or Altering Permit. No person shall willfully deface, alter, forge, counterfeit or falsify a permit. Any such activity shall bring about immediate revocation of the permit.

§20112. Solid Waste Disposal Operations: Solid Wastes Accepted. (a) As a part of the permit application, the owner shall report what wastes shall be accepted and identify any special handling required. In general, only wastes for which the facility has been specifically approved by the Administrator shall be accepted. However, other wastes may be accepted if it has been demonstrated to the Administrator that they can be satisfactorily disposed within the approved design capability of the facility or after appropriate facility modifications and without harm to the environment or public welfare.

(b) The plans shall specify procedures for wastes requiring special handling. Wastes approved for

acceptance at the facility shall be handled in the following manner:

(1) Routine sanitary landfill techniques of spreading and compacting solid wastes and placing cover material at the end of each operating day shall be used to dispose of municipal solid wastes.

(2) Certain wastes, such as automobile bodies, furniture, metals and appliances may be salvaged in a controlled manner only by individuals approved by the permit holder and the Administrator at an approved point other than the working face. Otherwise these materials shall be crushed on solid ground and pushed into the working face near the bottom of the cell. Other bulky items, such as demolition and construction debris, tree stumps and large timbers, should be pushed into the working face near the bottom of the cell. These materials may be approved by the Administrator for use with soil as cover material if it can be shown that no environmental or public health problems will occur as a result.

(3) Dead animals shall be placed on the working face with other municipal wastes and covered immediately. An alternative to this method is for large carcasses to be placed in a pit which is free from contact with the groundwater and provided with an immediate cover of compacted soil or other suitable material.

(4) Wastewater treatment plant sludge containing no free moisture should be placed on the working face and incorporated with other municipal solid wastes and covered with soil at the end of the working day. The quantities accepted should be determined by operational conditions encountered at the working face.

(5) Incineration and air pollution control residues containing no free moisture shall be incorporated into the working face and covered at such intervals as necessary to prevent them from becoming airborne.

§20113. Same: Solid Wastes Excluded. (a) Using information indicated on the permit application, the Administrator and the permittee shall jointly determine specific wastes to be excluded and shall identify them in the plans. The generator of excluded

wastes and hazardous material shall report these wastes to the Administrator prior to disposal and consult with the Administrator in determining method of disposal. The criteria used in considering whether a waste is unacceptable shall include the hydrology of the site, the chemical and biological characteristics of the waste, alternative methods available, environmental and health effects and the safety of personnel.

(b) Regular users of the land disposal site shall be provided with a list of excluded materials. The list shall be displayed prominently at the site entrance.

§20114. Same: Hazardous Waste Materials. Disposal of hazardous wastes from generators with a total hazardous waste production of 200 kilograms (440 pounds) or more per calendar month, or from generators with a total production of 1 kilogram (2.2 pounds) or more of acutely hazardous waste per calendar month, shall not be permitted under these Regulations. All hazardous waste generated at these limits shall be prepared, manifested, contained, labeled, stored and disposed in accordance with laws, rules and regulations promulgated by the U.S. Department of Transportation, the United States Environmental Protection Agency and the Guam Environmental Protection Agency. Hazardous wastes otherwise not covered by such laws, rules and regulations shall be described in the plans, must receive approval by the Administrator prior to disposal and shall adhere to the following:

(a) Infectious and pathological wastes generated at medical, veterinary and other facilities shall be incinerated, sterilized or otherwise rendered safe prior to removal from these facilities for final disposal.

(b) Toxic, caustic, volatile and flammable chemical waste may be incinerated or disposed in a manner approved by the Administrator. If such wastes are delivered directly to a landfill, they shall be rendered nonhazardous by chemical neutralization or stabilization prior to final disposal. The disposal of chemical wastes at a landfill shall be in a constructed trench or pit that is designed to retain the wastes and prevent infiltration into ground and surface waters. The burial area shall be clearly marked with adequate warning signs and under no circumstances will

smoking or open flame be allowed when these types of wastes are being disposed. The burial site shall be recorded in the final plan of the completed site and made a part of the legal description of the property.

(c) Sewage sludge and septic tank pumping are prohibited at the disposal facility unless treated by a process approved by the Administrator which significantly reduces pathogens prior to disposal.

(d) The disposal of pesticides and pesticides containers shall be consistent with regulations developed pursuant to the Guam Pesticide Control Act.

§20115. Same: Site Selection. (a) Site selection and utilization shall be consistent with public health and welfare, air and water quality standards and compatible with current land-use planning goals.

(b)(1) The site shall be designed in a manner to protect or minimize the impact on groundwater resources. Unacceptable hydrological conditions may be altered to render the site acceptable, but all alterations shall be detailed in the plans. Precipitation and other climatological conditions shall be considered in the site selection and design.

(2) Characteristics of on-site soil shall be evaluated with respect to their effects on site operations, such as vehicle maneuverability and their use as cover material.

(3) The site shall be accessible to vehicles for which the site is designed by all weather roads leading from the public road system; temporary roads maintained in a passable condition shall be provided as needed to deliver wastes to the working face.

§20116. Same: Design. (a) Plans for the design, construction and operation of new sites or modifications to existing sites shall be prepared or approved by a professional engineer and submitted to the Administrator for approval.

(b)(1) The types and quantities of all solid wastes expected to be disposed at the facility should be determined by survey and analysis to form a basis for design. The survey methods and results shall be incorporated with the application for an operating permit for the facility.

(2) Site development plans shall include the various design factors addressed elsewhere in these Regulations, as well as:

(A) Initial and final topographies at contour intervals of ten (10) ft. or less.

(B) Land use and zoning within one-quarter mile of the site including location of all residences, buildings, wells, water courses, historical sites, recreational areas and roads. All airports within two (2) miles of the site shall be identified to aid in assessing the potential hazard of birds to aircraft.

(C) Location of all utilities within five hundred (500) ft. of the site.

(D) Facilities for employee convenience and equipment maintenance.

(E) Narrative description, with associated drawings, indicating site development and operation procedures.

(F) The planned use of the completed land disposal site. In addition to maintenance programs and provisions, where necessary, for monitoring and controlling decomposition gases and leachate, the plans shall address the following ultimate use criteria:

1. **Cultivated Area.** If the completed site is to be cultivated, the integrity of the final cover must not be disturbed. In this regard, a sufficient depth of cover material to allow cultivation and to support vegetation should be applied in addition to that recommended for final cover.

2. **Structures.** It is not recommended practice to construct major structures on a completed land disposal site. If major structures are to be built on or near a completed disposal site, a professional engineer shall approve their design and construction including provisions for protection against potential hazards of solid waste decomposition gases and settling of the fill area.

(G) If an alternate boundary is proposed to be used then the permit application shall include analysis and summary of the following:

1. The hydrogeological characteristics of the facility and surrounding land within one-quarter (1/4) mile;
2. The volume and physical characteristics of the leachate from the facility;
3. The quantity and direction of flow of the groundwater;
4. The proximity and withdrawal rates of groundwater users;
5. The availability of alternate drinking water supplies;
6. The existing quality of the groundwater including other sources of contamination and their cumulative impact; and
7. The effects of the alternate boundary use on public health, safety and welfare.

(c) A disposal facility shall not cause or contribute to the taking of any endangered or threatened species of plant, fish or wildlife and shall not cause the destruction of the critical habitat of endangered or threatened species.

(d) The design, construction and operation of a disposal facility shall not restrict the flow of the base flood, reduce the temporary water storage capacity of the floodplain or result in a washout of solid waste so as to pose a hazard to human life, wildlife or land or water resources.

(e) The disposal facility shall not be located, constructed or operated so that birds attracted to the facility pose a hazard to aircraft approaching or leaving any airport.

§20117. Same: Water Quality. (a) New and existing landfills shall develop and operate a surface water or a groundwater monitoring program:

(1) The groundwater monitoring program shall include the use of monitoring wells established hydraulically upgradient, downgradient and beneath

the landfill. Parameters to be used for testing groundwater contaminants are those listed in "Criteria for Classification of Solid Waste Disposal Facilities and Practices" (44 CFR 257) and in the Primary (40 CFR 141) and Secondary Safe Drinking (40 CFR 143) Water Standards, as amended.

(2) The surface water monitoring program shall include the use of sampling stations located upstream, downstream and at a point nearest the landfill where contaminants may enter the surface water. Parameters to be used for testing surface water contaminants are listed in the Guam Water Quality Standards, as amended.

(b) The location, design, construction and operation of the land disposal site shall conform to the most stringent of applicable water quality standards established in accordance with or effective under the provisions of the Guam Water Quality Standards. Plans shall include:

(1) Current and projected use of water resources in the potential zone of influence of the land disposal site.

(2) Groundwater elevation, movement and proposed separation between the lowest point of the lowest cell and the predicted maximum water table elevation.

(3) Potential interrelationship of the land disposal site, local aquifers and surface waters based on historical records or other sources of information.

(4) Background and initial quality of water resources in the potential zone of influence of the land disposal sites.

(5) Proposed location of monitoring wells, sampling station and testing program planned.

(6) Description of soil and other geologic material to a depth adequate to allow evaluation of the water quality protection provided by the soil and other geologic material.

(7) Provisions of surface water runoff control to minimize infiltration and erosion of cover material.

(8) Potential of leachate generation and description of proposed control system, where

necessary for the protection of ground and surface water resources.

(c) Surface water courses and runoff shall be diverted from the land disposal site (especially from the working face) by means such as trenches, conduits and proper grading. The land disposal sites shall be constructed and graded so as to promote rapid surface water runoff without excessive erosion in accordance with the USDA Soil Conservation Service Field Engineering Manual or other acceptable engineering guidelines. Regrading should be done as required during construction and after completion to avoid ponding of precipitation and to maintain cover material integrity. Seeding of finished areas shall be done immediately after grading is completed to prevent erosion and excessive runoff.

(d) Siltation or retention basins or other approved methods of retarding runoff shall be used where necessary to avoid stream siltation or flooding problems due to excessive runoff.

(e) Leachate collection and treatment systems shall be used to protect ground and surface water resources.

(f) A disposal facility shall not cause a discharge of pollutants into the waters of the Territory that is in violation of the National Pollutant Discharge Elimination System (NPDES) under §402 of the Clean Water Act, as amended.

(g) A disposal facility shall not cause non-point source pollution into the waters of the Territory that violates requirements of the Guam Water Quality Management Plan.

(h) A disposal facility shall not contaminate an underground drinking water source beyond the facility's boundary or the alternate boundary.

§20118. Same: Air Quality. (a) The design, construction and operation of the land disposal site shall conform to applicable air quality standards and air pollution control regulations for the territory of Guam.

(b) Plans shall include an effective dust control program during construction and operation of the facility.

(c) Open burning of municipal solid waste shall be prohibited. This requirement does not apply to infrequent burning of agricultural wastes in the field, silvicultural wastes for forest management purposes, land clearing of debris or diseased trees, or debris from emergency clean-up operations.

(d) Incineration of municipal solid wastes shall be done in incinerators approved by the Agency.

(e) Open burning of solid wastes that contain asbestos, beryllium, mercury, vinyl chloride, PCB and any other hazardous air pollutants identified in Section 112 of the Federal Clean Air Act is prohibited.

§20119. Same: Gas Control. (a) Decomposition gases generated within the land disposal site shall be controlled on site, as necessary, to avoid posing a hazard to occupants of adjacent property.

(b) Plans shall assess the need for gas control and indicate the location and design of any vents, barriers or other control measures to be provided.

(c) The concentration of explosive gases generated at the facility shall not exceed:

(1) Twenty-five percent (25%) of the lower explosive limit in facility structures except for gas control and recovery system components.

(2) The lower explosive limit at the facility's boundary line.

§20120. Same: Vectors. (a) Conditions shall be maintained that are unfavorable for the harboring, feeding and breeding of vectors.

(b) Plans shall include contingency programs for vector control, and the operator shall be prepared at all times to implement these procedures.

§20121. Same: Aesthetics. (a) The landfill disposal site shall be designed and operated at all times in an aesthetically acceptable manner.

(b) Plans shall include an effective litter control program including:

(1) Use of portable litter fences or other devices in the immediate vicinity of the working face and at other appropriate locations to control blowing litter. At the end of each operating day, or more often as required, litter shall be removed from the fences and

incorporated into the cell being used. Alternatively, the litter may be containerized for disposal on the next operating day.

(2) Other wastes that are easily moved by wind shall be controlled as necessary to prevent their becoming airborne and scattered.

(3) On-site vegetation shall be cleared only as necessary. Natural windbreaks, such as green belts, shall be maintained where they will improve the appearance and operation of the land disposal site. Buffer strips shall be planted and/or berms constructed as necessary to screen the working face from nearby residences or major roadways.

(c) Salvage operations shall be conducted in such a manner as to not detract from the appearance of the land disposal site. Salvaged material shall be removed from the land disposal site frequently enough to maintain aesthetic acceptability.

§20122. Same: Cover Material. (a) Cover material shall be applied daily over the entire working face or more often if necessary to minimize fire hazards, infiltration of precipitation, odors and blowing litter; control gas venting and vectors; discourage scavenging; and provide a pleasing appearance.

(b) Plans shall specify:

(1) Cover material sources and soil classification and workability.

(2) Surface grades and side slopes needed to promote maximum runoff, without excessive erosion and to minimize infiltration.

(3) Procedures to promote vegetative regrowth as promptly as possible to combat erosion and improve appearance of idle and completed areas.

(4) Procedures to maintain cover material integrity, e.g., regrading and recovering.

(c)(1) Daily cover shall be applied regardless of weather condition; sources of cover material shall therefore be accessible on all operating days. The thickness of the compacted daily cover shall be sufficient, with a minimum of 6" so that waste material does not protrude nor is visible.

(2) The intermediate cover shall be applied on areas where additional cells are not to be constructed for extended periods of time; normally, one (1) week to one (1) year. The thickness of the compacted intermediate cover shall not be less than one (1) foot.

(3) Final cover shall be applied on each area as it is completed or if the area is to remain idle for over one (1) year. The thickness of the compacted final cover shall not be less than two (2) feet.

§20123. Same: Compaction. (a) In order to conserve land disposal site capacity, thereby preserving land resources, and to minimize moisture infiltration and settlement, solid waste and cover material shall be compacted to the smallest practicable volume.

(b) Solid wastes may be reduced in volume by using balers, shredders or other reducing devices before placement in cells.

§20124. Same: Landfill Operation. (a) Arrangements shall be made and indicated in the plans whereby substitute equipment will be available to provide uninterrupted service during routine equipment maintenance periods or equipment breakdowns. An equipment maintenance facility shall be provided on-site, or appropriate contract arrangement shall be made to receive such service. Equipment manuals, catalogs and spare parts lists should be compiled and readily available on-site.

(b) Solid waste handling equipment shall on any operating day be capable of performing the following functions:

(1) Spread the solid waste in layers no more than two (2) feet thick while confining it to the smallest practicable area.

(2) Compact the spread solid wastes to the smallest practicable volume (several such compacted layers will form a cell).

(3) Place, spread and compact the cover material over the cell at least by the end of each day's operation.

(c) A preventive maintenance program shall be employed to maintain equipment in operating order.

Explanation of the proposed maintenance program shall be incorporated in the permit application.

(d) An operation manual describing the various tasks that must be performed during a typical shift shall be developed and shall be available to employees for reference, and the owner shall submit such proof as the Administrator may require that all site employees are familiar with their responsibilities and site operating procedures as specified in the operating manual. (e) All solid waste delivered to the landfill shall become the property of the landfill owner.

§20125. Same: Safety. (a) The land disposal site shall be designed, constructed and operated in such a manner as to protect the health and safety of personnel associated with the operation.

(b) The operating manual shall describe safety precautions and procedures to be employed at the site during the working day. In addition, the following safety factors are required:

(1) Personal safety devices such as hard hats, gloves and footwear shall be worn by all facility employees while on the site.

(2) Safety devices, including but not limited to such items as rollover protective structures, seatbelts and audible reverse warning devices, shall be provided on all equipment used to spread and compact solid wastes or cover material at the facility. Fire extinguishers shall be provided and be located within the immediate vicinity of the working face.

(3) Provisions shall be made to extinguish any fires in wastes being delivered to the site or which occur at the working face or within equipment or personnel facilities.

(4) Communications equipment shall be available on-site for emergency situations.

(5) Scavenging shall be prohibited at all times to avoid injury and to prevent interference with site operations.

(6) Access to the site shall be controlled and shall be by established roadways only. The site shall be accessible only when operating personnel are on duty. Large volume containers may be placed at the site entrance so that users can conveniently deposit waste

after hours. The containers and the areas around them shall be maintained in a sanitary and litter-free condition and emptied daily.

(7) Traffic signs, markers and/or site personnel shall be provided to promote an orderly traffic pattern to and from the discharge area, maintain efficient operating conditions, and, if necessary, restrict access to hazardous areas. Drivers of manually discharging vehicles shall not hinder operation of mechanically discharging vehicles. Vehicles shall not be left unattended at the working face or along traffic routes. If a regular user persistently poses a safety hazard, he should be barred from the site and reported to the Agency.

§20126. Same: Records. (a) The permittee shall maintain records and monitoring data to be provided, as required, to the Agency. The application for permit should prescribe methods to be used in maintaining records and monitoring the environmental impact of the land disposal site. Information on recording and monitoring requirements should be obtained from the Agency.

(b) Records to be maintained shall include at least the following:

(1) Quantitative measurements of the solid wastes handled. This should be accomplished through routine or periodic utilization of scales and topographic surveys of the site.

(2) Description of solid waste materials received, identified by source of materials, and type of vehicle transporting them for disposal. These records shall be maintained on a daily basis and summarized monthly as to tons received, number of vehicles by type and kinds of waste materials received.

(3) Major operation problems, complaints or difficulties.

(4) Dust and litter control efforts.

(5) Vector control efforts.

(6) Qualitative and quantitative evaluation of the environmental impact of the land disposal site, with regard to the effectiveness of gas and leachate control, including results of:

- (A) leachate sampling and analyses;
- (B) gas sampling and analyses;
- (C) ground and surface water quality sampling and analyses upstream and downstream of the site.

(c) Upon completion of the site, a detailed description, including a plat, shall be recorded with the Department of Land Management and the Department of Public Works Building Permit Division. The description shall include general types and locations of wastes, depth of fill and other information of interest to potential landowners or developers.

§20127. Litter Control: Receptacle Design. (a) Receptacles shall be of sufficient capacity to contain the litter generated during the period between collections.

(b) Receptacles (not including the liners) shall be constructed of material that is fire retardant, will withstand normal wear and tear and will resist corrosion and acts of vandalism.

(c) Receptacles shall be constructed to be watertight, vector resistant and easily cleaned and emptied.

(d) Receptacles shall be designed to minimize the risk of injury under conditions of normal use and handling.

(e) Receptacles shall be provided with a hood or cover. All openings shall be readily identifiable and accessible for depositing litter and shall be designed to minimize the deposit of household refuse or garbage.

(f) Litter receptacles shall in all cases be designed so as to be attractive and practical in the use for which they are primarily intended.

(g) Receptacles shall be clearly identified as to their purpose and shall be designed to attract attention and to encourage the deposit of litter.

§20128. Same: Receptacle Location. Litter receptacles shall be placed in public places including but not limited to the following:

- (a) drive-in restaurants and fast food outlets;
- (b) gasoline service stations;
- (c) shopping centers;

- (d) grocery stores;
- (e) boat launching and take-out areas;
- (f) boat moorage and fueling stations;
- (g) public piers;
- (h) public parks;
- (i) public beaches;
- (j) airports;
- (k) movie theaters and play houses;

(l) parking lots which have fifty (50) vehicle spaces or more capacity and are contiguous to the places listed above and receptacles shall be provided in a ratio of a minimum of one (1) receptacle per fifty (50) spaces.

§20129. Same: Receptacle Maintenance. (a) Receptacles shall be maintained by the owner/operator of the property upon which it is located. If a receptacle is found defective for the intended use then it shall be repaired or replaced at the owner/operator's expense.

(b) Receptacles shall be emptied of litter at least every seven (7) days or sooner, if full.

(c) Receptacles shall be:

(1) subject to periodic maintenance or repair to permit receptacles to serve their function;

(2) maintained so that they do not attract or harbor flies, rodents or other vectors.

(d) If the litter receptacles are limited by special use conditions or specific architectural design restrictions, the Administrator may approve an alternate method as presented by the owner/operator.

(e) Improperly maintained, unsightly or inadequate litter receptacles are in violation of these Regulations.

§20130. Compliance Schedule. The Administrator may establish a Compliance Schedule in order to rectify violations of these Regulations. The violator shall adhere to the conditions of the Compliance Schedule in order to preclude assessment of penalties as described in P.L. 14-37.

§20131. Severability. If any provisions of these Regulations, or the application thereof to any person, or circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any part of these Regulations which can be given effect, without the invalid provisions or application, and to these end the provisions of these Regulations and the various applications thereof are declared to be severable.

CHAPTER 21

SOLID WASTE COLLECTION REGULATIONS

- §21101. Objective and Purpose.
- §21102. Definitions.
- §21103. Permits:
- §21104. Permit Application.
- §21105. Action of the Application.
- §21106. Duration of Permit.
- §21107. Revocation.
- §21108. Transfer.
- §21109. Termination.
- §21110. Posting.
- §21111. Alteration.
- §21112. Vehicle Design and Use.
- §21113. Standards and Regulations: Generally.
- §21114. Responsibilities of the Collection System User.
- §21115. Responsibilities of the Collector.
- §21116. Ownership.
- §21117. Tampering.
- §21118. Enforcement.
- §21119. Severability.
- §21120. Application.

NOTE: Rule-making authority cited for formulation of Solid Waste Collection by the Guam Environmental Protection Agency 10 GCA Chapter 51.

The original publication was made on February 15, 1975.

These Rules and Regulations were filed with the Legislative Secretary on June 16, 1986. **§21101. Objective and Purpose.** Solid waste must be efficiently collected and properly transported in order to avoid hazards to health, safety and the environment. Proper management of Guam's refuse collection system will promote effective vector control as well as prevent significant degradation of community landscapes. It is therefore the primary objective of these regulations to protect, enhance and preserve the beauty of the land as well as maintain the healthful and overall well-being of the people of Guam. Further, it is the purpose of these regulations to require adequate planning as an essential element for the proper collection of solid waste and to control practices that may be detrimental to the environment and all who live therein.

§21102. Definitions. For the purposes of these regulations the following definitions are in effect:

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

(b) *Agency* shall mean the Guam Environmental Protection Agency.

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

(d) *Bundle* shall mean a collection of rubbish paper products or vegetation that is securely and tightly bound together.

(e) *Business* shall mean any individual, proprietorship, partnership, corporation both profit and non-profit, association, joint venture, or project, both public and private, which engages in educational, commercial or industrial activity, including but not limited to any hotel, restaurant, apartment or store.

(f) *Collection* shall mean the act of removing waste from the storage container at the source of generation and the transport of the waste to the site where it is to be discharged.

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

(h) *Container* shall mean a device that holds waste in an environmentally acceptable manner and that restricts access to the waste by any vector or animal.

(i) *Generator* shall mean the business that produces solid waste.

(j) *Hazardous Waste* shall mean solid waste, or a combination of solid waste determined to be hazardous under Part III (Identification and Listing of Hazardous Waste) of Guam's Hazardous Waste Management Regulations, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in the mortality or an increase in serious irreversible, or incapacitating reversible illness, or pose substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed, or otherwise managed.

(k) *Manifest* shall mean a document which accurately details the identification, handling, transport and storage of any cargo.

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(l) *Operator* shall mean an individual who actuates the designed function of any machine, equipment, vehicle, business or service.

(m) *Owner* shall mean the occupant of a dwelling unit or place of business; provided that if said dwelling unit or place of business is rented to any such occupant, then the term "owner" shall also mean the person to whom the rent is paid.

(n) *Person* shall mean an individual, trust, firm, joint stock company, corporation, association, partnership, or any organized group of persons whether incorporated or not, Territorial agency, federal agency, or an agent or employee thereof.

(o) *Route Map* shall mean a map which shows in detail the path that a particular collection vehicle is to take during the course of its daily operation.

(p) *Solid Waste* shall mean any garbage, trash, refuse or other solid material from municipal, industrial residential, recreational or commercial activities that is discarded as no longer having value for its designed or intended use.

(q) *Storage* shall mean the containment of solid waste after it has been generated and before it is collected for disposal.

(r) *Vector* shall mean any insect, arthropod, invertebrate, rodent or other animal capable of transmitting disease to humans.

§21103. Permits. A permit is required for any person providing a regular collection service to a business, place, residence or institution. A permit is also required for any generator or group of generators that store, collect and transport as an activity of business operation. A permit is not required for the irregular and infrequent collection and transport of accumulated solid waste such as by a resident or homeowner, or by a business which is otherwise served by a collection service. The approval of a permit shall be contingent upon the applicant's demonstration of his capability to comply with these regulations.

§21104. Permit Application. (a) The applicant(s) shall use forms as provided by the Agency, shall make two (2) additional copies of the completed forms, and

shall submit the original and a copy to the Agency and keep one (1) copy on file.

(b) The permit application for the collection of solid waste by the generator shall include the following:

(1) the estimate volume or weight of solid waste collected per week;

(2) the schedule and route used by the vehicle transporting the solid waste; and

(3) identification of any vehicle used for collection including make, type and license number.

(c) The permit application for the collection service by a person other than the generator shall include the following:

(1) the number and specifications of each type of collection vehicle in service including make, type, license number and crew size;

(2) a representative copy of the route map or schedule sheet to be used by the collection crew in the performance of daily assignments;

(3) a narrative description of the schedule and method of collection operations;

(4) estimated monthly volume or weight of solid waste collected.

(d) The applicant shall have sixty (60) calendar days after the effective date of these regulations to submit the application to the Agency. An extension may be granted if a written request with justification is submitted to the Agency and approved by the Administrator before the deadline.

(e) All new applications or renewal applications for a solid waste collection permit shall be accompanied by a nonrefundable application fee of \$25.00 payable to the Treasurer of Guam.

§21105. Action on the Application. (a) The Administrator shall evaluate the permit application and act upon it within thirty (30) calendar days after the receipt of the application and shall notify the applicant in writing of the action taken.

(b) Additional information necessary to clarify any part of the submitted permit application may be

requested by the Administrator. The permit evaluation period shall begin upon receipt of the requested information.

(c) There are three (3) responses possible to an application:

(1) **Approval** - the applicant may proceed as indicated in the application and in compliance with applicable regulations and laws.

(2) **Conditional Approval** - the applicant may proceed with operations but is required to comply with conditions as delineated by the Administrator.

(3) **Denial** - the applicant who is not allowed a permit may pursue the following course of action:

(A) The applicant may submit questions, provide further information or make a request for reconsideration, in writing and in duplicate, in response to the action taken on the permit application. The Administrator will consider these and shall within ten (10) working days of their receipt notify the applicant in writing of the final decision on the application.

(B) The applicant shall then have the opportunity to appeal the Administrator's decision at a hearing before the Board. The request for a hearing must be submitted to the Board within fifteen (15) working days after the applicant's receipt of the Administrator's final decision. The request must state the reason(s) for the appeal. Procedures for conducting the hearing shall be in accordance with the Administrative Adjudication Act of the Government Code of Guam.

(d) The Administrator shall approve the permit if it is sufficiently demonstrated in the application and in supporting information that the collection, transport, hauling or conveyance of any waste shall pose no threat to the environment or public health, and that the needs of the area serviced will be adequately met.

§21106. Duration of Permit. (a) Unless otherwise restricted or revoked by the Administrator the permit is valid for three (3) years.

(b) The renewal application shall be submitted between ninety (90) to thirty (30) calendar days prior to the expiration date of the permit.

§21107. Revocation. (a) The Agency may, on its own motion or by the application of any person, modify, suspend or revoke a permit if, after affording the permit holder a hearing, it is determined that any condition of the permit or any regulation of the Agency has been violated, or that such action is deemed in public interest.

(b) The permit holder may request an appeal by submitting written justification to the Board within fifteen (15) working days after notification of action on the permit.

(c) Procedures for conducting a hearing shall be in accordance with the Administrative Adjudication Act of the Government Code of Guam.

§21108. Transfer. The permit is not transferable to any other person operator, organization of business without the prior written approval of the Administrator.

§21109. Termination. The permit may be terminated after written notification of such action is received by the Agency. It will be required that the permit be surrendered when operations cease.

§21110. Posting. The permit shall be posted in a conspicuous spot at the collector's business or administrative office.

§21111. Alteration. It shall be unlawful for anyone to intentionally deface, alter, forge, counterfeit or falsify a permit. Any alteration as described in this section shall bring about immediate revocation of the permit.

§21112. Vehicle Design and Use. Vehicles used for the collection and transport of solid waste shall adhere to the following:

(a) Vehicles that carry garbage or other putrescible waste shall be maintained in a clean condition and shall be washed at least once per week. Washwater runoff shall be treated with respect to clean water standards.

(b) Any vehicle carrying solid waste, including trash, paper and construction debris, shall use restraining devices necessary to prevent the possibility of litter, spillage or leakage of the collected waste.

§21113. Standards and Regulations: Generally.

(a) It is required that any occupant, operator or owner or any business, non-profit organization or institution, public or private park, mobile canteen or concession stand, or the promoter of any event where an excess of one hundred (100) people are expected shall ensure that containers of sufficient volume and number to adequately handle the solid waste generated are provided. The containers shall be maintained and serviced so that there is no littering or overflowing of waste and to prevent the attraction and harborage of vectors.

(b) The owner of a building being constructed, reconditioned or repaired shall be responsible for the proper collection and disposal at a permitted landfill of all waste generated by such work activities.

(c) Collection of hazardous wastes will not be permitted under these regulations. All hazardous waste shall be prepared, manifested, contained, labeled, stored and disposed of in accordance with laws, rules and regulations promulgated by the U.S. Department of Transportation, the United States Environmental Protection Agency and the Guam Environmental Protection Agency.

(d) The owner or tenant of any business establishment or industry shall be held responsible for the satisfactory containment and removal of all solid waste accumulated by him on his property or premises.

(e) Except for extenuating circumstances due to weather or man-made conditions, the generator or collector shall collect and transport solid waste on a minimum schedule of once per week, unless any other schedule is reported in the permit application and is approved by the Administrator.

(f) The owner of any business, industry, or institution shall be required to incorporate into the design plans of a new building or facility to be constructed, a specific area for placement of containers

of sufficient volume and number of adequately handle the solid waste generated from the building or facility.

§21114. Responsibilities of the Collection System User. (a) Residential User:

(1) On the designated collection day bundles and solid waste containers shall be placed at a spot readily accessible to the collection crew.

(A) The container stands, or any device used to hold waste containers shall be kept clean and in good repair.

(B) The containers shall meet the requirements of the Department of Public Health and Social Services and shall not allow the entry of vectors through the bottom, sides or top.

(C) Bundles shall not weigh more than fifty (50) pounds nor be more than four (4) feet in length.

(2) The owner is held responsible for keeping the area around the containers free of litter.

(3) The area where containers are set out for collection shall be kept clear of hazards to the collection crew. Animals that may harass or harm the collection crews must be restrained.

(4) A sufficient number of containers must be provided for the amount of solid waste generated.

(b) Business or Institutional User:

(1) The containers shall be kept clean and maintained in an area readily accessible to and easily maneuvered by collection vehicles.

(2) Wherever necessary proper signs shall be clearly posted that prohibit blockage of access to the containers by collection vehicles. Compliance shall be the responsibility of the operator of the business or institution.

(3) A sufficient number of containers must be provided for the amount of solid waste generated and the area around the container shall be cleaned regularly and kept free of litter.

(4) The area near the container shall be kept clear of hazards to the collection crew or vehicle.

(5) Waste shall not be allowed to accumulate beyond the top of the container.

§21115. Responsibilities of the Collector. (a) Where the collector furnishes containers, he shall be responsible for maintaining the containers in good condition (ordinary wear and tear excepted) unless they are furnished under other terms, conditions or agreements. The collector shall plan with the property owner/or occupant as to the placement of the containers to minimize traffic, aesthetic and other problems both on the property and for the general public.

(b) Collection may be done on a private road if it is determined by the collector:

(1) that there is sufficient amount of solid waste to justify the trip by the collection vehicle;

(2) that the owner waives rights in writing to any damage of the road, utilities, plants, container stands and fences by the collection crew during the normal performance of their duties;

(3) that the road is sufficiently wide and is maintained in such a manner that collection can be done without jeopardy to the equipment and crew or possibility of damage to adjacent property.

(c) The collector shall notify the Agency whenever regularly scheduled collection service is reduced to once per week or less. The notification shall include the circumstances causing the reduction, the estimated length of time of reduced service, and the areas affected.

(d) The collector's employees shall:

(1) have means of identification as employees of the collection service, i.e., identification cards;

(2) replace the container covers and return the containers to the location from which it was taken;

(3) not trespass unnecessarily on private property;

(4) try not to damage shrubs, trees, lawns or fences;

(5) not harm any animal except to defend themselves. Such incidences shall be reported by the collector to the owner in an official notice. Collection

service may be discontinued if the owner fails to take corrective action.

§21116. Ownership. Solid waste shall become property of the collection service after such time as the collector takes possession.

§21117. Tampering. It shall be unlawful for any person to remove or tamper with any container or bundle that has been placed for collection without the container owner's permission.

§21118. Enforcement. (a) **Inspection and Entry.** The Administrator shall have the power to enter at a reasonable time upon any private or public property for the purpose of inspecting and investigating conditions relating to these regulations.

(b) The collector may terminate collection service for continued violation of these regulations by the collection system user after adequate notice has been given. The collector shall contact the Agency seven (7) days prior to the termination and shall provide adequate information to identify the violation, its location and the person responsible.

§21119. Severability. If any provision of these regulations, or the application thereof to any person or circumstance, is held to be invalid, then such invalidity shall not affect other provisions or the application of any part of these regulations which can be given effect without the invalid provision or application. It is to these ends that the provisions of these regulations and various applications thereof are declared to be severable.

§21120. Application. All parts of these regulations apply to the Territory of Guam and shall become effective forty-five (45) calendar days after the date they are officially submitted to the Guam Legislature, or upon the date of approval by the Guam Legislature if such approval occurs within the forty-five (45) days.

CHAPTER 22

BEVERAGE CONTAINER REGULATIONS

§22101.	Purpose and Objective
§22102	Definitions
§22103	Prohibitions on Certain Types of Containers
§22104	Temporary Variances
§22105	Permits
§22106	Posting of Container Refund Value
§22107	Enforcement Procedures
§22108	Severability
§22109	Application

NOTE: Public Law 17-46:1 enacted 10 GCA Chapter 54, the Territorial policy with regard to beverage containers, and in §54109 gave the Guam Environmental Protection Agency Board authority to enact rules and regulations necessary to implement the provisions thereof.

These regulations were filed with the Legislative Secretary on August 16, 1984.

§22101. Purpose and Objective. The proper management of no-deposit beverage adverse effects of litter caused by these containers to the health, safety and welfare of the citizens of Guam. Beverage containers are the most rapidly growing segment of the islandwide waste stream, imposing a heavy burden on the government and citizens of Guam for their collection and proper disposal.

It is therefore the purpose of these regulations to preserve Guam's natural and land environment and other resources and to protect, maintain and improve the aesthetic quality of such attributes for the propagation of wildlife and for the promotion of public health and welfare, and the enhancement of recreational and tourist facilities, as well as for agricultural and other beneficial uses. In order to fulfill this purpose, it is the primary objective of these regulation to provide a comprehensive enforcement program for prevention, abatement and control of beverage container littering and pollution within the Territory and the effective means in carrying out such a program.

§22102. Definitions. For the purpose of these regulations the following definitions shall apply:

(a) *Administrator* shall mean the Administrator of the Guam Environmental Protection Agency or his duly authorized agent, officer or inspector.

(b) *Agency* shall mean the Guam Environmental Protection Agency.

(c) *Beverage* shall mean beer, ale, malt liquor, and soft drinks; provided, however that for the purposes of these regulations the term beverage shall not include items sold in a non-liquid, or frozen form or liquid intended for medicinal purposes only, or unadulterated, natural or reconstituted fruit or vegetable juices.

(d) *Beverage Container* shall mean an individual, separate aluminum can containing a beverage but does not include a glass bottle, plastic bottle, or paper or styrofoam cup or carton.

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

(f) *Consumer* shall mean every person who purchases a beverage in a beverage container for use or consumption.

(g) *Dealer* means every person who engages in the sale of beverages or beverage containers to a consumer for consumption off the premises.

(h) *Distributor* means every person who engages in the sale or distribution of beverages in beverage containers to a dealer in this territory, including any manufacturer who engages in such sales.

(i) *Manufacturer* means every person canning, or otherwise filling beverage containers for sale to distributors or dealers.

(j) *Metal Salvage Contractor* means any person who engages in the purchase and resale of beverage

containers in order to make a profit from the metal value of the containers.

(k) *Person* means an individual, corporation, company, association, partnership, or department, agency and instrumentality of the Federal Government or Government of Guam.

§22103. Prohibitions on Certain Types of Containers. No beverage container may be sold or offered for sale for consumer consumption by a distributor, dealer or any person in the Territory which is designed and constructed partially or completely of; (a) a metal other than aluminum; and (b) contains any part which is detachable in opening of the container.

§22104. Temporary Variances. (a) A manufacturer, distributor, or dealer may apply to the Administrator for a temporary variance from §22103 of these regulations. The Administrator may grant such temporary variances; (1) to allow reasonable time for depletion of accumulated inventories of prohibited beverage containers after the effective date of these Regulations, (2) when approved beverage containers are not available from aluminum can manufacturers, or (3) whenever compliance with §22103 would produce serious hardship without equal or greater benefit to the public.

(b) A variance granted herein shall include a timetable for full compliance with §22103 and shall be conditioned in adherence to such timetable.

§22105. Permits. (a) **Permit Required.** A permit is required for any person engaged in collection, storage, processing or disposal of beverage containers after purchase for resale in order to make a profit from the metal value of the containers. A permit is not required for collection or storage of beverage containers for sale to a metal salvage contractor. The approval of a permit shall be contingent upon the applicant's demonstration of his capability to comply with these regulations and evidence of a valid business license issued by the Government of Guam.

(b) **Application for Permit**

(1) Application for a permit shall be completed on forms furnished by the Administrator and shall include the following information:

(A) Detailed plans and specifications for the facility utilized in collection, storage and processing of beverage containers.

(B) Certification of compliance with zoning requirements and local ordinances by the Department of Land Management, Department of Public Works and Guam Environmental Protection Agency.

(C) An operations plan detailing the proposed method and length of operation, quantity and source of containers received, the type of equipment to be used, method of process residue removal and disposal, and emergency operating procedures.

(2) The applicant shall have sixty (60) calendar days after the effective date of these regulations to submit the application to the Agency. An extension may be granted if a written request with justification is submitted to the Agency and approved by the Administrator before the deadline.

(3) Each application shall be signed by the owner and shall constitute an agreement that the owner will assume responsibility for the construction or modification and operation of the facility in accordance with these regulations. If the owner is a partnership or group other than a corporation, the application shall be signed by one individual who is a member of the group. If the owner is a corporation, the application shall be signed by an officer of the corporation or general manager of the facility.

(c) Action on the Application

(1) The Administrator shall evaluate the permit application and act upon it within thirty (30) calendar days after receipt of the application and shall notify the applicant in writing of the action taken.

(2) Additional information necessary to clarify any part of the submitted permit application may be requested by the Administrator. The permit evaluation period shall begin upon receipt of the requested information.

(3) There are three responses possible to an application:

(A) **Approval** - the applicant may proceed as indicated in the application and in compliance with applicable regulations and laws.

(B) **Conditional Approval** - the applicant may proceed with operations but is required to comply with conditions as delineated by the Administrator.

(C) **Denial** - the applicant who is not allowed a permit may pursue the following course of action:

(i) The applicant may submit questions, provide further information or make a request for consideration, in writing and in duplicate, in response to the action taken on the permit application. The Administrator will consider these and shall within ten (10) working days of their receipt notify the applicant in writing of the final decision on the application.

(ii) The applicant shall then have the opportunity to appeal the Administrator's decision at a hearing before the Board. The request for a hearing must be submitted to the Board within fifteen (15) working days after the applicant's receipt of the Administrator's final decision. The request must state the reason(s) for the appeal. Procedures for conducting the hearing shall be in accordance with the Administrative Adjudication Act of the Government Code of Guam.

(4) The Administrator shall approve the license if it is sufficiently demonstrated in the application and in supporting information that the issuance thereof does not pose a threat to the environment or public health and welfare, and that the facility is designed, constructed and equipped so as to operate without causing a violation of applicable rules and regulations.

(d) **Duration of Permit.** The Administrator shall grant a permit for two (2) years following the date of issuance and upon application may renew a permit.

(e) **Modification, Suspension or Revocation of Permit.**

(1) The Agency may, on its own motion or by the application of any person, modify, suspend or revoke a Permit if, after affording the permit holder a hearing, it is determined that any condition of the permit or any regulations of the Agency has been violated, or that such action is deemed in public interest. Modification, suspension or revocation of a permit shall become final fifteen (15) days after service of notice of the final decision to modify, suspend or revoke, on the holder of the permit.

(2) The permit holder may request an appeal by submitting written justification to the Board within fifteen (15) days after notification of action on the license.

(3) Procedures for conducting a hearing shall be in accordance with the Administrative Adjudication Act of the Government Code of Guam.

(f) **Transfer of Permit.** The permit is not transferable, whether by operation of law or otherwise, either from one location to another, from one facility to another or from one person to another, without the written permission of the Administrator.

(g) **Reporting Termination.** Sixty (60) days prior to closure any applicant issued a permit shall report the permanent termination of a facility for which the permit has been issued to the Administrator and

within thirty (30) days after closure shall surrender the license to the Administrator.

(h) **Posting of Permit.** Upon granting an approval for a permit, the Administrator shall issue to the applicant a permit which shall be posted in a conspicuous place at or near the operation site for which the license was issued.

(i) **Falsifying or Altering Permit.** No person shall willfully deface, alter, forge counterfeit, or falsify a permit. Any such activity shall bring about immediate revocation of the permit.

§22106. Posting of Container Refund Value. A metal salvage contractor or any person engaging in the purchase and resale of containers shall post the current redemption price for beverage containers in a conspicuous place at their place of business and in full view of consumers.

§22107. Enforcement Procedures. (a) All procedures shall comply with the Administrative Adjudication Act of the Government Code of Guam.

(b) **Inspection and Entry.** The Administrator shall have the authority to enter at a reasonable time upon any private or public property for the purpose of inspecting and investigating conditions relating to these regulations.

(c) **Notice of Violation.** If from an inspection or investigation there appears to be a violation of these regulations, a Notice of Violation in writing shall be sent to the person against whom criminal proceedings are contemplated stating the violation, and giving him fifteen (15) days to correct the problem. The Notice shall state the manner in which the alleged violator fails to meet the requirements of these regulations and what should be done to correct the problem.

(d) **Order.** After termination of the fifteen (15) day period, if no action has been taken by the recipient to respond to the Notice of Violation, an Order in writing shall be sent via registered mail or personally served upon the recipient, charging him with the violation. If

the recipient has responded to the Notice of Violation, the case will be discussed and either dropped or, if the recipient is still found to be in violation, the fifteen (15) day time period before sending of the Order maybe extended so as to count the period as starting from the time the case was discussed, rather than the date of receipt of the Notice.

(e) **Notice of Defense.** A Notice of Defense shall be included with the Order, which will allow the recipient fifteen (15) days to request a hearing by the GEPA Board of Directors. If a Notice of Defense is received by the GEPA Board, further action upon the case will be suspended until the hearing has been concluded.

(f) **Prosecution.** If no action has been taken to correct the violation after a period of fifteen (15) days from receipt of the Order, or for those cases requesting a hearing, after a time period as specified by the GEPA Board, the violation shall be referred to the Attorney General's Office for prosecution.

§22108. Severability. If any provision of these regulations, or the application thereof to any person or circumstance, is held to be invalid, then such invalidity shall not affect other provisions or the application of any part of these regulation which can be given effect without the invalid provision or application. It is to these ends that the provisions of these regulations and various applications thereof are declared to be severable.

§22109. Application. All parts of these Regulations apply to the Territory of Guam and shall become effective forty-five (45) calendar days after the date they are officially submitted to the Guam Legislature, or upon the date of approval by the Guam Legislature if such approval occurs within the forty-five days.