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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 Repealed and reenacted by P.L. 14-37:1 (June 18, 1977); P.L. 17-87 (Jan. 18, 1985). This Article was repealed and reenacted by P.L. 23-64 (Dec. 5, 1995). Subsequent amendments to this Article are indicated herein.

- § 51101. Legislative Findings.
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- § 51118. Tipping/User Fees and Solid Waste Operations Fund.
- § 51119. The Solid Waste Management Plan.
- § 51120. Commercial Methane Recovery System Feasibility Study.

§ 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 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;

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(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, 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;

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(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 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

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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;

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

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(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.

2011 NOTE: Public Law 24-139 was found to be invalid by the Guam Supreme Court in *Pangelinan v. Gutierrez*, 2000 Guam 11, thereby voiding the effects to this section by that public law. Public Law 24-272 was found to be invalid by *Pangelinan v. Gutierrez*, 2004 Guam 16. However, in *San Miguel v. DPW*, 2008 Guam 3, the Court reversed and found P.L. 24-272 to be valid.

§ 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.

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

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(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.

(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

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more of the total volume of the mixture.

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

(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.

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(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.

(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

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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;

(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 demolishment 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.

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(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.

(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.

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(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.

(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.

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2011 NOTE: Public Law 24-139 was found to be invalid by the Guam Supreme Court in *Pangelinan v. Gutierrez*, 2000 Guam 11, thereby voiding the effects to this section by that public law. Public Law 24-272 was found to be invalid by *Pangelinan v. Gutierrez*, 2004 Guam 16. However, in *San Miguel v. DPW*, 2008 Guam 3, the Court reversed and found P.L. 24-272 to be valid.

§ 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;

(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;

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(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;

(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;

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(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) [Repealed.]

(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

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all costs and revenues in order to evidence the commercial feasibility, or lack thereof, of recycling;

(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)

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(16) added by P.L. 24-309:4. Subsection (b) repealed by P.L. 31-020:12 (Apr. 18, 2011), effective, 90 days from date of enactment pursuant to P.L. 31-020:13.

2011 NOTE: Public Law 24-139 was found to be invalid by the Guam Supreme Court in *Pangelinan v. Gutierrez*, 2000 Guam 11, thereby voiding the effects to this section by that public law. Public Law 24-272 was found to be invalid by *Pangelinan v. Gutierrez*, 2004 Guam 16. However, in *San Miguel v. DPW*, 2008 Guam 3, the Court reversed and found P.L. 24-272 to be valid.

§ 51104. Permits.

(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

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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.

(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.

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2011 NOTE: Public Law 24-139 was found to be invalid by the Guam Supreme Court in *Pangelinan v. Gutierrez*, 2000 Guam 11, thereby voiding the effects to this section by that public law. Public Law 24-272 was found to be invalid by *Pangelinan v. Gutierrez*, 2004 Guam 16. However, in *San Miguel v. DPW*, 2008 Guam 3, the Court reversed and found P.L. 24-272 to be valid.

§ 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 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

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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.

(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

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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 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;

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(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 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.

2011 NOTE: Public Law 24-139 was found to be invalid by the Guam Supreme Court in *Pangelinan v. Gutierrez*, 2000 Guam 11, thereby voiding the effects to this section by that public law. Public Law 24-272 was found to be invalid by *Pangelinan v. Gutierrez*, 2004 Guam 16. However, in *San Miguel v. DPW*, 2008 Guam 3, the Court reversed and found P.L. 24-272 to be valid.

§ 51111. Prohibited Hazardous Waste Activities.

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(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.

(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.

2011 NOTE: Public Law 24-139 was found to be invalid by the Guam Supreme Court in *Pangelinan v. Gutierrez*, 2000 Guam 11, thereby voiding the effects to this section by that public law. Public Law 24-272 was found to be invalid by *Pangelinan v. Gutierrez*, 2004 Guam 16. However, in *San Miguel v. DPW*, 2008 Guam 3, the Court reversed and found P.L. 24-272 to be valid.

§ 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.

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§ 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 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

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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 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

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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

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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.
[Repealed.]**

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). Repealed by P.L. 31-020:4 (Apr. 18, 2011) and reenacted as Article 3 of Chapter 51A of this title, effective, 90 days from date of enactment pursuant to P.L. 31-020:13.

2011 NOTE: Public Law 24-139 was found to be invalid by the Guam Supreme Court in *Pangelinan v. Gutierrez*, 2000 Guam 11, thereby voiding the effects to this section by that public law. Public Law 24-272 was found to be invalid by *Pangelinan v. Gutierrez*, 2004 Guam 16. However, in *San Miguel v. DPW*, 2008 Guam 3, the Court reversed and found P.L. 24-272 to be valid.

2010 NOTE: Public Law 30-131:2 (Apr. 2, 2010), amends this section and provides that it “shall be effective upon final approval by the United States Department of

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Agriculture of the loan and grant described in Section 1 of this Act.

§ 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;

(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;

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(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.

2011 NOTE: Public Law 24-139 was found to be invalid by the Guam Supreme Court in *Pangelinan v. Gutierrez*, 2000 Guam 11, thereby voiding the effects to this section by that public law. Public Law 24-272 was found to be invalid by *Pangelinan v. Gutierrez*, 2004 Guam 16. However, in *San Miguel v. DPW*, 2008 Guam 3, the Court reversed and found P.L. 24-272 to be valid.

§ 51120. Commercial Methane Recovery System Feasibility Study.

The Department of Public Works *shall* conduct a feasibility study on the commercial applications of methane recovery systems for the *Layon* Landfill. The study *shall* include, but *not be limited* to, alternatives such as,

(a) the return on investment on government-built and operated methane recovery systems;

(b) private-public partnerships; and

(c) the use of methane for electrical power generation.

Any funding request for the study, including justification for such funding, *shall* be submitted to *I Liheslaturan Guåhan* for its consideration within one hundred eighty (180) days of the enactment of this Section. Prior to submitting a funding request to *I Liheslaturan Guåhan*, the Department of Public Works *shall* consider and apply for Federal Grants to cover the cost of the study.

SOURCE: Added by P.L. 30-110:1 (Mar. 12, 2010).

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NOTE:: Subsections (1), (2) and (3) changed to (a), (b) and (c) to maintain numbering scheme of this Code.

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, any peace officer in the Guam Police Department, including the C.A.P.E. volunteers, the A.B. Won Pat International Airport Authority Police, the Port Authority of Guam Police, and the Guam Fire Department's uniformed personnel.

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(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.

(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.

SOURCE: Subsection (a) amended by P.L. 30-135.1 (May 17, 2010).

§ 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

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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 § 7 7114.1.

§ 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 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 no 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.

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§ 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* Two Hundred Dollars (\$200.00), nor more than One Thousand Dollars (\$1,000.00) . Any person convicted of a second or subsequent litter offense shall also be required by the Court to pick up and remove litter from a public place under the 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, but in *no* case shall the amount of litter collected be *less than* five hundred (500) pounds.

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.

(c) When the risk of fire is determined to be high, in accordance with the provisions of 10GCA § 63704, any person convicted of a violation of this Chapter for discarding a cigarette, lit or unlit, from a moving or stationary motor vehicle, during the time the risk of fire is determined to be high, *shall* be subject to two (2) times the fine and/or community service penalties prescribed herein in this Section.

Any person convicted of violating this Section *shall not* be relieved from any charges that may arise as a consequence of a violation of this Section.

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SOURCE: Subsection (a) amended by P.L. 25-170:5. Amended by P.L. 30-135:2 (May 17, 2010), effective, 30 days from date of enactment pursuant to P.L. 30-135.4.

§ 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). Repealed by P.L. 31-020:5 (Apr. 18, 2011) and reenacted as Chapter 51A, Article 4, of this title, effective, 90 days from date of enactment pursuant to P.L. 31-020:13.

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. Repealed by P.L. 31-020:6 (Apr. 18, 2011) and reenacted as Chapter 51A, Article 5 of this title, effective, 90 days from date of enactment pursuant to P.L. 31-020:13.

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.

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- § 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 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,

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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;
- (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);

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(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.

§ 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. The funds deposited into the Recycling Revolving Fund *shall not* be subject to the transfer authority of *I Maga’lahen Guåhan*.

SOURCE: Amended by P.L. 31-140:1 (Nov. 17, 2011).

§ 51503. Continuing Appropriation

(a) All revenues from the Recycling Revolving Fund are hereby appropriated to the Guam Environmental Protection Agency to fund the costs of the administration and implementation of this Article.

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(b) In Fiscal Year 2007, the Director of Public Works *shall* expend monies from the Recycling Revolving Fund to pay current obligations of the Department of Public Works arising from the ongoing Island-Wide Collection and Off-Island Disposal of Abandoned Vehicles, White Goods, Tires, and Batteries program pursuant to GSA Bid No. 038-05.

SOURCE: P.L. 28-171:2 (Jan. 29, 2007). Amended by P.L. 29-002:VI:11 (May 18, 2007). Subsection (a) amended by P.L. 30-055:XII:30 (Sept. 4, 2009).

§ 51504. Administration of the Recycling Revolving Fund.

The Administrator *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 Administrator *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 Administrator.
- (d) *Not more than* one (1) FTE employee at Guam Environmental Protection Agency to administer this Article.

In Fiscal Year 2009 the Administrator *shall* expend monies from the Recycling Revolving Fund to first pay any remaining unpaid debt including any and all prior year obligations related to GSA 038-05 before any other expenditures are made to ensure that all previous accounts have been satisfied accordingly. The Administrator *shall* then pay current obligations of the Department of Public Works arising from the ongoing Island-Wide Collection and Off-Island Disposal of Abandoned Vehicles, White Goods, Tires, and Batteries program pursuant to GSA Bid No. 038-05. Any remaining unpaid debt *shall* be assumed by the Administrator.

The Administrator, *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.

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SOURCE: Amended by P.L. 29-116:3 (Nov. 25, 2008).

§ 51505. Levy and Collection of Recycling Fees.

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

(d) The Recycling fee in Subsection (a) *shall* be waived for any veteran determined by the U.S. Department of Veterans Affairs (USDVA) to be 100% Disabled or Individually Unemployable due to military service connected injuries. The fee *shall* be waived for one (1) non-commercial passenger vehicle, which include small sedans, coupes, and station wagons manufactured primarily for the purpose of carrying passengers and including those passenger cars pulling other light trailers, registered to the veteran, or legal guardian applying for benefits under this Section. A copy of the Decision Letter issued by the USDVA, which certifies the disability rating, must be furnished to the Department of Revenue and Taxation in order to waive the annual Recycling Fee.

SOURCE: Subsection (d) added by P.L. 30-144:4 (May 17, 2010), effective, Apr. 1, 2010, pursuant to P.L. 30-144:6.

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§ 51507. Authorization for the Mayors' Council of Guam to Contract with Recycling Companies.

(a) The Mayors' Council of Guam, in accordance with the applicable procurement laws and with the approval of the Administrator, is authorized 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.

(b) At a minimum, the Mayors' Council *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 GEPA 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 GEPA.

(c) The Guam Environmental Protection Agency *shall* promulgate the necessary rules and regulations, in accordance with the Administrative Adjudication Law, to properly implement this Article.

SOURCE: Amended by P.L. 29-116:4 (Nov. 25, 2008).

§ 51508. Adjustment of Recycling Fees.

The Administrator *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.

SOURCE: Amended by P.L. 29-116:4 (Nov. 25, 2008).

**ARTICLE 6
MUNICIPAL RECYCLING PROGRAM**

SOURCE: Added by P.L. 27-37:2 (Nov. 14, 2003). Repealed by P.L. 31-020:7 (Apr. 18, 2011) and reenacted as Chapter 51A, Article 6 of this title, effective, 90 days from date of enactment pursuant to P.L. 31-020:13.

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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. Repealed by P.L. 31-020:8 (Apr. 18, 2011) and reenacted as Chapter 51A, Article 7 of this title, effective 90 days from date of enactment pursuant to P.L. 31-020:13.

ARTICLE 8
SOLID WASTE MANAGEMENT SYSTEM BONDS

SOURCE: Added by P.L. 30-001:1 (Feb. 27, 2009). Repealed by P.L. 31-020:9 (Apr. 18, 2011) and reenacted as Chapter 51A, Article 8 of this title, effective 90 days from date of enactment pursuant to P.L. 31-020:13.

ARTICLE 9
SOLID WASTE MANAGEMENT SYSTEM LEASE FINANCING

SOURCE: Article 9 was added by P.L. 30-001:4 (Apr. 2, 2009). Repealed by P.L. 31-020:9 (Apr. 18, 2011) and reenacted as Chapter 51A, Article 9 of this title, effective 90 days from date of enactment pursuant to P.L. 31-020:13.

ARTICLE 10
HOST COMMUNITY BENEFITS

SOURCE: Article added by P.L. 30-165:1 (July 16, 2010).

- § 511001. Definitions.
- § 511002. Host Community.
- § 511003. Host Community Benefits.
- § 511004. Host Community Expenditures.
- § 511005. Host Community Premiums.

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§ 511006. Host Community Fund Management.

§ 511001. Definitions.

As used in this Article:

Host Community means the concept of community master planning, where benefits are provided to the geographic region of a community where solid waste management facilities are located, such as sanitary landfills, incinerators and gasification facilities.

Host Community Benefits means any capital improvement projects that are funded by premiums collected for the benefit of the Host Community.

Host Community Premiums means any premium assessed in addition to the tipping fee to cover the cost of the Host Community benefits.

Host Community Fund means a fund of the government of Guam that is separate and apart from all other funds of the government of Guam that *shall* be used for the exclusive benefit of the Host Community.

§ 511002. Host Community.

For purposes of this Article, the Host Community *shall* be the villages of *Inarajan* and *Ordot*.

§ 511003. Host Community Benefits.

Host Community benefits may include, but *not* be limited to, the following:

- (a) Youth, Senior and Community Centers;
- (b) Recreation areas, to include parks, sports fields and public gathering areas;
- (c) Infrastructure to provide access to utilities, telecommunications, television and internet services to areas where providing such services are cost prohibitive; and
- (d) Village Beautification projects.

§ 511004. Host Community Expenditures.

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The Municipal Planning Council of the *Host Community* village shall determine the projects to be funded for the village.

§ 511005. Host Community Premiums.

The Host Community premium shall be assessed from the opening of the landfill until the closing of the landfill. The aggregate *Host Community premium* is One Hundred Fifty Thousand Dollars (\$150,000) per year for the village of *Inarajan*, and One Hundred Fifty Thousand Dollars (\$150,000) per year for the village of *Ordot*, as adjusted. The *Host Community premium* shall be reviewed at least once every five (5) years and may be adjusted by the Public Utilities Commission (PUC) to account for factors such as inflation. The Public Utilities Commission (PUC) shall equitably determine the *Host Community premium* for each residential and commercial account.

§ 511006. Host Community Fund Management.

The management of the *Host Community Fund* shall be the responsibility of the Department of Administration. The Department of Administration shall retain two percent (2%) of all collections by the Fund to cover the cost of administration. The *Host Community Fund* shall not be commingled with any other fund of the Government of Guam. No expenditure shall be made from the Fund that is not approved by resolution of the Host Community Municipal Planning Council. The *Host Community Fund* shall be subject to periodic audit by the Office of Public Accountability and not subject to any transfer authority.
