

I MINA'BENTE ÑUEBI NA LIHESLATURAN GUÅHAN
2007 (FIRST) Regular Session

Bill No. 58 (FC)

Introduced by:

J. V. Espaldon



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AN ACT TO REPEAL AND REENACT §51101, §51102, §51103, §51104, §51110, §51111, §51118, §51119 OF ARTICLE 1, CHAPTER 51 OF DIVISION 2, TITLE 10 GUAM CODE ANNOTATED RELATIVE TO SOLID WASTE MANAGEMENT.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings. *I Liheslaturan Guåhan* finds that the Supreme Court of Guam invalidated Public Law 24-272 in its Amended Opinion in Pangelinan and Wesley v. Gutierrez (2004 Guam 16), including Section 9 of Public Law 24-272 concerning solid waste tipping/user fees. *I Liheslaturan Guåhan* additionally finds that Section 51118 of Chapter 51 of Title 10 Guam Code Annotated provides a source of revenues needed to support financing of the tasks required in the Consent Decree entered in USA v. Government of Guam (District Court of Guam Case No. 02-00022). *I Liheslaturan Guåhan* finds that Public Law 24-272 included amendments and additions to the following provisions Article 1 of Chapter 51, Title 10 Guam Code Annotated: findings and purposes, definitions, powers and duties, permits, and prohibited solid waste activities, that these provisions and the tipping fees were in effect for over five years, and that subsequent amendments have been made since 1998. *I Liheslaturan Guåhan* recognizes the need to repeal and reenact

1 sections of Chapter 51, and to enact a new Section 51118 of Chapter 51 of Title 10
2 Guam Code Annotated, along with related provisions in Section 51103(b)(3) and
3 51103(b)(4), to address the invalidation of PL24-272 as well as the prior invalidation
4 of PL24-139 by the Supreme Court of Guam, which changes shall be collectively
5 referred to as “The Solid Waste Management Act of 2007.”

6 **Section 2.** Section 51101 of Part 2, Division 2 of Title 10 of the Guam Code
7 Annotated is hereby repealed and reenacted to read as follows:

8 **“Section 51101. Legislative Findings.** (a) The Guam Legislature
9 finds:

10 (1) The Ordot Dump continues to be a threat to the health and
11 safety of the residents of Guam, and specifically for the residents of
12 Ordot-Chalan Pago, Yona and the villages downriver and downwind;

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

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

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

1 (5) Even with closure of the Ordot Dump and construction of a
2 new landfill, landfilling cannot continue as the sole method of waste
3 disposal for Guam due to the shortage of land on Guam, and the general
4 aversion of any community to the location of a landfill within their
5 proximity;

6 (6) It is in the best interest of the government to privatize
7 through free and fair competition, the solid waste operations of the
8 Island, from collection to disposal, without jeopardizing the job security
9 for the employees of the Solid Waste Management Division of the
10 Department of Public Works as well as the private businesses currently
11 engaged in solid waste collection, recycling and other solid waste
12 management operations;

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

17 (8) Guam contains approximately 215 square miles of landmass.
18 Thus, a source and waste disposal reduction policy shall be implemented
19 to minimize the requirement for landfilling;

20 (9) Source reduction shall include conservation and recycling
21 programs. It shall also consider the disposal of green waste through
22 mulching or composting, or the recovery of resources through recycling
23 of the green waste. Construction or demolition waste and metallic debris
24 shall be addressed alternately, and the alternate plan should include
25 hardfilling or quarrying, recycling or disposal other than at the landfill.
26 Rubber tires, rubber products, and batteries shall be addressed and
27 recycled, recovered or disposed of at alternate sites;

1 (10) The 2006 Guam Disaster Debris Management Plan
2 addresses typhoon and other disaster recovery; it is estimated that Super
3 Typhoon Paka produced over 750,000 cubic yards of waste; Guam is in
4 the typhoon belt; in an active volcanic range; and, an active seismic zone
5 so disasters will happen on a regular basis;

6 (11) *I Liheslaturan Guåhan* further finds that while other
7 communities with alternative sites for landfilling enjoy the option of not
8 paying for source reduction and resource recovery, we must establish a
9 Guam site-specific solid waste management policy, because we have
10 very limited alternative acceptable sites for future disposal requirements;

11 (12) In 1983, the Guam Environmental Protection Agency
12 ('Agency') adopted a Solid Waste Management Plan for Guam and also
13 adopted regulations for solid waste collection and disposal; in 2000, the
14 Guam Legislature approved of the Integrated Solid Waste Management
15 Plan ("Plan") adopted in 1999 by the Agency; and in 2007 the Agency
16 updated the Integrated Solid Waste Management Plan;

17 (13) The revised and updated the Integrated Solid Waste
18 Management Plan addresses the closure of the Ordot Dump, the
19 privatization of the complete solid waste operations, including landfill
20 operations and provisions for job protection for the employees of the
21 Solid Waste Division of the Department of Public Works, source
22 reduction, recycling, composting, resource recovery, waste reduction and
23 regulated landfill disposal in an integrated program for solid waste
24 collection and disposal, the funding for the Plan, implementation as well
25 as evaluations of its effectiveness and subsequent revisions and updates.
26 The Plan shall also address construction debris or demolition waste;
27 metallic debris; tires; waste oil; household hazardous waste; abandoned

1 vehicles and other bulky metallic waste; white goods, such as washers,
2 dryers and refrigerators; and green waste, which may be useful in some
3 form, but unnecessarily contribute to landfill volume;

4 (14) the Department of Public Works shall implement the
5 updated Integrated Solid Waste Management Plan, as approved pursuant
6 to the Administrative Adjudication Act, and regulated by the Agency;
7 and

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

12 (16) *I Liheslaturan Guahan* further finds that the Solid Waste
13 Management Program within the Guam Environmental Protection
14 Agency has operated for years without adequate financial resources and
15 that program funding is largely the responsibility of government of Guam
16 which can be met through a combination of permit fees and tipping/user
17 fees; and

18 (b) The purposes of this Chapter are to:

19 (1) Plan for and regulate the storage, collection, transportation,
20 separation, processing and disposal of solid waste to protect the public
21 safety, health and welfare, and to enhance the environment of the people
22 of Guam;

23 (2) Provide the authority and resources, including funding to plan
24 for, establish, finance, operate and maintain an efficient, environmentally
25 acceptable solid waste management system, privatized, but administered
26 by the Department of Public Works and regulated by Agency;

1 (3) Privatize Guam's Solid Waste Management System
2 ('SWMS') subject to all applicable laws;

3 (4) Establish the SWMS to be operated by private ventures,
4 entities or individuals, to promote land conservation by limiting
5 landfilling requirements consistent with the Integrated Solid Waste
6 Management Plan, and to establish as a limit the reusing, recycling and
7 composting of no less than twenty percent (20%) of the total solid waste
8 generated on Guam from all sources within the time frames established
9 by the Integrated Solid Waste Management Plan and a comprehensive
10 solid waste disposal and resource recovery program that ultimately will
11 minimize Guam's need for additional landfills beyond replacing the
12 Ordot Dump; quantitative factors to meet such an objective shall be
13 specified and substantiated in the Integrated Solid Waste Management
14 Plan;

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

20 (6) Continue authority in the Agency to review the design of
21 and to issue permits for the operation of solid waste collection, transport,
22 processing and disposal activities;

23 (7) Continue authority in the Agency to undertake a
24 comprehensive investigation of and set minimum standards for the
25 transportation, processing, storage, treatment, and disposal of hazardous
26 waste, and conduct surveys for special disposal facilities for hazardous
27 waste, to protect public health, other living organisms and the

1 environment through an effective and efficient hazardous waste
2 management system;

3 (8) Continue authority in the Agency to establish and implement
4 an enforcement system to prevent the improper disposal of solid waste;

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

8 (10) Promote and assist in the development of markets for
9 recovered and recycled materials;

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

13 (12) Authorize the of the Ordot Dump site, and promote, assist
14 and support the construction and operation of privatized disposal,
15 resource recovery and other solid waste management facilities;

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

22 (14) Authorize the Agency to establish such advisory committees
23 as are necessary to carry out its planning and solid waste management
24 responsibilities; the committees should include but not be limited to
25 representatives of Agency, DPW, the Department of Public Health and
26 Social Services, collectors, operators, applicable Federal agencies,
27 educational/environmental groups and the public at large.”

1 **Section 3.** Section 51102 of Chapter 51, Part 2, Division 2 of Title 10 of the
2 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

3 **“Section 51102. Definitions.** For the purpose of this Chapter,
4 the following words and phrases shall have the meanings given herein, unless
5 their use in the text of the Chapter clearly demonstrates a different meaning.

6 (1) 'Administrator' means the Administrator of Guam
7 Environmental Protection Agency or his designee.

8 (2) 'Agency' means the Guam Environmental Protection
9 Agency.

10 (3) 'Best public interest' means any activity which: lessens the
11 demand for landfill sites, conserves land resources and serves to insure
12 proper, cost effective and environmentally sound disposal of solid waste;
13 and, does not pose health risks to human life or endanger plant and
14 animal life.

15 (4) 'Board' means the Board of Directors of the Agency.

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

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

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

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

3 (9) 'Composting' means the controlled degradation of organic
4 solid waste.

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

7 (11) 'Director' means the Director of DPW.

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

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

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

18 (15) 'Duplex' means a residential building containing two (2)
19 separate dwelling units either side by side or one above the other.

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

23 (17) 'Dwelling unit' means one (1) or more rooms and a single
24 kitchen in a dwelling, designed as a unit for occupancy by one (1) family
25 for living and sleeping purposes.

26 (18) 'Financial assurance' means a financial guarantee assuring
27 that funds are available to pay for the design, construction, operation and

1 closure of a solid waste landfill facility, for rendering post-closure at a
2 solid waste landfill facility, for corrective action and to compensate third
3 parties for bodily injury and property damage caused by sudden and non-
4 sudden accidents related to the operation of a solid waste landfill facility.

5 (19) 'Generator' means any person that generates or produces
6 solid waste.

7 (20) 'Government' means the government of Guam, all of its
8 agencies, whether line or autonomous, and all public corporations.

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

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

17 (A) 'Combustible Solids', as defined in Title 49 of
18 the Code of Federal Regulations, Chapter 1, Subtitle B, Part
19 173.124, are those capable of igniting and burning.

20 (B) 'Combustible Liquids', as defined in Title 29 of
21 the Code of Federal Regulations, Chapter 17, Subtitle B,
22 Part 1910.106, shall mean any materials having a flash point
23 at or above 100 degrees Fahrenheit (37.8 degrees Celsius),
24 but below 200 degrees Fahrenheit (93.3 degrees Celsius),
25 except any mixture having components with flashpoints of
26 200 degrees Fahrenheit (93.3 degrees Celsius), or higher, the

1 total volume of which make up ninety-nine percent (99%) or
2 more of the total volume of the mixture.

3 (22) 'Hazardous Waste' means any material or substance which,
4 by reason of its composition or characteristics,

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

8 (ii) is a hazardous substance as defined by the
9 Comprehensive Environmental Response, Compensation and
10 Liability Act of 1980, 42 USC § 9601, et seq., as amended,
11 replaced or superseded and the regulations implementing same

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

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

18 (v) is pathological, infectious or biological waste,

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

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

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

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

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

8 (24) 'Incinerator' means an enclosed device using controlled
9 flame combustion, the primary purpose of which is to thermally break
10 down solid waste.

11 (25) 'Multi-family dwelling' means a building containing three
12 (3) or more dwellings.

13 (26) 'Office' means the Office of Recycling of the Division.

14 (27) 'Operator' means any person who accepts solid waste from a
15 collector for transfer, storage, recycling, combustion, processing or
16 disposal.

17 (28) 'Performance bond' means a security for financial loss
18 caused by the act or default performance of a person or by uncontrollable
19 conditions.

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

24 (30) 'Plan' means the Solid Waste Management Plan or the
25 Integrated Solid Waste Management Plan prepared and adopted by the
26 Agency in accordance with the Administrative Adjudication Law.

1 (31) 'Plasma torch heating technology' means converting
2 electrical energy into heat energy producing clean fuel gas and recyclable
3 slag.

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

7 (33) 'Pollution' means the condition caused by the presence in the
8 environment of substances of such character and in such quantities that
9 the quality of the environment is impaired or rendered offensive to life.

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

18 (35) 'Recyclable materials' includes the following materials
19 discarded from households, businesses, commercial and industrial
20 establishments, hotels, government, agricultural, landscaping, yard
21 maintenance and military operations which may be reused or for which a
22 market exists:

23 (i) 'aluminum' means any product manufactured of
24 aluminum or aluminum alloy;

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

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

4 (iv) 'construction debris' means the materials from building
5 construction;

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

10 (vi) 'demolition waste' means the materials obtained from
11 the demolishment or razing of buildings;

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

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

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

19 (x) 'office paper' means computer paper and white and
20 colored ledger paper;

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

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

1 (36) 'Recycle' or 'Recycling' means the method by which
2 recovered resources are converted for use as raw material or feedstock to
3 make new products.

4 (37) 'Recycling Officer' means the head of the Office of
5 Recycling.

6 (38) 'Resource recovery' means the process of recovering
7 recyclable materials or the recovery of energy from solid waste.

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

10 (40) 'Sanitary landfill' means an approved site where solid waste
11 and ash are disposed using modern sanitary landfilling techniques in
12 accordance with federal and local regulations.

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

18 (42) 'Separation' means the systematic division of solid waste
19 into designated components.

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

23 (44) 'Solid waste' means any garbage, refuse or sludge from a
24 waste treatment plant, water supply treatment plant, or air pollution
25 control facility and other discarded and/or spilled materials, including
26 solid, liquid, semisolid or contained gaseous material resulting from
27 industrial, mining, commercial, and agriculture operations, and from

1 community activities, but does not include solid or dissolved material in
2 domestic sewage, or solid or dissolved materials in irrigation return flows
3 or industrial discharges which are point sources subject to permits under
4 §402 of the Federal Water Pollution Control Act, as amended (68 Stat.
5 880), or source, special nuclear, or by-product material as defined by the
6 Atomic Energy Act of 1954, as amended (68 Stat. 923).

7 (45) 'Solid waste management' means the purposeful, systematic
8 control of the generation, storage, collection, transportation, separation,
9 processing and disposal of solid waste.

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

16 (47) 'Solid Waste Management Plan' or "Integrated Solid Waste
17 Management Plan" means a comprehensive plan and all amendments and
18 revisions thereto for provisions of solid waste management throughout
19 Guam.

20 (48) 'Solid waste management practices' means the actions to
21 effectuate the generation, storage, collection, transportation, processing,
22 recycling, incineration, plasma torch or resource recovery or disposal of
23 solid waste.

24 (49) 'Solid Waste Management System' ('SWMS') means the
25 entire system covered in the Plan.

1 (50) 'Source separated waste' means recyclable materials which
2 are set aside by the generator for segregated collection and transport to
3 solid waste management facilities.

4 (51) 'Storage' means the interim containment of solid waste in
5 accordance with Federal and local regulations.

6 (52) 'Transfer station' shall mean any intermediate waste facility
7 in which solid waste collected from any source is temporarily deposited
8 and stored while awaiting transportation to another solid waste
9 management facility.”

10 **Section 4.** Section 51103 of Chapter 51, Part 2, Division 2 of Title 10 of the
11 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

12 **“Section 51103. Powers and Duties of the Agency and the**
13 **Department.** (a) The Agency shall have the authority under this Act
14 and other laws of Guam to:

15 (1) Prepare and adopt in accordance with the Administrative
16 Adjudication Law an Integrated Solid Waste Management Plan,
17 consistent with the provisions of this Act;

18 (2) The Integrated Solid Waste Management Plan shall be
19 revised and updated at least every five (5) years, or sooner as needed;

20 (3) Administer Guam’s Solid Waste Management Program
21 pursuant to provisions of this Chapter;

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

26 (5) Prepare, adopt, promulgate, modify, update, repeal, and
27 enforce rules and regulations, setting environmental standards for

1 collection, transportation, separation, processing, recycling, materials and
2 resource recovery, incineration, plasma torch and disposal of solid waste
3 in order to conserve the air, water, and land resources of Guam, protect
4 the public health, prevent environmental pollution and public nuisances,
5 and enable it and the Department to carry out the purposes and provisions
6 of this Chapter and the Plan;

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

12 (7) Enforce compliance with any of its rules and regulations
13 issued pursuant to this Chapter and require the taking of such remedial
14 measures for solid waste management or solid waste management
15 practices as may be necessary or appropriate to implement or effectuate
16 provisions and purposes of this Chapter;

17 (8) Prepare, adopt, promulgate, modify, update, repeal, and
18 enforce such other rules and regulations as may be necessary to maintain
19 a hazardous waste program which meets the requirements of Section
20 3006 of the Federal Resource Conservation and Recovery Act (42 U.S.C.
21 6926, et seq.) and regulations promulgated pursuant thereto;

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

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

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

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

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

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

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

24 (16) Determine the applicability, type and sum required for
25 posting a performance bond on solid waste management facilities that are
26 not municipal solid waste landfills;

1 (17) Monitor and enforce the mandates of Public Law Number
2 21-22 (The purchasing and use of biodegradable, reusable, recyclable or
3 recycled products by the General Services Agency ("GSA") and other
4 government of Guam entities or agencies.); and

5 (18) Implement and coordinate efforts with the Office of
6 Recycling at the Department of Public Works to:

7 (1) Establish and manage promotional programs for
8 recycling, composting and the recovery of resources; and

9 (2) Plan, organize, coordinate and pursue the following
10 objectives:

11 A. Publish and disseminate guidebooks,
12 newsletters and instruction manuals to promote recycling;

13 B. Formulate and recommend other recycling
14 demonstration projects and initiatives;

15 C. Identify economically priced products
16 manufactured of recycled material which are usable by the
17 government in the place of products manufactured of virgin
18 material;

19 D. Study recycling techniques to determine the
20 cost-effective manner of collecting, processing, storing,
21 marketing, transporting or reusing recyclable materials;

22 E. Establish a recycling telephone helpline serving
23 to take inquiries and disseminate information on recycling;

24 F. Recommend new legislation through *I*
25 *Maga'lahaen Guåhan* to facilitate recycling through
26 planning, market research, source separated waste,

1 surcharges, fees, operational subsidies, tax incentives and
2 other similar means;

3 G. Identify and promote businesses that reuse or
4 convert recyclable materials, or make every effort to reduce
5 solid waste;

6 H. Conduct media advertising, public opinion
7 surveys, seminars, workshops and community relation
8 campaigns to promote public awareness of the benefits and
9 methods of recycling, composting and source reduction; and

10 I. Establish a recycling, composting, and source
11 reduction network with the Mayors, directors and school
12 principals.

13 (b) The Department shall have the following powers and duties:

14 (1) Adopt and enforce rules, regulations and other procedures,
15 pursuant to the Administrative Adjudication Law for the implementation
16 of the solid waste management system created by the Integrated Solid
17 Waste Management Plan and such other rules and regulations as are
18 necessary to fulfill the Department's powers and duties under this
19 Chapter;

20 (2) Privatization of the collection, transportation and disposal of
21 solid waste from all dwellings in all villages of Guam. The Department
22 shall not have jurisdiction over and shall not privatize the collection of
23 solid waste from any hotels, commercial or industrial establishments, or
24 from any multi-family dwellings.

25 (3) Privatize all other solid waste management facilities and
26 operations not addressed above in Subsection (2) and within the policy
27 guidelines of the Integrated Solid Waste Management Plan, including the

1 closure and beneficial use of the Ordot Dump site, source reduction,
2 recycling, composting, resource recovery, waste reduction, new landfill
3 and transfer stations. This responsibility shall also address construction
4 debris or demolition waste, metallic debris, white goods, tires and green
5 waste; contracts with private entities shall fully encompass development,
6 financing, construction and operation of any such facilities;

7 (4) Fulfill any of its duties under this Act and consistent with
8 the Plan by entering into contracts with private entities after public bid
9 all such new contracts shall be entered into according to the procedures
10 of the Guam Procurement Law, Chapter 5, Division 1 of Title 5 of the
11 Guam Code Annotated, and other applicable laws of Guam;

12 (5) Establish administrative procedures for the dissemination of
13 rates and fee schedules and the collection of fees and charges authorized
14 and duly adopted or set pursuant to this Act by the Public Utilities
15 Commission for the collection, processing, resources recovery or disposal
16 of solid waste within Guam, including, but not limited to, fees assessed to
17 owners of dwellings, fees assessed to any other generators or collectors,
18 and fees assessed for solid waste received at designated solid waste
19 management facility within Guam;

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

26 (7) Organize, plan for, secure and manage resources and
27 promote the implementation of the Plan;

1 (8) Evaluate and promote capital improvements and maintenance
2 programs to the solid waste management system;

3 (9) Address the necessity for a facility for the shredding of tires
4 for recycling or for use as rubberized asphalt;

5 (10) Address the necessity for a facility for the recycling of glass,
6 including its use as glassphalt;

7 (11) Address the necessity for a facility for the recycling of scrap
8 metals, including discarded vehicles, appliances and equipment,
9 including shredding for containerization or other shipment;

10 (12) Require the preparation of any necessary environmental
11 impact assessments or environmental impact reports;

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

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

17 (1) Establishing and managing in conjunction with the Agency
18 and the Integrated Solid Waste Management Plan a promotional program
19 for recycling, composting and the recovery of resources, including
20 recommendations on the size, character, location and ownership of any
21 RRF or composting facility;

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

24 (3) Plan, organize, coordinate and pursue the following
25 objectives:

26 (i) Publish and disseminate guidebooks, newsletters and
27 instruction manuals to promote recycling;

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

3 (iii) Establish recycling demonstration projects and
4 implement Article VI of this Chapter;

5 (iv) Develop a recommended program for composting of
6 biomass on government property;

7 (v) Formulate and recommend other recycling
8 demonstration projects and initiatives;

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

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

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

17 (ix) Recommend the establishment or revision of
18 administrative or procurement practices which will promote
19 recycling;

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

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

1 (xii) Identify and promote businesses reusing or converting
2 recyclable materials

3 (xiii) Advise and assist collectors on efficient techniques for
4 recycling; and

5 (xiv) Conduct media advertising, public opinion surveys,
6 seminars, workshops and community relations campaigns to
7 promote public awareness of the benefits and methods of
8 recycling.”

9 **Section 5.** Section 51104 of Chapter 51, Part 2, Division 2 of Title 10 of the
10 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

11 **“Section 51104. Permits.** (a) The Administrator is authorized to
12 issue permits for all collectors, operators and solid waste management facilities,
13 their design, operation, maintenance, substantial alteration, modification or
14 enlargement. All such permits shall be non-transferable and conditioned upon
15 the observance of the laws of Guam and rules, compliance orders or regulations
16 authorized in this Chapter. All such permits shall include provisions to hold the
17 permittee liable during the duration of the permit and thirty (30) years after the
18 expiration of the permit for all costs related to health and environmental
19 restoration attributed to the operation of the facility.

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

26 (c) Each permit application and each permit renewal application shall
27 be submitted with proof of financial assurance, of a type and in a sum

1 established by the Administrator conditioned on the fulfillment by the permit
2 holder of the requirements of this Chapter and the rules and regulations
3 authorized therein. No financial assurance mechanism required under this
4 Chapter may be canceled by the guarantor unless the Administrator has
5 received written notice thereof and there has been a lapse of one hundred
6 twenty (120) days between receipt of notice and cancellation date.

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

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

13 (2) If, within thirty (30) days for new permits and fifteen (15)
14 days for permit renewals after publication and broadcast, the Agency
15 receives written notice of opposition to the Agency's intention to issue
16 such permit and a request for a hearing is made, the Agency shall provide
17 for a hearing in accordance with the Administrative Adjudication Law, if
18 requested by a substantially affected party or an informal public meeting
19 if requested by any other person.

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

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

26 (2) if, within thirty (30) days for new permits and fifteen (15)
27 days for permit renewals after publication and broadcast, the Agency

1 receives written notice of opposition to the Agency's intention to issue
2 such permit and a request for a hearing is made, the Agency shall provide
3 for a hearing in accordance with the Administrative Adjudication Law, if
4 requested by a substantially affected party or an informal public meeting
5 if requested by any other person.

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

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

16 **Section 6.** Section 51110 of Chapter 51, Part 2, Division 2 of Title 10 of the
17 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

18 **"Section 51110. Prohibited Solid Waste Activities.** (a) It shall
19 be unlawful for any person to:

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

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

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

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

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

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

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

11 (8) No person shall destroy or attempt to destroy by burning,
12 except as authorized by §73113 of Chapter 73, Division 3 of Title 10 of
13 the Guam Code Annotated, any garbage, dead animals or other offensive
14 substances, the burning of which may give off foul and noisome odor.
15 Nothing in this Section shall preclude the burning of trees, brush, grass
16 and other vegetable matter authorized by the Administrator;

17 (9) Improperly manage a solid waste management facility.

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

21 **Section 7.** Section 51111 of Chapter 51, Part 2, Division 2 of Title 10 of the
22 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

23 “§51111. **Prohibited Hazardous Waste Activities.** (a) It shall
24 be unlawful for any person to:

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

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

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

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

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

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

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

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

22 **Section 8.** Section 51118 of Chapter 51, Part 2, Division 2 of Title 10 of the
23 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

24 “§51118. **Tipping/User Fees and Solid Waste Operations Fund.** (a)
25 **Legislative Intent.** Tipping and user fees shall provide a financing source for
26 government of Guam costs and expenses directly related to the regulatory
27 oversight of solid waste management activities and facilities, the closure of the

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

6 **(b) PUC Rate-making.** The Public Utilities Commission of
7 Guam ['PUC'] is authorized to establish and amend commercial, government
8 and residential tipping and user fees [including without limitation a self-drop
9 fee, a variable residential tipping fee and a targeted lifeline rate for residential
10 tipping fee, collectively referred to as "tipping fees"]. Tipping fees established
11 by the PUC shall be based on volume and on an actuarial analysis of costs of
12 service. The PUC is empowered to undertake updates to its 2006 Focused
13 Management Audit of the operations of the Department of Public Works
14 Division of Solid Waste Management. In performing its duties under this
15 Section, the PUC shall have the full authority and powers conferred upon it by
16 its enabling legislation, 12 GCA 12000 et. sec., including the audit power
17 conferred upon it by Public Laws 25-05:12 and 26-78:2.

18 **(c) Solid Waste Operations Fund.** All tipping, user and other
19 fees authorized under this Section shall be deposited as follows: ninety-five
20 percent (95%) to a special fund designated and hereby established as the Solid
21 Waste Operations Fund and five percent (5%) to the Solid Waste Management
22 Fund, a special fund administered by the Guam Environmental Protection
23 Agency as provided for in this Chapter. All tipping/user fees in the Solid Waste
24 Operations Fund shall be used solely for solid waste management and, pursuant
25 to PUC order, for the payment of regulatory costs and expenses as may be
26 incurred by the PUC in performing its regulatory duties under this Section. The
27 Solid Waste Operations Fund shall be non-lapsing and shall be maintained

1 separate and apart from any other fund of the government of Guam and shall be
2 administered by the director of the Department of Public Works. This fund
3 shall not be commingled with the General Fund and shall be kept in a separate
4 bank account to be in the name of the Department of Public Works, Solid Waste
5 Operations Fund. Independent records and accounts shall be maintained in
6 connection therewith and provided to the PUC within 21 days of the close of
7 each fiscal quarter. Nothing herein shall be construed as preventing *I*
8 *Liheslaturan Guåhan* from making additional appropriations to the Solid Waste
9 Operations Fund. *I Maga'lahaen Guåhan's* transfer authority shall not apply to
10 this or any other appropriation to the Solid Waste Operations Fund, except that
11 *I Maga'lahaen Guåhan* may transfer funds into the Solid Waste Operations Fund
12 to the extent permitted by law. *I Maga'lahaen Guåhan* may transfer to the Solid
13 Waste Operations Fund funds in excess of the amounts appropriated to the
14 Solid Waste Operations Fund herein if he determines that an emergency has
15 created a need for such a transfer.

16 (d) **Variable Residential Tipping Fees.** In recognition of the fact
17 that a flat rate for the residential tipping discourages trash reduction, penalizes
18 smaller families and subsidizes large residential generators of waste, the PUC
19 shall develop and institute a sliding scale of residential tipping fees. The sliding
20 scale shall, at minimum, charge residential generators based on the amount of
21 waste produced.

22 (e) **Lifeline Rates for Tipping Fees.** The PUC shall establish
23 and thereafter modify from time to time Targeted Lifeline Rates for Residential
24 Tipping Fees covering pick-up and delivery of residential trash only that are
25 consistent with the method used by the Public Utility Commission in setting
26 lifeline rates for electricity or water.

1 **(f) Good Citizen” Exemption Established.** Any individual,
2 registered non-profit organization, or other person who intends to volunteer
3 their resources for the purpose of cleaning up and collecting trash and litter
4 from public places or facilities may be granted a temporary exemption from
5 tipping and user fees by securing a written exemption from the Department of
6 Public Works in advance of their planned collection activities. The Department
7 of Public Works shall determine the manner, time limit and procedure by which
8 such an exemption may be granted and honored.

9 **(g) Temporary Exemption of Tipping Fees Following a Force**
10 **Majeure.** Following a force majeure, *I Maga’lahen Guåhan* shall be
11 authorized to suspend residential tipping fees for all residential solid waste
12 collected and transported to a landfill that is operated by the Department or its
13 contractor for a period not to exceed thirty (30) days.”

14 **Section 9.** §51119, Chapter 51, Part 2, Division 2 of Title 10 of the Guam
15 Code Annotated is hereby *repealed and reenacted* to read as follows:

16 **“Section 51119. The Integrated Solid Waste Management Plan.**

17 (a) The Plan shall include, but not be limited to, source reduction,
18 recycling, composting, resource recovery and sanitary landfilling, with the
19 objective of reducing the amount of solid waste to be processed, landfilled or
20 otherwise legally disposed of. It shall also require the application of plasma
21 torch or flame technology, if permitted and cost effective, to stabilize materials
22 at the Ordot Dump. It shall also include:

- 23 (1) A program for the privatization of all solid waste operations
24 within the authorized frameworks as enacted by this Article;
- 25 (2) An inventory of current residential, business, military and
26 other institutional solid waste generation;

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

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

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

10 (6) An identification of potential sites for future sanitary
11 landfills;

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

14 (8) Provide for and incorporate recycling activities required in
15 §51103 of this Article and Articles V and VI of this Chapter;

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

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

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

23 (12) Suggest new legislation to improve solid waste
24 management;

25 (13) Evaluate and determine markets for recycled materials;

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

4 (15) Provide guidelines, including timeline for converting the
5 Ordot Dump to beneficial use.

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

8 **Section 10.** Section 5 of Public Law 24-309 is hereby repealed in its entirety.

9 **Section 11. Effective Date.** The effective date shall be upon enactment of
10 this Act.

11 **Section 12. Severability.** *If* any provision of this Law or its application to
12 any person or circumstance is found to be invalid or contrary to law, such invalidity
13 shall *not* affect other provisions or applications of this Law which can be given effect
14 without the invalid provisions or application, and to this end the provisions of this
15 Law are severable.