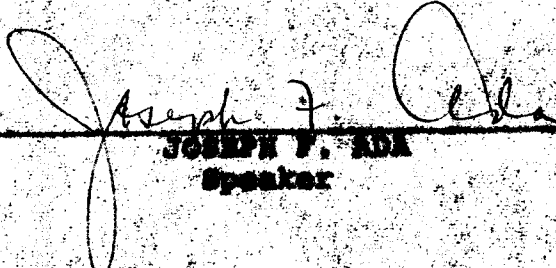


FOURTEENTH GUAM LEGISLATURE
1977 (FIRST) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 103, "An Act to repeal and reenact Chapters VI and VII of Title LXI of the Government Code of Guam, to renumber Chapter VIII of Title LXI and to amend Section 57004 of the Government Code, relative to the Guam Pesticides Act," was on the 1st day of April, 1977, duly and regularly passed.



JOSEPH F. ADA
Speaker

ATTESTED:



ERNESTO M. ESPALDON
Legislative Secretary

This Act was received by the Governor this _____ day of _____, 1977, at _____ o'clock _____ .M.

RUTH F. WOH PAT
Assistant Staff Officer
Governor's Office

APPROVED:

15/

RICKARDO J. BORDALLO
Governor of Guam

DATED: 4-22-77
8:00 PM

P.L. 14-22

FOURTEENTH GUAM LEGISLATURE
1977 (FIRST) Regular Session

Bill No. 103
(As Amended by the
Committee on Health,
Welfare & Ecology)

Introduced by E. M. Espaldon

AN ACT TO REPEAL AND REENACT CHAPTERS VI AND VII
OF TITLE LXI OF THE GOVERNMENT CODE OF GUAM, TO
RENUMBER CHAPTER VIII OF TITLE LXI AND TO AMEND
SECTION 57004 OF THE GOVERNMENT CODE, RELATIVE
TO THE GUAM PESTICIDES ACT.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Chapters VI and VII of Title LXI of the Govern-
3 ment Code of Guam are hereby repealed in their entireties and
4 a new Chapter VI of Title LXI of the Government Code of Guam
5 is hereby enacted to read as follows:

6 "CHAPTER VI

7 GUAM PESTICIDES ACT

8 Section 57120. Title. This Chapter may be cited as
9 the 'Guam Pesticides Act'.

10 Section 57121. Definitions. As used in this Chapter
11 unless the content clearly requires otherwise:

12 (1) 'Active Ingredients' shall mean:

13 (a) In the case of a pesticide other than
14 a plant growth regulator, defoliant, or desiccant,
15 an ingredient which will prevent, destroy, repeal,
16 or mitigate any pest;

17 (b) In the case of a plant growth regulator,
18 defoliant, or desiccant, an ingredient which,
19 through physiological action, will accelerate
20 or retard the rate of growth or rate of matura-
21 tion or otherwise alter the behavior of ornamental
22 or crop plants or the produce thereof.

1 (2) 'Administrator' shall mean the Administrator
2 of the Guam Environmental Protection Agency.

3 (3) 'Adulterated' shall apply to any pesticide
4 if its strength or purity falls below the professed
5 standard of quality as expressed on its labeling under
6 which it is sold, or if any substance has been sub-
7 stituted or abstracted wholly or in part for the
8 pesticide, or any valuable constituent of the pesticide
9 has been wholly or in part abstracted.

10 (4) 'Agency' shall mean the Guam Environmental
11 Protection Agency.

12 (5) 'Animal' shall mean all vertebrate and in-
13 vertebrate species, including but not limited to man
14 and other mammals, birds, fish, and shellfish.

15 (6) 'Board' shall mean Board of Directors of
16 the Guam Environmental Protection Agency.

17 (7) 'Carrier' shall mean every description of
18 craft, whether aircraft, surface craft or other con-
19 trivance used or capable of being used as a means of
20 transportation in the air or water. The person
21 responsible for the carrier shall be the owner, or
22 his agent, including the operator having the command
23 of the carrier.

24 (8) 'Certified Pesticide Applicator' shall mean
25 any individual who is certified under Section 57134
26 (1) to use and/or supervise the use of any restricted
27 pesticide.

28 (9) 'Custom Officer' shall mean the Chief of
29 Customs under the Department of Commerce or his
30 authorized representative.

1 (10) 'Defoliant' shall mean any substance or
2 mixture of substances intended to cause the foliage
3 to drop from a plant, with or without causing
4 abscission.

5 (11) 'Desiccant' shall mean any substance or
6 mixture of substances intended for artificially
7 accelerating the drying of plant tissues.

8 (12) 'Device' shall mean any instrument or con-
9 trivance (other than a firearm) intended for trapping,
10 destroying, repelling, or mitigating pests or any
11 other form of plant or animal life; but not including
12 equipment used for the application of pesticides when
13 sold separately.

14 (13) 'Environment' includes water, air, land,
15 and animals living therein, all plants, and man and
16 the interrelationships which exist among them.

17 (14) 'EPA' shall mean the United States Environ-
18 mental Protection Agency.

19 (15) 'Experimental Use Permit' shall mean a permit
20 which is issued by the Administrator only for bonafide
21 research programs under the supervision of public
22 officials.

23 (16) 'FIFRA' shall mean the Federal Insecticide,
24 Fungicide, Rodenticide Act and its amendments.

25 (17) 'Fungus' shall mean all nonchlorophyll-bearing
26 thallophytes including rusts, smuts, mildews, molds,
27 and yeasts, except those on or living in man or other
28 animals and those on or in processed foods, beverages,
29 or pharmaceuticals.

30 (18) 'General use pesticide' shall mean a pesticide
31 other than one designated as restricted pesticide.

1 (19) 'Imminent hazard' shall mean a situation
2 which exists when the continued use of a pesticide
3 during the time required for cancellation proceedings
4 would likely result in unreasonable adverse effects
5 on the environment, or would involve unreasonable
6 hazards to the survival of a species declared endangered
7 by the Secretary of the Interior under Public Law
8 91-135.

9 (20) 'Importer' shall mean the person who
10 initially receives incoming pesticides to Guam from an
11 outside or foreign source other than the United States,
12 its territories or possessions for the purpose of sale,
13 distribution, or use.

14 (21) 'Importation' shall mean importing or bringing
15 of chemical pesticides or devices from an outside or
16 foreign source other than the United States, its
17 territories and possessions, into Guam.

18 (22) 'Inert ingredient' shall mean an ingredient
19 which is not an active ingredient and as such does not
20 act as a pesticides.

21 (23) 'Ingredient statement' shall mean:

22 (a) A statement of the chemical name and
23 common name where applicable of each active in-
24 gradient, together with the name and percentage
25 of each and the total percentage of inert
26 ingredients, if any, in the pesticide;

27 (b) Whenever the pesticide contains arsenic
28 in any form, a statement of the percentages of
29 total and water soluble arsenic, each calculated
30 as elementary arsenic.

1 (24) 'Insect' shall mean invertebrate animals
2 belonging to the class insecta including beetles, bugs,
3 bees, flies, and other allied classes of arthropods,
4 including spiders, mites, ticks, centipedes, and wood
5 lice.

6 (25) 'Label' shall mean the written, printed, or
7 graphic matter, on or attached to the pesticide or
8 device, or any of its containers or wrappers.

9 'Labeling' means all labels and other written, printed,
10 or graphic matter accompanying the pesticide or
11 device at any time or to which reference is made on
12 the label or in literature accompanying the pesticide
13 or device, except for current official publications
14 of the U. S. Environmental Protection Agency, United
15 States Department of Agriculture, United States Depart-
16 ment of Interior, United States Department of Health,
17 Education, and Welfare, state experiment stations,
18 state or territorial agriculture colleges, or other
19 similar federal, state, or territorial institutions
20 or agencies authorized by law to conduct research in
21 the field of pesticides.

22 (26) 'Misbranded' shall mean any pesticide or
23 device if:

24 (a) Its labeling bears any statement,
25 design, or graphic representation relative there-
26 to or to its ingredients which is false or mis-
27 leading in any particular.

28 (b) It is contained in a package or other
29 container or wrapping which does not conform to
30 the standards established by the Board pursuant
31 to Section 57129..

1 (c) It is an imitation of and is offered
2 for sale under the name of another pesticide or
3 device.

4 (d) Its labeling does not bear the federal
5 registration number.

6 (e) Any advertisement by means of newspaper,
7 leaflet, radio, or television is false or mis-
8 leading in any particular.

9 (f) The labeling accompanying it does not
10 contain instructions for use which are necessary,
11 proper, and adequate for the protection of the
12 public.

13 (g) The label does not contain warning or
14 caution statements which may be necessary, and
15 if complied with, together with any requirements
16 imposed under Section 3 (d) FIFRA is adequate to
17 protect health and the environment.

18 (h) The label does not bear an ingredient
19 statement on the immediate container.

20 (i) Any word, statement, or other informa-
21 tion required by or under this Chapter to appear
22 on the labeling is not prominently placed there-
23 on with such conspicuousness and in such terms
24 as to render it likely to be read and understood
25 by the ordinary individual under customary con-
26 ditions of purchase and use.

27 (j) In the case of a plant growth regulator,
28 defoliant, or desiccant when used as directed it is
29 injurious to living man or other vertebrate
30 animals, or vegetation to which it is applied, or
31 to the person applying such pesticides; provided

1 that physical or physiological effects on plants
2 or parts thereof shall not be deemed to be
3 injurious when this is the purpose for which the
4 plant growth regulator, defoliant, or desiccant
5 was applied, in accordance with the label claims
6 and recommendations.

7 (27) 'Nematode' shall mean invertebrate animals
8 of the phylum Nemathelminthes and the class Nematoda
9 including unsegmented round worms with elongated fusi-
10 form, or sac-like bodies covered with cuticle, and
11 inhabiting soil, water, plants, or plant parts.

12 (28) 'Notice of Arrival' shall mean a legal docu-
13 ment authorized under Section 15137 for the purpose
14 of collecting information concerning the importation
15 and consignment of pesticides on Guam.

16 (29) 'Person' shall mean the Territory of Guam or
17 any instrumentality thereof, or any individual, firm,
18 corporation, association, or partnership, or any
19 organized group of persons whether incorporated or not.

20 (30) 'Pest' shall mean any insect, rodent,
21 nematode, fungus, weed, or any other form of terres-
22 trial or aquatic plant or animal life or virus,
23 bacteria, or other microorganism, except viruses,
24 bacteria, or other microorganisms on or in living man
25 or other living animals which the Board declares to be
26 a pest under Section 57123.

27 (31) 'Pesticide' shall mean:

28 (a) Any substance or mixture of substances
29 intended for preventing, destroying, repelling,
30 or mitigating any pest.

1 (b) Any substance or mixture of substances
2 intended for use as a plant growth regulator,
3 defoliant, or desiccant.

4 (32) 'Plant growth regulator' shall mean any sub-
5 stance or mixture of substances intended through
6 physiological action, for accelerating or retarding
7 the rate of growth or rate of maturation, or for other-
8 wise altering the behavior of plants or the produce
9 thereof, but not including substances that are intended
10 as plant nutrients, trace elements, nutritional
11 chemicals, plant inoculants, and soil amendments.

12 (33) 'Producer' shall mean any person who manu-
13 factures, prepares, compounds, propagates, or processes
14 any pesticide or device. 'Produce' shall mean to
15 manufacture, prepare, compound, propagate, or process
16 any pesticide or device.

17 (34) 'Protect health and the environment' or
18 'protection of health and the environment' shall mean
19 protection against any injury to man and protection
20 against any unreasonable adverse effects on the environ-
21 ment taking into account the public interest, including
22 benefits from the use of the pesticide.

23 (35) 'Registrant' shall mean a person who has
24 registered any pesticide or device pursuant to this
25 Chapter.

26 (36) 'Restricted pesticide' shall mean:

27 (a) A pesticide so designated by regulation
28 under Section 3 (d) of FIFRA and so designated
29 on its label; or

1 (b) A pesticide determined by the Board to
2 be unsafe for use by persons other than a
3 certified applicator, and so designated by in-
4 clusion on a list of restricted pesticides
5 adopted by the Board.

6 (37) 'Sell or distribute' shall mean to distribute,
7 solicit, sell, offer for sale, hold for sale, transport,
8 or deliver for transportation between points within
9 Guam.

10 (38) 'Unreasonable adverse effects on the environ-
11 ment' shall mean any unreasonable risk to man or the
12 environment, taking into account the economic, social
13 and environmental costs and benefits of the use of any
14 pesticide.

15 (39) 'Territory' shall mean the Territory of Guam.

16 (40) 'Under the direct supervision of a certified
17 applicator' shall mean unless otherwise specified by
18 its labeling, that the certified applicator is
19 physically present at the time and place the pesticide
20 is applied.

21 (41) 'Weed' shall mean any plant which grows where
22 not wanted.

23 Section 57122. Delegation of Duties. All authority
24 vested in the Board or Administrator by virtue of this
25 Chapter may with like force and effect be exercised by
26 such employees of the Agency as the Board or Administrator
27 may from time to time designate for the purpose.

28 Section 57123. Determination, Rules and Regulations,
29 Uniformity.

1 (1) The Board shall, in accordance with the
2 Administrative Adjudication Law and after having
3 afforded interested and affected parties an opportunity
4 to be heard, make and adopt rules or regulations:

5 (a) To determine pesticides and pesticide
6 uses which are highly toxic to man; to designate
7 pesticides as restricted or general use; and to
8 establish a system of control over the importa-
9 tion, distribution, and use of certain pesticides
10 purchased by the consuming public;

11 (b) To determine standards of coloring for
12 pesticides, and to subject pesticides to the
13 requirements of Section 57130;

14 (c) To establish procedures for the registra-
15 tion of pesticides;

16 (d) To establish procedures, conditions and
17 fees for the issuance of licenses for sale of
18 restricted pesticides;

19 (e) To establish procedures for the storage
20 and disposal of pesticides;

21 (f) To establish procedures for the certifi-
22 cation of pesticide applicators consistent with
23 certification regulations promulgated under FIFRA;

24 (g) To establish procedures for the collec-
25 tion and examination of samples of pesticides or
26 devices;

27 (h) To establish procedures regarding ex-
28 perimental use of pesticides;

1 (i) To declare as a pest any form of plant
2 and animal life (other than man and other bacteria,
3 virus, and other microorganisms on originating
4 in living man or other living animals) which is
5 injurious to health or the environment.

6 Section 57124. Experimental Use Permits.

7 (1) Issuance. Any person may apply to the
8 Administrator for an experimental use permit for a
9 pesticide. The Administrator may issue an experimental
10 use permit if he determines that the applicant needs
11 such permit in order to accumulate information
12 necessary to register a pesticide under Section 57125.
13 An application for an experimental use permit may be
14 filed at the time of or before or after an application
15 for registration is filed.

16 (2) Temporary tolerance level. If the Adminis-
17 trator determines that the use of a pesticide may
18 reasonably be expected to result in any residue on or
19 in food or feed, he may establish a temporary tolerance
20 level for the residue of the pesticide before issuing
21 the experimental use permit.

22 (3) Use under permit. Use of a pesticide under
23 an experimental use permit shall be under the super-
24 vision of the Administrator, and shall be subject to
25 such terms and conditions and be for such period of
26 time as the Administrator may prescribe in the permit.

27 (4) Studies. When any experimental use permit
28 is issued for a pesticide containing any chemical or
29 combination of chemicals which has not been included
30 in any previously registered pesticide, the Adminis-

1 trator may specify that studies be conducted to detect
2 whether the use of the pesticide under the permit may
3 cause unreasonable adverse effects on the environment.
4 All results of such studies shall be reported to the
5 Administrator before such pesticide may be registered
6 under Section 57125.

7 (5) Revocation. The Administrator may revoke any
8 experimental use permit, at any time, if he finds that
9 its terms or conditions are being violated, or that
10 its terms or conditions are inadequate to avoid un-
11 reasonable adverse effects on the environment.

12 Section 57125. Pesticide Registration.

13 (1) Any pesticide which is imported from any
14 foreign country or non-U. S. manufacturer to this
15 territory, from countries other than the United States
16 offered for sale, held for sale, or distributed in
17 this territory shall be registered with the Agency;
18 provided that products which have the same formula,
19 are manufactured by the same person, the labeling of
20 which contains the same claims, and the labels of
21 which bear a designation indentifying the product as
22 the same pesticide, may be registered as a single
23 pesticide, and additional names and labels shall be
24 added by supplemental statements during the current
25 period of registration. The registrant shall file with
26 the Administrator a statement including:

27 (a) The name and address of the registrant
28 and the name and address of the persons whose
29 name will appear on the label, if other than the
30 registrant;

1 (b) The name of the pesticide;

2 (c) A complete copy of the labeling
3 accompanying the pesticide and a statement of all
4 claims to be made for it, including directions
5 for use; and

6 (d) If requested by the Administrator a full
7 description of the tests made and the results
8 thereof upon which the claims are based.

9 (2) The Administrator, whenever he deems it
10 necessary in the administration of this part, may
11 require the submission of the complete formula of any
12 pesticide.

13 (3) If it appears to the Administrator that the
14 composition of the article and its labeling and other
15 material required to be submitted comply with the
16 requirements of this Act and Section 24 (c) of FIFRA,
17 he shall register the article.

18 (4) Any pesticide which has been approved for use
19 by the U. S. EPA prior to arrival in Guam shall not be
20 required registration with the Agency.

21 Section 57126. Refusal, Cancellation, or Suspension
22 of Registration.

23 (1) The Administrator may refuse to register a
24 pesticide when he determines that:

25 (a) The pesticide or its labeling does not
26 comply with this Chapter or the regulations pro-
27 mulgated thereunder; or

28 (b) The registrant fails to comply with the
29 registration procedures set forth by regulation;

30 or

1 (c) The pesticide is misbranded as defined
2 by Section 57121 (26); or

3 (d) The proposed use would result in sub-
4 stantial adverse effect on the environment.

5 (2) To protect the health and environment, the
6 Board may, after a public hearing, cancel the
7 registration of a pesticide. Such cancellation shall
8 be made after the Board has determined that the con-
9 tinued use of the pesticide would result in unreason-
10 able adverse effects on the environment.

11 (3) If the Administrator determines that action
12 is necessary to prevent an imminent hazard during the
13 time required for cancellation proceedings, he may,
14 by order, suspend the registration of a pesticide
15 immediately. The suspension order shall be in effect
16 until the Board issues its final order either cancel-
17 ling or denying the cancellation of the registration.

18 (4) Any person who will be adversely affected by
19 such order may obtain judicial review thereof by
20 filing in the Superior Court of Guam, within sixty (60)
21 days after the entry of such order, a petition saying
22 that the order be set aside in whole or in part. The
23 Court shall have jurisdiction to affirm or set aside
24 the order complained of in whole or in part. The
25 findings of the Board with respect to questions of fact
26 shall be sustained if supported by substantial evidence
27 when considered on the record as a whole.

28 (5) Upon application, the Court may remand the
29 matter to the Board to take further testimony if there
30 are reasonable grounds for the failure to adduce such
31 evidence in the prior hearing. The Board may modify

1 its findings and its order by reason of the additional
2 evidence so taken and shall file the additional record
3 and any modification of the findings or order with the
4 Clerk of the Court.

5 Section 57127. Licensing, sale of restricted pesticides
6 and keeping of records.

7 (1) Every person who sells or distributes
8 restricted pesticides shall obtain an annual license
9 from the Agency. Conditions, procedures, and fees for
10 licenses shall conform to the regulations promulgated
11 hereunder.

12 (2) Any person issued a license or registration
13 permit under the provisions of this Act shall be
14 required by the Administrator to keep accurate records
15 containing the following information:

16 (a) The delivery, movement, or holding of
17 any pesticide or device including the quantity;

18 (b) The date of shipment and receipt;

19 (c) The name of consignor and consignee;

20 and

21 (d) Any other information, necessary for
22 the enforcement of this Act, as prescribed by the
23 Administrator.

24 (3) The Administrator shall have access to such
25 records at any reasonable time to copy or make copies
26 of such records for the purpose of carrying out the
27 provisions of this Act. Unless required for the en-
28 forcement of this Act, such information shall be
29 confidential and if summarized, shall not identify
30 an individual person.

1 Section 57128. Denial, Suspension or Revocation of
2 License. Any license pursuant to this Act or regulations
3 adopted hereunder may be denied, suspended or revoked by
4 the Administrator, after due hearing, for violation of any
5 provisions of this Chapter or any rule or regulation pro-
6 mulgated pursuant to this Chapter, the misuse of a pesticide
7 (both general use and restricted use pesticides) as well
8 as violation of any condition of the license or of any law or
9 regulation pertaining to the sale or distribution of pesti-
10 cides. Any order made by the Administrator for the suspen-
11 sion or revocation of a license shall be in writing and
12 shall set forth the reasons for the suspension or revocation.

13 Section 57129. Labeling Requirements. Each container
14 of pesticides shall bear thereon or attached thereto in a
15 conspicuous place, a plainly written or printed label in the
16 English language providing the following information:

- 17 (1) Name, brand, or trademark under which the
18 pesticide is sold or distributed;
- 19 (2) Ingredient statement;
- 20 (3) Direction for use which if complied with will
21 adequately protect the health and environment;
- 22 (4) Warning or caution statements as specified
23 by regulation;
- 24 (5) Weight or measure of content;
- 25 (6) EPA registration number;
- 26 (7) EPA establishment number; and
- 27 (8) Classification statement.

28 Section 57130. Coloration of Certain Pesticides.

- 29 (1) Pesticides known as standard lead arsenate,
30 basic lead arsenate, sodium arsenate, calcium arsenate
31 magnesium arsenate, zinc arsenate, zinc arsenite,

1 sodium flouride, sodium flousilicate or barium
2 flousilicate shall be distinctly colored as specified
3 by regulation.

4 (2) The Board may, after hearing, require the
5 coloration of other pesticides that it determines to
6 be necessary to protect the health and environment.

7 (3) The Board may exempt the coloration require-
8 ments for certain uses that it determines not to have
9 substantial adverse effects on the environment.

10 Section 57131. Prohibited Acts.

11 (1) Except as otherwise exempted in Section 57142
12 it shall be unlawful for any person to distribute,
13 import from countries other than the United States,
14 sell, offer for sale, hold for sale, transport, deliver
15 for transportation, or receive and having so received,
16 deliver or offer to deliver to any person in this
17 territory any of the following:

18 (a) Any pesticide which is not registered
19 with EPA or any registered pesticide if the com-
20 position differs from its registered composition
21 or any of the claims made for it or any of the
22 directions for its use differ in substance from
23 the representations made in connection with its
24 registration under Section 57125.

25 (b) Any pesticide unless it is in the
26 registrant's or the manufacturer's unbroken imme-
27 diate container, and there is affixed to the con-
28 tainer, and to the outside container or wrapper of
29 the retail package, if any, through which the
30 required information on the immediate container
31 cannot be clearly read, a label bearing such in-
32 formation pursuant to Section 57129.

1 (c) Any pesticide which contains any sub-
2 stance or substances in quantities highly toxic
3 to man, as determined under Section 57123 unless
4 the label bears, in addition to any other matter
5 required by this part:

6 (i) A symbol of the skull and cross-
7 bones;

8 (ii) The word 'POISON' prominently, in
9 red, on a background of distinctly contrasting
10 color; and

11 (iii) A statement of an antidote for the
12 pesticide.

13 (d) Any pesticide whose coloration is not in
14 conformity with Section 57130.

15 (e) Any pesticide which is adulterated or
16 misbranded.

17 (f) Any restricted pesticides unless the
18 person has a license issued in accordance with
19 Section 57127.

20 (g) Any restricted pesticides to persons
21 other than a certified pesticide applicator or a
22 licensed dealer.

23 (h) Any device which is misbranded.

24 (2) It shall be unlawful for any person to:

25 (a) Use, apply or supervise the use of or
26 application of any pesticide inconsistent with
27 its labeling, or restrictions imposed by the
28 Administrator.

29 (b) Use, store, transport, mix or discard
30 any pesticide or the containers of such pesticide
31 in any manner which would have adverse effects
32 on the environment.

1 (c) Use or apply restricted pesticides un-
2 less the person is acting under the immediate
3 supervision and control of a certified pesticide
4 applicator with a valid certificate issued pur-
5 suant to regulations adopted under Section 57134.

6 (d) Import, sell, distribute, transport,
7 use or apply pesticides in any manner that has
8 been banned pursuant to Section 57133.

9 (3) It shall be unlawful to:

10 (a) Detach, alter, deface, or destroy, in
11 whole or in part, any label or alter any labeling
12 of a pesticide unless such action is taken with
13 the approval of the Administrator to correct an
14 improper label or labeling.

15 (b) Add any substance to, or take any sub-
16 stance from a pesticide in a manner that may
17 defeat the purpose of this Act.

18 (c) Use for a person's own advantage or to
19 reveal any information relative to formulas of
20 products acquired in the administration of this
21 Chapter, to persons other than to proper officials
22 or employees of the Agency, or the courts of
23 this territory in response to a subpoena or to
24 physicians, or in emergencies to pharmacists and
25 other qualified persons for use in the preparation
26 of antidotes.

27 (d) For any pesticide dealer, wholesale,
28 or retailer to expose or to offer for sale or to
29 solicit or receive orders for the sale of re-
30 stricted pesticides unless the dealer, wholesaler,
31 or retailer has applied for and has obtained an
32 annual license from the Agency pursuant to Section
33 57127.

1 (e) For any pesticide dealer, wholesaler,
2 or retailer to expose or to offer for sale or to
3 solicit or receive orders for the sale of re-
4 stricted pesticides to any person other than a
5 certified pesticide applicator.

6 (f) For any pesticide dealer to falsify any
7 report or record required to be made or maintained
8 by the Administrator pursuant to Section 57127.

9 Section 57132. Seizures: 'stop-sale' and 'removal from
10 sale' orders.

11 (1) Any pesticide or device that is distributed,
12 sold, offered for sale, transported, or delivered for
13 transportation in violation of Section 57131 (a)
14 through (e) herein, may be seized. Any article seized
15 hereunder shall, after entry of decree, be disposed of
16 by destruction or sale as the court directs and the
17 proceeds, if the article is sold, shall be paid to the
18 General Fund of the Territory; provided that the article
19 shall not be sold contrary to Section 57131 (a) through
20 (e), herein, and provided that upon payment of costs
21 and execution and delivery of a good and sufficient
22 bond conditioned that the article shall not be disposed
23 of unlawfully, the court may direct the article to be
24 delivered to the owner thereof for relabeling or
25 reprocessing as the case may be.

26 (2) The Administrator or his authorized agent
27 may issue and enforce a written or printed 'stop-sale'
28 or 'removal from sale' order to withhold from sale any
29 pesticide or device that is distributed, sold, offered
30 for sale, transported, or delivered for transportation
31 in violation of Section 57131 (a) through (e) herein.

1 (3) When a decree of condemnation is entered
2 against the pesticide or device, court costs, fees,
3 storage, and other proper expenses shall be awarded
4 against the person, if any, appearing as claimant of
5 the pesticide.

6 Section 57133. Banning of Pesticides. In order to
7 protect the public and the environment, the Board may ban
8 the use of certain pesticides or specific uses of certain
9 pesticides when such usage is deemed to have unreasonable
10 adverse effects on the environment. The Administrator shall
11 take necessary action to cancel the registration of such
12 banned pesticides or uses as provided in Section 57126.

13 Section 57134. Rules and Regulations. The Agency
14 shall have the authority to carry out and effectuate the
15 purpose of Section 57123(f) by adopting rules and regulations
16 in accordance with the Administrative Adjudication Law,
17 including but not limited to the following:

18 (1) To establish procedures, conditions, and
19 standards to certify persons for the use of restricted
20 pesticides;

21 (2) To establish limitations and conditions for
22 the use and application of pesticides;

23 (3) To establish, as necessary, specific standards
24 and guidelines which specify those conditions related
25 to the use and application of pesticides which may
26 constitute unreasonable adverse effects on the environ-
27 ment;

28 (4) To establish categories and, where applicable,
29 subcategories of certifications to be issued by the
30 Administrator;

1 (5) To require certified applicators to make
2 and maintain records concerning the use and application
3 of restricted use pesticides, and to make reports con-
4 cerning such use and application to the Administrator;

5 (6) To establish provisions to ensure that
6 certified applicators continue to meet the requirements
7 of changing technology and to assure a continuing level
8 of competence and ability to use pesticides safely
9 and properly.

10 Section 57135. Denial, Suspension or Revocation of
11 Certificate. Any certificate issued pursuant to this Act
12 or any regulation promulgated hereunder may be denied,
13 suspended or revoked by the Board, after hearing, for
14 violation of any provision of this Chapter or any rule or
15 regulation promulgated pursuant to this Chapter, the misuse
16 of a pesticide (both general use and restricted use pesti-
17 cide) as well as violation of any condition of the certifi-
18 cate pertaining to the use of any restricted pesticide, or
19 if convicted or subject to a final order assessing a civil
20 penalty pursuant to Section 14, FIFRA. Any order made by
21 the Board for the suspension or revocation of a certificate
22 shall be in writing and shall set forth the reasons for the
23 suspension of certification. The action of the Board in
24 suspending or in revoking a certificate may be reviewed in
25 the manner provided by Section 57126 (4).

26 Section 57136. Cooperation. The Administrator is
27 authorized and empowered to cooperate with and enter into
28 agreements with any person, or agency of the Federal govern-
29 ment for the purpose of carrying out provisions of this
30 Act; and

1 (1) To delegate to any individual or agency
2 the authority to cooperate in the enforcement of this
3 Act through the use of its personnel or facilities, to
4 train personnel of the territory to cooperate in the
5 enforcement of this Act, and to assist the territory
6 in implementing cooperative enforcement programs
7 through grants-in-aid;

8 (2) To develop and administer territorial programs
9 for training and certification of applicators consistent
10 with the standards which are prescribed by the EPA.

11 Section 57137. Notice of Arrival of Pesticides and
12 Devices. An importer desiring to import pesticides or
13 devices into Guam shall submit to the Administrator a
14 completed Agency Notice of Arrival prior to the arrival of
15 the shipment. Promptly after receipt, the Administrator
16 shall complete said form, indicating the disposition to be
17 made of the shipment of pesticides or devices upon its
18 arrival in Guam and shall return the form to the importer
19 or his agent.

20 Section 57138. Arrival of Shipment. Upon arrival of
21 a shipment of pesticides or devices, the importer or his
22 agent shall submit to the Customs Officer at the port of
23 first arrival, the Notice of Arrival completed by the
24 Administrator and indicating to Customs the action to be
25 taken on the shipment of pesticides or devices. The
26 Customs Officer at the port of arrival shall immediately
27 notify the Agency of such arrival of shipment and compare
28 documents for the shipment of pesticides or devices and
29 certify its agreement therewith.

1 Section 57139. Shipments arriving without the Notice
2 of Arrival. When a shipment of pesticides or devices
3 arrives in Guam without the submission by the importer or
4 his agent of the Notice of Arrival, such shipment shall be
5 refused entry by the Customs Officer. Any expenses incident
6 to the handling, storage, or transfer of pesticides or
7 devices refused entry into Guam shall be at the carrier's
8 risk and expense.

9 Section 57140. Release of shipment or entry refused.
10 If the completed Notice of Arrival directs the Customs
11 Officer to release the shipment of pesticides or devices
12 and from examination if it appears to be in compliance, the
13 shipment shall be released to the importer. If the com-
14 pleted Notice of Arrival directs the Customs Officer to
15 refuse entry of a shipment and from examination of the
16 shipment it appears to violate provisions of this Act such
17 shipment shall be refused entry and shall be treated as a
18 prohibited importation.

19 Section 57141. Authority to Inspect.

20 (1) The Agency or any authorized representative
21 or employee of the Agency may enter upon any public
22 or private property, according to law at any reason-
23 able time to examine and inspect application methods
24 and equipment, to examine and collect sample of plants,
25 soil and other materials, and to perform any other act
26 for the purpose of carrying out and effectuating the
27 purposes of this Act.

28 (2) Should entry be denied to any place where
29 entry is sought, the Agency or any authorized represen-
30 tative or employee of the Agency may apply to any court
31 of competent jurisdiction for a search warrant

1 authorizing entry. The court may, upon a showing by
2 the Administrator that there is reason to believe
3 that the provisions of this Act have been violated,
4 issue a search warrant.

5 Section 57142. Violations, Warning Notice, Notice of
6 Defense, Hearings and Penalties.

7 (1) Any person who violates this Act or any rule
8 or regulation hereunder shall upon the first violation
9 be issued a written warning notice citing the specific
10 violation and necessary corrective action.

11 (2) Any person issued a written warning notice
12 may file a Notice of Defense and have an opportunity for
13 a hearing on such charges in accordance with the pro-
14 vision of the Administrative Adjudication Law.

15 (3) Any person who knowingly violates this Act
16 or any rule or regulation hereunder shall be punished
17 by a fine of not more than Five Hundred Dollars (\$500)
18 or imprisoned for not more than six (6) months or
19 both.

20 Section 57143. Severability. If any provision of
21 this Chapter is declared unconstitutional, or the applica-
22 bility thereof to any person or circumstance is held invalid,
23 the constitutionality of the remainder of this Chapter and
24 applicability thereof to other persons and circumstances
25 shall not be affected."

26 Section 2. Chapter VIII of Title LXI of the Government Code
27 of Guam, entitled "Solid Waste", is hereby renumbered Chapter
28 VII of Title LXI.

29 Section 3. Section 57004 of the Government Code of Guam is
30 hereby amended to read as follows:

1 "Section 57004. Powers and duties of the Guam Environ-
2 mental Protection Agency. The Guam Environmental Protection
3 Agency shall be responsible for the implementation of the
4 Water Resources Conservation Act, Chapter II of this Title;
5 the Water Pollution Control Act, Chapter III of this Title;
6 Toilet Facilities and Sewage Disposal, Chapter IV of this
7 Title; the Air Pollution Control Act, Chapter V of this
8 Title; the Guam Pesticides Act, Chapter VI of this Title;
9 and Solid Waste, Chapter VII of this Title."

10 Section 4. Section 57005 (renumbered from Section 9970.5)
11 of the Government Code is repealed and reenacted to read:

12 "Section 57005. Rules and Regulations. Notwithstanding
13 the provisions of Chapter III, Title XXV of the Government
14 Code relative to rule making procedures under the Adminis-
15 trative Adjudication Act, the Agency is hereby authorized
16 and directed to adopt, amend and repeal rules and regula-
17 tions implementing and consistent with the powers and
18 duties vested in the Agency pursuant to Section 57004; pro-
19 vided, however, that no action taken with respect to such
20 rules and regulations shall be effective unless such action
21 is first presented to and approved by the Legislature. If,
22 after forty-five (45) calendar days, the Legislature has not
23 expressly approved or rejected such action, or any part
24 thereof, by a resolution duly adopted or by eleven (11)
25 members of the Legislature, such action or any part thereof
26 not expressly rejected shall be deemed to be approved."