

PUBLIC LAW NO. 17-87

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Riders: None

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AN ACT TO AMEND CHAPTER 46 OF TITLE 10, GUAM CODE ANNOTATED, TO PROVIDE FOR IMPLEMENTATION OF THE GROUNDWATER MANAGEMENT PROGRAM: TO SPECIFIC PENALTIES FOR IMPROPER DISPOSAL OF SEWAGE AND TO REPEAL 10 GCA CHAPTER 51 AND TO ENACT A NEW 10 GCA CHAPTER 51 RELATIVE TO SOLID WASTE MANAGEMENT.

Section 1 ... Amends 10 GCA Chapter 46, Water Resources Conservation:

§46102 ... Definitions.  
§46103 ... Well Driller's License.  
§46104 ... Well Drilling Permits.  
§46105 ... Well Operating Permits.  
§46106 ... Completion Report of Well.  
§46107 ... Wasteful Use Prohibited.  
§46108 ... Right of Inspection.  
§46109 ... Meters to be Installed, access to wells.  
§46110 ... Sealing of Wells.]  
§46111 ... Application of Chapter.  
§46112 ... Penalties.  
§46113 ... Injunctions.  
§46114 ... Fees.

- §46115 ... Cooperation with the United States of America.
- Section 2 ... Amends 10 GCA Chapter 47, Water Pollution Control.
  - §47101 ... Act.
  - §47102 ... Statement of Policy.
  - §47103 ... Definitions.
  - §47104 ... Powers and Duties of the Agency.
  - §47105 ... Powers and Duties of the Administrator.
  - §47106 ... Pollution Unlawful; Permits.
  - §47107 ... Inspection and Entry.
  - §47108 ... Classification and Standards.
  - §47108.1 . Designation of Groundwater Protection Zone.
  - §47109 ... Enforcement.
  - §47110 ... Emergency Procedure.
  - §47111 ... Penalties.
  - §47112 ... Assistance by Governmental Agencies.
- Section 3 ... Amends 10 GCA Chapter 48, Toilet facilities and Sewage Disposal.
  - §48101 ... Definitions.
  - §48102 ... Toilet and Sewage facilities Required.
  - §48103 ... Maintenance: Responsibility.
  - §48104 ... Types of Toilet and Sewage Facilities.
  - §48105 ... Approval of Administrator Required.
  - §48106 ... Location.
  - §48107 ... Standards.
  - §48108 ... Lining Required. [NOTE: The text of this section was not included in this Public Law].
  - §48109 ... Inspection Before Covering.
  - §48110 ... Additional Standards for Privies.
  - §48111 ... Septic Tanks to be Emptied and Cleaned.
  - §48112 ... Disposition of Excreta.
  - §48112.1 . Ordering of Replacement, Repair, etc.; Procedure.
  - §48113 ... Sewer Connection for Underprivileged.
  - §48114 ... Definitions.
  - §48115 ... Installation of Connecting Lines to Public Sewers.
  - §48116 ... Installation of Type 2 facilities.
  - §48117 ... Notice to Homeowners.
  - §48118 ... Application of Homeowners.
  - §48119 ... Installation of Connecting Lines.
  - §48120 ... Installation of Type 2 Toilet facilities.
  - §48121 ... Fund.
  - §48122 ... Repayment of Installments.
  - §48123 ... Installment Contracts.
  - §48124 ... Powers.
  - §48125 .. [Expiration of Fund].
- Section 4 ... Adds new 10 GCA §48126: Penalties for sewage disposal violations.
- Section 5 ... Repeals and Reenacts 10 GCA Chapter 51, Article 1, Solid Waste Management.

- §51101 ... Findings of Necessity and Declaration of Purpose.
- §51102 ... Definitions.
- §51103 ... Powers and Duties
- §51104 ... Permits.
- §51105 ... Permit Fees.
- §51106 ... Inspections.
- §51107 ... Notice.
- §51108 ... Hearings.
- §51109 ... Prohibited Activities.
- §51110 ... Injunction.
- §51111 ... Plats.
- §51112 ... Applicability to Government Agencies.
- §51113 ... Penalties.
- Section 6 ... Repeals 10 GCA Chapter 51, Article 2.
- Section 7 ... Enacts new 10 GCA Chapter 51, Article 2, Litter Control.
  - §51201 ... Declaration of Purpose.
  - §51202 ... Definitions.
  - §51203 ... Powers and Duties.
  - §51204 ... Litter Control Revolving Fund.
  - §51205 ... Prohibited Activities.
  - §51206 ... Enforcement.
  - §51207 ... Penalties
  - §51208 ... Severability Clause.
- Section 8 ... Amends 9 GCA §55.35, to include Litter Control apprehending officers as peace officers.

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

Section 1. Chapter 46, of Title 10, Guam Code Annotated, is hereby amended to read as follows:

- "§46101. Declaration of Policy.
- §46102. Definitions.
- §46103. Well Driller's License.
- §46104. Well Drilling Permits.
- §46105. Well Operating Permits.
- §46106. Completion Report of well.
- §46107. Wasteful Use Prohibited.
- §46108. Right of Inspection.
- §46109. Meters to be installed, access to wells.
- [§46110. Sealing of Wells. NOTE: P.L. 47-87:1 includes the text of this section although it listed in the contents of Chapter.]
- §46111. Application of Chapter.
- §46112. Penalties.
- §46113. Injunctions.
- §46114. Fees.

§46115. Cooperation with the United States of America.

§46101. Declaration of Policy.

It is hereby declared to be the policy of the government of Guam, in recognition of its duty to conserve and control its water resources for the benefit of the inhabitants of Guam, that all of the water resources of Guam are the property of the people of Guam, that the general welfare requires that said water resources be put to beneficial use to the fullest extent of which they are capable, that the waste or unreasonable use or unreasonable method of diversion or extraction of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people of Guam and for the public welfare. It is further declared that an emergency condition exists with respect to the availability of surface and underground water on Guam and that restrictions are necessary to prevent overpumping of water, the intrusion of salt water, sewage and other contaminants and the resulting permanent destruction of the utility of underground water reservoirs and sources of potable water supply. The right to water or the use of water from any surface or underground supply shall not exceed that which is reasonably required to meet the needs of public and private lands of Guam, consistent with the purposes for which such lands are or may be adaptable, subject only to reasonable laws and regulations as may be provided herein or hereinafter to preserve and protect the integrity of such underground water supplies. It is therefore further declared that the people of Guam have a primary interest in the location, construction, maintenance, operation, modification, abandonment and destruction of water wells by virtue of the impact of such activities on the quality, purity and integrity of underground waters.

§46102. Definitions.

(a) 'person' means any individual, firm, partnership, association or corporation, both public and private, including the agencies of the government of Guam and of the United States of America.

(b) 'Water' shall be construed to include ponds, springs, wells and streams and all other bodies of surface or underground water, natural or artificial, inland or coastal, fresh or salt, public or private.

(c) 'Well' shall be construed to mean any hole drilled, dug, or bored at any angle, either cased or uncased, for the purpose of obtaining water or knowledge of water-bearing formations or for the disposal of surface water drainage or waste materials. This definition shall not include wells used for the purpose of (1) dewatering embankments during construction, or (2) stabilizing hillsides or earth embankments.

(d) 'Beneficial use of water' shall include the use of water reasonably required for domestic, agricultural, commercial, industrial, recreational and other purposes on both public and private lands. The use of water for domestic purposes is defined as the highest beneficial use of water.

§46103. Well Driller's License.

(a) No person shall engage in well drilling on Guam without first obtaining a license from the Administrator as hereinafter provided. P.L. No. 17-87 Such licenses are required not only of those who make a regular business of well drilling, but all who may construct wells for their own purposes or for others as an incident to any line of business activity.

(b) An application for a license shall be made on a form prescribed and furnished by the Administrator providing such information as the Administrator deems necessary for the purpose of the issuance of licenses. The number of the license must be displayed on the well-drilling machinery of the licensee. The fee for such license shall be based on a schedule (which may be amended from time to time) promulgated by the Administrator pursuant to this authority, and the license shall be valid for a period of two (2) years. No person may be issued such a license who does not satisfy the Administrator that he is competent and able to drill wells in Guam.

§46104. Well Drilling Permits.

(a) No well may be drilled unless the owner of the land on which the well is to be drilled shall, before the commencement of drilling, have obtained a permit therefor and filed a preliminary report with the Administrator.

(b) The fee for such permit shall be based on a schedule (which may be amended from time to time) promulgated by the Administrator.

(c) The preliminary report shall be submitted on forms furnished and prescribed by the Administrator and shall contain the such information which the Administrator may require.

(d) As a condition of the permit the Administrator shall require the applicant to furnish one or more water samplers for subsequent analysis by the Administrator. The cost of such analysis or analyses shall be included in the well drilling permit fee.

§46105. Well Operating Permits.

(a) Within sixty (60) days of the initial promulgation of specific regulations relating to well operating permits pursuant to §45106, or, in the case of new wells, within ninety (90) days from the date of filing of the completed report prescribed by §46106, the owner of every well shall obtain an operation permit therefor.

(b) The fee for such a permit shall be based on a schedule (which may be amended from time to time) promulgated by the Administrator pursuant to this authority, and the permit shall be valid for a period of five (5) years.

(c) Each well operating permit shall state the maximum amount of water that may be withdrawn from the well per month, such amount to be determined by the Administrator on the basis of the use of the water and such other factors as as he may deem relevant to the public interest in the beneficial utilization and conservation of natural water resources.

(d) The holder of every well operating permit shall file on or before January 15, annual reports on forms to be provided by, and containing such information as, the Administrator may require including, but not limited to, the amount of water extracted each month of the preceding twelve (12) month period.

§46106. Completion of Well.

(a) Within ninety (90) days after the completion or the termination for any reason of the drilling of any well whether or not any water is found, a report shall be filed by the driller on forms furnished and prescribed by the Administrator, indicating mean sea level (MSL) elevation of a permanent benchmark placed adjacent to the well, the MSL elevation of the ground surface at the well, the log of the well, indicating rock materials encountered, their depth below ground surface, location of water bearing beds, water levels in each, a description of the casing, and screens used pumping tests conducted, the size and depth of the well, the capacity of the pump attached or to be attached thereto and such other information pertaining to the withdrawal of water and the operation of such well as the Administrator may require.

The drillers shall at the request of the Administrator also furnish samples of the materials encountered in the drilling of the well, which shall be taken at intervals of five (5) feet, or at every change of formation.

(b) Information to be provided under this Section shall be obtained under the direction of, and shall be certified by a professional geologist or engineering geologist possessing a minimum of a baccalaureate degree in geology or engineering geology from a college or university accredited by the Engineer's Council of Professional Development or as approved by the Administrator.

§46107. Wasteful Use Prohibited.

No owner of a well, whether a pumping well or a flowing well, shall discharge from the well or permit the discharge from the well of water that is allowed to run to waste and not put to beneficial use except in connection with pumping tests. All pump tests shall be conducted in accordance with the requirements of the Administrator.

§46108. Right of Inspection.

The Administrator or his authorized representative shall have the power at reasonable hours to make such inspections of each well and take such samples as may be necessary for proper and effective supervision of the construction, repair, maintenance, and operation of wells.

§46109. Meters to be Installed, Access to Wells.

(a) Prior to the issuance of an operating permit, an individual water meter, capable of measuring flow rate and total production, shall be installed at the well for the purpose of recording the amount of water drawn from the wells.

(b) Water meters shall be maintained in satisfactory operating condition. At no time shall a well be operated without a water meter for more than a consecutive five (5) day period.

(c) Each well shall have an opening for measurement of water levels in the well. The construction and sealing of the opening shall be as prescribed by the Administrator.

§46110. Sealing of Wells.

For the purpose of preventing the contamination of fresh water aquifers the owner of a well, upon abandoning a well or encountering highly mineralized water in any existing or new well or test hole, shall immediately notify the Administrator and shall effectively seal such well or test hole in accordance with the requirements prescribed by the Administrator.

§46111. Application of Chapter.

Except as otherwise provided, the provisions of this Chapter shall apply to the construction, maintenance, and repair of all new wells constructed after the effective date of this Act and to all maintenance, repair and enlargement work on old wells, which is of such nature or magnitude as to require the use of well-drilling machinery; provided, however, that a permit shall not be necessary to clean a well or to pull and repair a pump.

§46112. Penalties.

Any person who violates any of the provisions of this Chapter or of the rules and regulations promulgated pursuant thereto shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than six (6) months, or both. In addition, the Administrator shall, regardless of the criminal provisions of this section, have the power to withhold, modify, amend, revoke, or suspend any license or permit authorized or issued under this Chapter, such power to be exercised only pursuant to the provisions of the Administrative Adjudication Law, which law is herewith specifically made applicable to this Chapter.

§46113. Injunctions.

(a) In case of noncompliance with the provisions of this Chapter or with the terms and conditions of any license or permit issued hereunder, the Administrator in addition to or in lieu of proceeding under §46112 may notify the Attorney General of such noncompliance. The Attorney General, upon receipt of such notification, may institute P.L. No. 17-87 an appropriate action or proceeding at law or in equity to restrain, correct, or remove such noncompliance.

(b) For all cases of noncompliance referred to the Attorney General by the Administrator, quarterly reports shall be prepared by the Attorney General and submitted to the Administrator summarizing the status of actions taken to restrain, correct, or remove such noncompliance.

§46114. Fees.

All fees and charges under this Chapter shall be deposited in the General Fund.

§46115. Cooperation with United States of America.

The Governor of Guam and the Administrator are hereby authorized and directed to enter into agreements with agencies of the United States of America, including, but not limited to, the Departments of the Navy and Air Force of the Department of Defense, the Office of Territorial Affairs and the Geological Survey of the Department of the Interior, the Environmental Protection Agency, for the purposes of implementing the provisions of this Chapter. Said agreements shall be structured in such a manner as to facilitate the rapid exchange of information and advice between the various federal and territorial agencies having a vital interest in the preservation and protection of Guam's groundwater resources. The Administrator is further authorized and directed to appoint a Technical Advisory Committee comprising representatives of the foregoing agencies and from the Guam Environmental Protection Agency, the Public Utility Agency of Guam, the University of Guam, the Bureau of Planning, and such other representatives as he may desire to provide advice to the Administrator concerning the monitoring of the groundwater management program as may be indicated by the annual reports to be prepared thereon by the Administrator. The Technical Advisory Committee shall meet at least semi-annually and a record of its proceedings shall be maintained by the Administrator and promulgated to the members of the committee. Members of the committee shall serve at the pleasure of the appropriate officer of their parent organization."

Section 2. Chapter 47, Title 10, Guam Code Annotated, is hereby amended to read as follows:

"CHAPTER 47

WATER POLLUTION CONTROL

- §47101. Act.
- §47102. Statement of Policy.
- §47103. Definitions.
- §47104. Powers and Duties of the Agency.
- §47105. Powers and Duties of the Administrator.
- §47106. Pollution Unlawful: Permits.
- §47107. Inspection and Entry.

- §47108. Classification and Standards.
- §47108.1 Designation of Groundwater Protection Zone.
- §47109. Enforcement.
- §47110. Emergency Procedure.
- §47111. Penalties.
- §47112. Assistance by governmental agencies.

§47101. Act.

This Act shall be known as the "Water Pollution Control Act.

§47102. Statement of Policy.

Whereas, a pollution of the waters of this territory may be detrimental to public health and welfare, and may adversely affect livestock, wildlife, fish and aquatic life, and may progressively obstruct agricultural, industrial, recreational and other beneficial uses of water, it is hereby declared to be the policy of the government of Guam to conserve its water resources and to protect, maintain, and improve the quality and potability thereof for public

P.L. No. 17-87 water supplies, for the propagation of wildlife, fish and aquatic life, and for agricultural, industrial, recreational and other beneficial uses, to provide a comprehensive program in the public interest for the prevention, abatement and control of new or existing water pollution, to provide effective means for the carrying out and enforcement of such program, and to provide for cooperation with agencies of the United States of America for the purpose of implementing the provisions of this Chapter.

§47103. Definitions.

For the purpose of this Act, the following words and phrases shall have the meanings ascribed to them in this Section:

(a) 'Sewage' means the water-carried waste products from the residences, public buildings, institutions or other buildings, including the excrementitious or other discharge from the bodies of human beings or animals, together with such ground water infiltration and surface water as may be present.

(b) 'Industrial waste' means any liquid, gaseous or solid waste substances resulting from any process of industry, manufacturing, trade or business or from the development of any natural resource, together with such sewage as may be present, which may pollute the waters of the territory.

(c) 'Other wastes' means garbage, municipal refuse, sand, offal, oil, tar, chemicals and all other substances which may pollute the waters of the territory.

(d) 'Contamination' means an impairment of the qualities of the waters of the territory of sewage, industrial wastes, or other wastes to a degree which creates a hazard to human health or is detrimental to the most beneficial uses of the waters.

(e) 'Pollution' as used in this Act shall mean the alteration of the physical, chemical or biological properties of any waters of the territory which adversely and unreasonably impairs the water quality of the territory or which renders said waters hazardous to human health or harmful or detrimental to their most beneficial uses.

(f) 'Sewage conveyance system' means pipelines or conduits, pumping stations, and force mains, and all other construction, devices and appliances appurtenant thereto, used for collecting or conducting sewage or industrial waste or other wastes to a point of ultimate treatment or disposal.



(g) 'Treatment works' means any facility, disposal field, lagoon, dam, pumping station, incinerator, or other works not specifically mentioned herein, installed for the purpose of treating, stabilizing or holding sewage, industrial waste, or other wastes.

(h) 'Disposal system' means a system for disposing of sewage, industrial waste or other wastes, and includes sewage conveyance systems and treatment works.

(i) 'Waters of the territory' means all shore waters surrounding Guam, streams, lakes, wells, springs, irrigation systems, marshes, watercourses, waterways, drainage systems and other bodies of water, surface and underground, natural or artificial, publicly or privately owned.

(j) 'Person' means any natural person, partnership or unincorporated association of natural persons, trusts, corporations or other types of private legal entities and public entities including the United States of America and the Government of Guam and any agency thereof.

§47104. Powers and Duties of the Agency.

The Agency is herewith authorized and directed:

(a) To study, investigate, or cause to be studied and investigated and, from time to time, determine ways and means of eliminating from all ground and surface waters of the territory, so far as practical, all substances and materials which pollute the same, and to determine methods, as far as practical, of preventing pollution that is detrimental to the public health or the health of animals, fish, or the industrial development of the territory or detrimental to the practical use of waters for recreational purposes, agricultural or industrial purposes, or obnoxious, nauseous or toxic for domestic purposes;

(b) To develop and adopt a comprehensive program for the prevention, control, and abatement of pollution from the waters of the territory and from time to time review and modify such program for the guidance of the Administrator;

(c) To recommend and encourage studies, investigations, research, and demonstrations relating to water pollution and causes, prevention, control and abatement thereof, as are deemed advisable and necessary and to direct the Administrator regarding any actions deemed necessary from the results of such studies, investigations, research and demonstrations in order that the Administrator may discharge his responsibilities under this Act;

(d) To formulate standards of water purity and classification of water according to them most beneficial uses of water; in formulating such standards and classifications consideration shall be given to the economics of waste treatment and prevention;

(e) To hold hearings necessary for the proper administration of this Act; and to receive complaints and make investigations in relation thereto;

(f) To exercise all incidental powers necessary to carry out the purposes of this Act.

§47105. Powers and Duties of the Administrator.

The Administrator shall have and may exercise the following powers and duties:

(a) To consider actions of this agency as set forth in §47104, provided that the Administrator may modify such actions of the Agency only insofar as is necessary to protect human health;

(b) To accept and administer loans and grants from the Federal Government; and from any other source, for carrying out any of its functions;

(c) To issue, modify revoke orders for the abatement of pollution or to require the adoption of such remedial measure, including the construction of new disposal systems or

treatment works or the modifications, extension or alteration of existing systems and works, as directed by the Agency;

(d) To examine and approve or disapprove all plans and specifications for the construction and operation of (1) new sewage conveyance systems, disposal systems and treatment works, (2) extensions, modifications of or addition as to new or existing sewage conveyance systems, disposal systems or treatment works, (3) extension modifications of or additions to factories, manufacturing establishments or business enterprises, the operation of which could cause a substantial increase in waste discharges or otherwise substantially alter the physical, chemical or biological properties of the waters of the territory and (4) new outlets for the discharge of sewage, industrial wastes or other wastes into any sewage conveyance system or otherwise into the waters of the territory subject to the rules and regulations of the Agency;

(e) To issue, continue in effect, revoke, modify or deny permits to any person for the collection and discharge of sewage and industrial and other wastes under such conditions as the Agency may prescribe;

(f) To advise, consult and cooperate with other agencies of the government of Guam; with the Federal Government and with affected groups, political subdivisions and industries, in the formulation of such comprehensive program;

(g) To collect and disseminate information relating to water pollution and the prevention, control and abatement thereof;

(h) To conduct as the Administrator deems necessary, studies, investigations, research and demonstrations relating to water pollution and the causes, prevention, control and abatement thereof.

§47106. Pollution Unlawful: Permits.

(a) It shall be unlawful for any person to cause the pollution, as defined herein, of any waters of the territory.

(b) It shall be unlawful for any person to construct, install or operate a new sewage conveyance system, disposal systems, or treatment works, extensions, modifications or additions to factories, manufacturing establishments or business enterprises, the operation of which P.L. No. 17-87 could cause a substantial increase in waste discharges to the waters of the territory or otherwise substantially alter the physical, chemical or biological properties of the waters of the territory, or to make or cause to be made any new outlet for the discharge of sewage, industrial waste or other wastes into any sewage conveyance system or into the waters of this territory without first securing such permit as the Administrator may require, including the submission of plans and specifications and such other information as he deems relevant in connection with the issuance of such permits.

(c) No permit shall be issued under this Section for any use in violation of Water Quality Standards adopted under this Act.

§47107. Inspection and Entry.

The Administrator or his duly authorized representative shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to pollution of any waters of the territory.

§47108. Classification and Standards.

In order to effectuate a comprehensive program for the prevention, abatement and control of pollution in the waters of the territory, the Agency is authorized to group such waters into classes in accordance with their present and future most beneficial uses; such classification or

standards may from time to time be altered or modified. Standards of quality and purity for each such classification shall be adopted in relation to the most beneficial use and benefit to which the waters are or may in the future be put; such standards may from time to time be altered or modified.

Before streams are classified or standards established or before such standards are modified or repealed, public hearing by the Agency shall be held in connection therewith. Notice of public hearing for the consideration, adoption of amendment or the classification of waters and the standards of purity and quality thereof shall specify the water concerning which a classification is sought to be made or for which standards are sought to be adopted and the time, date and place of such hearing. Such notice is to be published at least once a week for two (2) consecutive weeks in a newspaper of general circulation and in addition shall be mailed to such other persons as the Agency has reason to believe may be directly affected by such classifications and the settings of such standards.

§47108.1. Designation of Groundwater Protection Zone:

(a) In order to implement measures to protect and preserve the integrity of underground water resources, the Agency shall prepare a groundwater protection zone map which defines those land areas which overlie existing and future groundwater development sites or provide recharge waters thereto. The groundwater protection zone map may from time to time be altered or modified based on new information including but not limited to, subsurface geological investigations, water quality analyses, climatological records, water level measurements, and hydrogeological studies and analyses. The Department of Land Management shall prepare a metes and bounds description of the land area designated the Administrator.

(b) Before the adoption of the groundwater protection zone map by the Agency or before said map is altered or modified, public hearings by the Agency shall be held in connection therewith. Notice of public hearings for the consideration, adoption or modification to the groundwater protection zone map shall indicate the time, date and place for such hearing and shall be published at least once a week for two (2) consecutive weeks in a newspaper of general circulation.

§47109. Enforcement.

(a) Whenever the agency has reason to believe that a violation of any provision of this Act, or rule or regulation pursuant thereto, has occurred, it may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this Act or rule or regulation alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a specified time. Any such order shall become final unless, no later than ten (10) days after the date the notice and order are served, the person or persons named therein request in writing a hearing before the Agency. Upon such a request, the Agency shall hold a hearing. In lieu of an order, the Agency may require that the alleged violator or violators appear before the Agency for a hearing at a time and place specified in the notice and answer the charges complained of, or the Agency may initiate action pursuant to §47111 of this Act.

(b) If, after a hearing held pursuant to subsection (a) of this section, the Agency finds that a violation or violations have occurred, it shall affirm or modify the order previously issued or issue an appropriate order or orders for the prevention, abatement, or control of the pollutions involved or for the taking of such other corrective action as may be appropriate. If, after

hearing on an order contained in a notice, the Agency finds that no violation has occurred or is occurring, it shall rescind the order. Any order issued as part of a notice or after hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating or controlling the pollution.

(c) No later than ten (10) days after the issuance of the final order of the Agency, an appeal to the Superior Court of Guam may be made against any decision of the Agency by any person who is or may be adversely affected thereby.

(d) Nothing in this Act shall prevent the Agency from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

(e) In connection with any hearing held pursuant to this Section, the Agency, or its designate, shall have power to administer oaths, examine witnesses, and issue notices of hearings and subpoenas requiring the testimony of witnesses and the production of evidence relevant to matter involved in the hearing.

471110. Emergency Procedure.

(a) Any other provisions of law to the contrary notwithstanding, if the Administrator finds that a generalized condition of pollution exists, and that it creates an emergency requiring immediate action to protect the intended uses of the water as designated in the Standards of Water Quality for Waters of the Territory of Guam, or to protect human health or safety, the Administrator, with the concurrence of the Governor, shall order persons causing or contributing to the pollution to reduce or discontinue immediately the pollutants, and such order shall fix a place and time, not later than twenty-four (24) hours thereafter, for a hearing to be held before the Agency. Not more than Twenty-four (24) hours after the commencement of such hearing, and without adjournment thereof, the Agency shall affirm, modify or set aside the order of the Administrator.

(b) In the absence of a generalized condition of pollution of the type referred to in subsection (a), but if the Administrator finds that pollutants from the operation of one or more polluting sources is causing imminent danger to the intended uses of the water as designated in the Standards of Water Quality for Waters of the Territory of Guam or is causing imminent danger to human health or safety, he may order the person or persons responsible for the operation or operations in question to reduce or discontinue pollutants immediately, without regard to the provision of subsection (a) of §47109 of this Act. In such event, the requirements for hearing and affirmance, modification or setting aside of orders set forth in subsection (a) of §47110 shall apply.

§47111. Penalties.

(a) Any person who violates any provision of this Act, or any rule or regulation in force pursuant thereto, shall be guilty of misdemeanor and subject on account thereof to a fine of not to exceed one thousand dollars (\$1,000.00). Each day of violation shall constitute a separate offense.

(b) Action pursuant to subsection (a) of this section shall not be a bar to enforcement of this Act, rules and regulations in force pursuant thereto, and orders made pursuant to this act, by injunction or other appropriate remedy, and the Agency shall have power to institute and maintain in the name of this territory any and all such enforcement proceedings. Such proceedings shall be conducted in and by the Superior Court of Guam.

(c) Nothing in this Act shall be construed to abridge, limit, impair, create, enlarge or otherwise affect substantively or procedurally the right of any person to damages or other

relief on account of injury to persons or property and to maintain any action or other appropriate proceeding therefor.

§47112. Assistance by governmental agencies.

The services and facilities of departments, agencies and instrumentalities of the government of Guam may be made available to the Agency in the exercise of its functions to the extent allowed by law."

Section 3. Chapter 48, Title 10 Guam Code Annotated is hereby amended to read as follows:

## "CHAPTER 48

### TOILET FACILITIES AND SEWAGE DISPOSAL

§48101. Definitions.

§48102. Toilet and Sewage Facilities required.

§48103. Maintenance: Responsibility.

§48104. Types of Toilet and Sewage Facilities.

§48105. Approval of Administrator required.

§48106. Location.

§48107. Standards.

§48108. Lining required. [NOTE: The text of this section was not included in P.L. 17-87:3.]

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§48121. Fund.

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§48124. Powers.

[§48125] Expiration of Fund (former GC §57085). NOTE: P.L. 17-87:3 includes the text of this section although it was not included in this table of contents.]

§48101. Definitions.

(a) 'Cesspool' means an excavation which receives or is intended to receive untreated sewage and from which liquid seeps or leaches into the surrounding porous soil.

(b) 'Privy' means a structure and excavation for the disposal of human excreta by non-

water carriage methods and includes the term 'pit privy', 'trench latrine', and 'bored-hole' latrine.

(c) 'Septic Tank' means a water-tight receptacle which receives the discharge of untreated sewage designed and constructed so as to retain solids, digest organic matter through a period of detention, and allows the liquids to discharge into an exterior leaching system.

(d) 'Sewage' includes untreated or insufficiently treated human excreta, food wastes disposed of through sewers, waste water, liquid wastes from residences, commercial buildings, public buildings and P.L. No. 17-87 industrial establishments and such diluting water as may have entered the waste disposal system.

(e) 'Leaching system' means a subsurface system of open-joint or perforated piping where septic tank effluent may seep or leach into the surrounding porous soil.

§48102. Toilet and Sewage Facilities required.

No building shall be occupied or used as a dwelling, school, public building, commercial building, industrial building or place of assembly without toilet and sewage facilities of a type required by this Chapter for the disposition of human excreta and other domestic wastes.

§48103. Maintenance: responsibility.

Toilet and sewage facilities shall be maintained at all times in good repair and in a clean and sanitary condition. The owner of a property is primarily responsible for the structural integrity, good repair and maintenance of toilet and sewage facilities in conformity with the provisions of this Chapter. He is responsible for the replacement of broken or worn-out equipment or parts, and the cleaning of obstructed or broken pipes or drains. The lessee, occupant, or person in possession of property is responsible for keeping such facilities in a clean and sanitary condition.

§48104. Types of Toilet and Sewage Facilities.

(a) The following types of toilet facilities are permitted under the terms and conditions as hereinafter provided:

Type 1: Toilets flushed with water and connected with a public sewer.

Type 2: Toilets flushed with water and connected with a septic tank and leaching system.

Type 3: Privy type, including pit privy, trench latrine and bored-hole latrine.

(b) When a public sewer is available, all buildings used for human occupancy, employment or recreation and situated upon land abutting any road, street, or other way or easement in which a public sewer is located, must have suitable toilet facilities installed and connected to the public sewer, in accordance with the following schedule:

(1) Every such building constructed after the effective date of this Act or after a public sewer becomes available, whichever is later, must include such installation and connection in the construction.

(2) Any such building existing at the time a public sewer first become available and being served only by Type 3 facilities must be provided such installation and connection within six (6) months after the public sewer become available.

(3) Any such building existing at the time a public sewer first becomes available and being served by Type 2 facilities which are entirely adequate and without defect may continue to be served by such existing facilities for a maximum period of five (5) years upon the following conditions.

a. No repairs, replacements or additions of or to such facilities will be permitted.

b. Whenever any such facility become defective or inadequate, connection to the public sewer must be made within thirty (30) days after notice given by the Administrator, who may, however, upon application, extend the time to not more than six (6) months if he finds that the defect or inadequacy is not hazardous to health.

c. Whenever a public sewer becomes available, the Administrator, as soon as possible, shall make or cause to be made an inspection of all Type 2 facilities on lands abutting the road, street, or other way or easement in which such sewer is located and shall promptly notify the persons concerned of his determination of which such facilities may continue to be used as above provided.

d. In situations within the Groundwater Protection Zone where the density of Type 2 facilities exceeds four (4) septic tank and leaching systems per acre and public sewer is available, in order to protect the groundwater, the Administrator has discretion in requiring building owners to connect to the public sewer within six (6) months of being served proper notice.

4. The Administrator may inspect or cause to be inspected any toilet facility at any time and shall make or have made suitable inspections with such frequency as may be necessary to assure compliance with this section.

(c) Where water is available from the Public Utility Agency of Guam, but a public sewer is not available, toilet facilities shall be of Type 2 . This subsection shall apply to all buildings constructed after the effective date of this Act. With respect to buildings in existence on the effective date of this Act, this subsection, shall apply to all such buildings, except dwellings, from and after six (6) months after the effective date of this Act, or after water becomes available, whichever is later, and shall apply to dwellings from and after one (1) year after the effective date of this Act, or after water becomes available, whichever is later, except that this subsection shall not apply to any such existing building where the size of the lot or the soil permeability of the lot, as may be determined by the Administrator, is inadequate and unsuitable for the installation and operation of toilet facilities of Type 2.

(d) In all other cases, toilet facilities shall be of Type 2 or Type 3. In no case shall the construction of new cesspools be allowed after the effective date of this act.

§48105. Approval of Administrator required.

No toilet or sewage facilities or single-family residences, subdivisions, apartments, motels, hotels or other multihousing facilities may be constructed without the approval of the Administrator, or put into operation without his inspection and approval. The Administrator may require any or all the following information before giving such approval:

(1) Plot plan drawn to scale completely dimensioned, showing direction and approximate slope of surface, location of all present or proposed or existing retaining walls, drainage channels, water supply lines or walls, paved areas and structures on the plot and location of the sewage facilities with relation to lot lines and structures.

(2) A description of the complete installation including quality, kind and grade of materials, equipment, construction, workmanship, and methods of assembly and installation.

(3) A log of soil formation and ground water levels as determined by the test holes dug, in accordance with the requirements of the Administrator, at the location of the proposed leaching system.

No building permit or certificate of occupancy under the Building Law of Guam shall be

issued without prior compliance with this section.

§48106. Location.

No septic tank, leaching system, or privy be located within a horizontal distance of three hundred (300) feet of any river, creek, pond, reservoir, stream, well, spring, or body of fresh water, or within a horizontal distance of five (5) feet of the boundary line of any lot, or located in position not easily accessible for emptying or cleaning. No or [sic] septic tank or leaching system shall be constructed, located, or maintained within a horizontal distance of ten (10) feet and no privy shall be constructed, located, or maintained within a horizontal distance of twenty (20) feet, of any dwelling, school, public building, or a building used for commercial or industrial purposes, or as a place of assembly.

Provided, however, that the limitation with regard to location of any privy, septic tank, or leaching system within five (5) feet of the boundary line of any lot shall not apply to any privy, septic tank, or leaching system now so located.

§48107. Standards.

Every privy shall have a substantial and water tight curbing around the top thereof to retain the earth without, and to prevent the seepage of the contents thereof to the surface of the earth. Every [sic] and septic tank shall be provided with a manhole not less than twelve (12) inches or more than eighteen (18) inches in diameter or of equal area for inspection and cleaning purposes.

Section. [Sic. §48108 (former GC §57067) is listed in the contents, P.L. 87:3, but not included in the text.]

§48109. Inspection before covering. No cover shall be placed over any septic tank or privy until diameter, depth and other dimensions of such septic tank, or privy have been inspected and approved by the Administrator, where such inspection and approval are required by this Chapter.

§48110. Additional standards for privies.

Every privy shall be fly-proof and rat-proof, adequately vented, and provided with a suitable shelter. Seats shall have a close-fitting cover. Pits shall be of sufficient depth so that when filled the contents may be covered with a minimum of two (2) feet of earth. During use, fresh deposits of excreta shall be covered with sufficient earth or lime to exclude flies and prevent odors. Pits shall be closed and sealed when the level of excreta reaches within two (2) feet of the earth's surface. A new pit shall be built to replace the old one if other sewage facilities are not available. The Administrator may authorize the proposed location of the new pit and inspect the completed privy prior to use.

§48111. Septic Tanks to be emptied and cleaned.

Septic tanks shall be emptied and cleaned when necessary, or when ordered by the Administrator in the interests of public health, and the contents disposed of in such place and manner as shall be authorized by the Administrator.

§48112. Disposition of Excreta.

Untreated or improperly treated human excreta shall not be deposited into any river, creek, pond, reservoir, stream, well, or spring, or any collection of fresh water, on the surface of the ground, into or upon any public or private sidewalk, path, driveway, alley, street, highway, road, or beach, or any public place.

§48112.1. Ordering of replacement, repair, etc.: procedure.

Any toilet or sewage facilities, sewage disposal system, septic tank, leaching system, or



privy which fails to comply with the provisions of this Chapter, or which has become dangerous to human life or health, shall be replaced, removed, repaired, altered, cleaned, or emptied by the owner of the premises, as may be ordered by the Administrator, so as to comply with the provisions of this Chapter. If the owner of such premises does not comply within fifteen (15) days after service of written notice of such order, upon the request of the Administrator work shall be done by the Department of Public Works, using appropriations of the Agency. The Director of Public Works shall determine a reasonable charge for such work and such amount shall be entered upon the real estate tax duplicate, shall be a lien upon such real estate from the date of entry, and shall be collected in the same manner as real estate taxes.

§48113. Sewer Connection for Underprivileged.

The Chief Officer of the Public Utility Agency of Guam shall connect or cause to be connected without charge, the island-wide sewer system to the residences of all persons for families certified by the Agency to be 'underprivileged' within the guideline established by the Director of Public Health and Social Services.

§48114. Definitions.

As used in §§48114 through 48123 inclusive:

- (a) 'Agency' shall mean the Public Utility Agency of Guam;
- (b) 'Fund' shall mean the Public Utility Agency Wastewater Fund;
- (c) 'Homeowners' shall mean persons owning private single family residences in which they reside;
- (d) 'Adjacent homeowners' shall mean homeowners whose residences are adjacent to and abut a road, street or other way or easement on which a sewer is installed.

§48115. Installation of connecting lines to public sewers.

The Public Utility Agency of Guam is hereby authorized to install or cause to be installed connection lines to public sewers from the residences of adjacent homeowners and subject to the provisions of this Chapter to charge thereof on an installation basis.

Any such adjacent homeowner who, pursuant to the 10 GCA §48104 is required to connect toilet facilities to said forth in such notice a verified application to the Agency for installation of said sewer connection and for repayment of the cost thereof on an installment basis as provided herein.

§48116. Installation of Type 2 facilities.

The Public Utility Agency of Guam is hereby authorized to install or cause to be installed for homeowners Type 2 toilet facilities and to charge therefor on an installment basis subject to the provisions of this Chapter.

Any homeowner who, pursuant to the 10 GCA §48104 is required to install Type 2 toilet facilities, may make application to the Agency for installation of said toilet facilities and for repayment of the cost thereof on an installment basis as provided herein.

§48117. Notice to Homeowners.

The Chief Officer of the Agency or his authorized representative shall inform, by written notice, all adjacent homeowners that said homeowner may make application for installation of connecting lines and payment of the cost thereof on an installment basis as provided in this Chapter. This notice shall be given to such homeowners within thirty (30) days from the date the public sewer first becomes available to them and shall contain a form for making application.

Within ninety (90) days from the effective date of this Act the Public Utility Agency of

Guam shall give the notice provided herein to all such persons who presently own homes abutting a road, street or other way or easement in which a public sewer is currently located, and who have not yet connected their toilet facilities to the sewer.

The Chief Officer of the Agency or his authorized representative shall also inform, by publication of a notice at least once each month for a period of six (6) months in a newspaper of general circulation, all homeowners that they may make application for installation and connection of Type 2 toilet facilities and payment of the cost thereof on an installment basis as provided in this Chapter.

§48118. Application of Homeowners.

The adjacent homeowners desiring to have connecting sewerlines installed by the Public Utility Agency of Guam and to pay therefor on the installment basis shall, within thirty (30) days from receipt of the notice specified in §48117 file application for connection and installment payment with the Agency upon forms provided by the Agency.

§48119. Installment of connecting lines.

The Agency shall install or cause to be installed connections from the residence of each such adjacent homeowner to the public sewer and shall commence such installations as soon as possible in order to comply with the time provisions of §48104 of this Chapter. This work may be done by contractors on public bid pursuant to the provisions of §10001.6 of the Government Code.

If an adjacent homeowner has made application in accordance with the provisions contained herein and within the time provided in §48118, the time limitations contained in §48104 of this Chapter shall be waived while connection lines are being installed by or under the supervision of the Agency.

§48120. Installation of Type 2 toilet facilities.

After the homeowner obtains a permit from the Guam Environmental Protection Agency, the Agency shall install or cause to be installed and connected Type 2 toilet facilities as soon as possible after execution of the installment contract provided for by §48123 of this Chapter. This work may be done by contractors on public bid pursuant to the provisions of §10001.7 of the Government Code.

§48121. Fund.

(a) There is hereby established a fund to be known as the 'Public Utility Agency Wastewater Fund', which fund shall be maintained separate and apart from any other funds of the government of Guam, and independent records shall be maintained in connection therewith.

(b) All monies received by the Agency from homeowners in payment of sewer connection line or Type 2 toilet facilities installation charges shall be deposited with the Treasurer of Guam and credited to the Fund and applied to the account of each homeowner making payment.

(c) All debts, liabilities, obligations, operating expenses and installation costs and expenses arising from the installation of connecting lines or Type 2 toilet facilities pursuant to the provisions of this Chapter are hereby authorized to be paid from said Fund by the Treasurer of Guam upon vouchers properly certified to by the Certifying Office of the Agency.

(d) The Chief Officer of the Agency shall quarterly render to the Governor a statement reflecting the financial condition of the Fund.

§48122. Repayment of Installments.

The cost of the installation of connection lines to the public sewer and of Type 2 toilet facilities shall be borne by each individual homeowners and the cost thereof shall be repaid to the Fund on an installment basis, in equal installments over a period not to exceed four (4) years from the date the sewer connection or the toilet facilities shall have been completed.

§48123. Installment Contract.

The signature of the homeowner, and acceptance by the Public Utility Agency of the application form provided for in §48118 shall constitute a contract between the homeowner and the government of Guam. The contract shall provide for the monthly amount of installment payments to be made thereunder. Payments shall commence within sixty (60) days from the date of completion of the installation and connection of the connecting line or of the Type 2 toilet facilities.

Such contract shall provide for payment of interest to be at the rate of six percent (6%) per annum on the installment amount due and payable. Such contract shall further provide that the entire balance shall become immediately due and payable upon default in the payment of any installment of more than sixty (60) days. If during the duration of any installment contract single family residence is converted into income producing property or a multiple family dwelling, all unpaid installment shall become immediately due and payable. All unpaid installments shall constitute a lien upon the property for which the installation and connection was made. Upon sale of the property by the contracting homeowner, all unpaid installments shall immediately become due and payable, unless the buyer of the property shall, by written agreement with the Public Utility Agency assume such installment contract.

§48124. Powers.

The Guam Environmental Protection Agency shall have the power, duty and responsibility for the operation, administration and enforcement of this Chapter. Such power shall include the authority to make rules and regulations necessary to carry out the provisions contained herein, all in accordance with §21207 of the Government Code of Guam. The Public Utility Agency of Guam shall have the responsibility for operation and administration of carrying out §§48115 through 48123 of this Chapter, shall maintain all the necessary records, and shall have the authority to enforce collection of payments to be made by homeowners hereunder. The Public Utility Agency of Guam shall obtain from the Attorney General approval of the general form of installment contract which is to be entered into by homeowners hereunder, and approval of the general form of the assumption agreement to be entered into hereunder by subsequent purchasers.

§48125. Expiration of Fund.

The Public Utility Agency Wastewater Fund shall expire as of June 30, 1985, after which time, no further advances or grants shall be made. In addition, balances within the Fund at the date shall be returned to the Unappropriated Surplus of the General Fund. Loans outstanding at that date shall be repaid in the manner prescribed by contract, except that payment shall be made to the Treasurer of Guam and deposited in the General Fund account. The Chief Officer of the Public Utility Agency of Guam shall at that time relinquish all records of the Fund to the Director of Administration who shall be responsible for same and collection of loans outstanding."

Section 4. A new 10 GCA §48126 is added to read:

"§48126. Penalties.

(a) Any person who violates any sewage disposal provision of this Chapter, or any rule or

regulation in force pursuant thereto, or who refuses or neglects to comply with any lawful order issued by the Administrator in the carrying out of the provisions of this Chapter, shall be guilty of misdemeanor and subject on account thereof to a fine not to exceed \$1,000. Each day of violation shall constitute a separate offense.

(b) Any penalty imposed pursuant to subsection (a) of this Section shall not be a bar to enforcement of this Chapter or the rules and regulations in force pursuant thereto or orders made pursuant to this Chapter by injunction or other appropriate remedy, and the Agency shall have power to institute and maintain in the name of the territory all such enforcement proceedings.

(c) Nothing in this Section shall be construed to abridge, limit, impair, create, enlarge or otherwise affect substantively or procedurally the right of any person to damages or other relief on account of injury to persons or property or to maintain any action or other appropriate proceeding therefor."

Section 5. Title 10 GCA Chapter 51, (Solid Waste Management and Litter Control) is repealed and a new 10 GCA Chapter 51 is enacted to read:

## "CHAPTER 51

### SOLID WASTE MANAGEMENT AND LITTER CONTROL

#### Article 1. Solid Waste Management

§51101. Findings of Necessity and Declaration of Purpose.

§51102. Definitions.

§51103. Powers and Duties.

§51104. Permits.

§51105. Permit Fees.

§51106. Inspections.

§51107. Notice.

§51108. Hearings.

§51109. Prohibited Activities.

§51110. Injunction.

§51111. Plats.

§51112. Applicability to Government Agencies.

§51113. Penalties.

§51101 Findings of Necessity and Declaration of Purpose.

(a) The people of this territory find:

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

(2) Traditional methods of disposing of solid waste in the Territory are no longer

adequate to meet the ever-increasing problem. Improper methods and practices of handling and disposal of solid wastes pollute our land, air, and water resources, blight our countryside, adversely affect land values and damage the overall quality of our environment.

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

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

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

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

(4) Establish permanent responsibility for long range solid waste management planning with the Guam Environmental Protection Agency. Operational planning necessary for daily activities of the Solid Waste Division shall remain the responsibility of the Department of Public Works. The Guam Environmental Protection Agency shall be responsible to provide technical assistance in Solid Waste Management and shall have the authority to establish such advisory committees as are necessary to carry out the planning and assistance functions. Such committees should be composed of representatives from concerned government agencies, private solid waste operators, educational groups, Federal agencies when applicable, and the public at large;

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

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

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

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

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

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

§51102. Definitions.

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

(1) 'Administrator' shall mean the Administrator of the Guam Environmental

Protection Agency or his designee.

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

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

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

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

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

(7) 'Government' shall mean the Government of Guam.

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

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

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

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

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

(11) 'Performance Bond' shall mean an insurance agreement pledging security for financial loss caused by the act or default performance of a person or by some contingency.

(12) 'Person' shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, or any agency, department or instrumentality of the Federal Government or government of Guam, or any other legal representative, agent or assigns.

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

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

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

(16) 'Resource Recovery' shall mean the act or recycling or reusing materials which

still have useful physical or chemical properties after serving a specific purpose for the same or other purposes.

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

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

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

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

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

(22) 'Solid Waste' shall mean any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material P.L. No. 17-87 resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

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

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

(25) 'Solid Waste Management Practices' shall mean the actions to effectuate the generation, storage, collection, transportation, processing or the ultimate disposal of solid waste.

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

(27) 'Storage' shall mean the interim containment of solid waste in an approved manner.

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

Section 51103. Powers and Duties. (a) The Agency shall have the responsibility to:

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

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

duties under this Chapter;

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

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

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

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

(7) Develop regulation in cooperation with appropriate government agencies, industries and private parties, for the generation, collection, transportation, storage, processing and disposal of hazardous waste, in accordance with the Administrative Adjudication Act;

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

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

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

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

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

(1) Public solid waste collection, transport and disposal. Such collection and disposal service shall be furnished to all villages and urban areas, and may be extended to further areas by administrative action. The Director of Public Works may by regulation prescribe requirements with regard to solid waste containers, and collection of solid and bulky waste. Public sanitary landfills processing or recycling plants as currently exist or may be established by the Solid Waste Management Plan will be operated and maintained by the Department of Public Works. The Director of Public Works, with the approval of the Governor, may execute a contract after public bid with a private party or firm for the



collection and disposal of any solid or bulky waste, or other offensive substances, or separate items thereof including the operation of any processing, recycling or storage plants provided that any employee whose job is adversely affected by any such contract shall be given first preference for any other job for which he qualifies in the government of Guam.

(2) The Department of Public Works shall be responsible for operational and logistic planning for solid and bulky waste management to include collection routing equipment, material and equipment procurement disposal, transfer and storage site operations, processing and recycling plant operations and maintenance, and engineering functions related thereto.

§51104. Permits.

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

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

(c) Each permit application and each permit renewal application shall be submitted with proof of performance bond, in a sum established by the Administrator, payable to the territory and conditioned on the fulfillment by the permit holder of the requirements of this Chapter and the rules and regulations authorized therein. No performance bond required by this Chapter may be cancelled by the issuing company unless the Administrator has received written notice thereof and there has been a lapse of one hundred twenty (120) days between receipt of notice and cancellation date.

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

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

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

§51105. Permit Fees.

Each application for a permit, or renewal application, shall be accompanied by a certified check or money order in the amount prescribed by regulations. All fees required by this section shall be non-returnable and shall be placed in the general fund of the government of Guam.

§51106. Inspections.

The Agency is hereby authorized to inspect all solid waste management facilities at all reasonable times to insure compliance with the laws of the Territory, the provisions of this Chapter and the rules and regulations authorized herein. This authority shall include access to

and authority to copy all records relating to hazardous waste, as well as the authority to obtain samples of any waste handled in the facilities. It shall be unlawful for any person to interfere with such inspections.

§51107. Notice.

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

§51108. Hearings.

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

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

(c) The Board is hereby authorized to administer oaths and to issue subpoenas to compel the attendance of witnesses and the production of evidence in all such hearings. Transcripts may be made by either the Agency or the person appealing.

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

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

§51109. Prohibited Activities.

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

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

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

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

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

(5) Collect, transport, process, or dispose solid waste in such a manner as to degrade the environment, create a public nuisance, create a health or safety hazard, or contrary to this Chapter;

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

(7) Transport any solid waste in any vehicle in any street or highway unless adequate precautions are taken to prevent such solid waste from falling from or being dislodged from such vehicle during such transportation. If any such waste falls from or is dislodged from any such vehicle upon any street, highway, or any other public or private property, it

shall be the obligation of the operator of such vehicle immediately to pick up and remove such waste; and

(8) No person shall destroy or attempt to destroy by burning, except in an incinerator the construction and operation of which is approved by the Administrator, or as may otherwise be authorized by the Administrator, any garbage, dead animals, or other offensive substances the burning of which may give off foul and noisome odors, in, or within one-fourth (1/4) mile of Agana, any village, or any other urban area. Nothing in this section shall preclude the burning of trees, brush, grass and other vegetable matter.

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

§51110. Injunction.

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

§51111. Plats.

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

§51112. Applicability to Government Agencies.

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

§51113. Penalties.

(a) Any person who violates any solid waste management provisions of this Chapter, or any valid solid waste management rules or regulations promulgated under this Chapter, or who refuses or neglects to comply with any lawful order issued by the Administrator in the carrying out of the provisions of this Chapter shall, upon conviction, be guilty of a petty misdemeanor.

(b) Any person who violates any hazardous waste management provisions of this Chapter, or any valid hazardous waste management rules or regulations promulgated under this Chapter, or who refuses or neglects to comply with any lawful order issued by the Administrator in carrying out the provisions of this Chapter shall forfeit and pay the government of Guam a civil penalty of not less than Ten Thousand Dollars (\$10,000) per day for each violation for noncompliance.

(c) Any person who knowingly stores, collects, transports, processes or disposes of hazardous waste in such a manner as to degrade the environment, create a public nuisance or create a health or safety hazard contrary to any of the provisions of this Chapter, upon conviction, shall be imprisoned no less than (6) months or be fined not less than Ten Thousand Dollars (\$10,000) per day for each violation for noncompliance, or both.

(d) Any person who knowingly makes any false statement or representation in any hazardous waste application, label, manifest, record, report, permit or other document filed, maintained, or used for purposes of compliance with the provisions of this Chapter, upon

conviction, shall be imprisoned not less than six (6) months or be fined not less than Ten Thousand Dollars (\$10,000) per day for each violation, or both."

Section 6. 10 GCA Chapter 51, Article 2 is repealed.

Section 7. A new Article 2 is added to 10 GCA Chapter 51 to read as follows:

"Article 2. Litter Control

§51201. Declaration of Purpose.

§51202. Definitions.

§51203. Powers and Duties.

§51204. Litter Control Revolving Fund.

§51205. Prohibited Activities.

§51206. Enforcement.

§51207. Penalties.

§51208. Severability Clause.

§51201. Declaration of Purpose.

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

§51202. Definitions.

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

(a) 'Apprehending Officers' shall mean any designated individual with the Department of Parks and Recreation, the Department of Agriculture, the Guam Environmental Protection Agency, the Department of Public Health and Social Services, the Department of Public Works and all village commissioners and assistant commissioners, any peace officer in the Department of Public Safety and persons making citizens arrests.

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

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

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

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

§51203. Powers and Duties.

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

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

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

§51204. Litter Control Revolving Fund.

There is established a fund to be known as the Litter Control Revolving Fund which shall be maintained separate and apart from any other funds of the government of Guam, and shall be administered by the Administrator. Independent records and accounts shall be maintained in connection therewith. All assessments, fines, bail forfeitures, and other funds collected or received pursuant to this Article shall be deposited in the Litter Control Revolving Fund and used for the administration and implementation of this Article; for education programs and advertisement promotions aimed at increasing awareness of litter problems; and for the clean-up of litter from public highways, streets, alleys, roads, public recreational areas or other public lands that are most visible to the public.

§51205. Prohibited Activities.

(a) It shall be unlawful for any person to willfully or negligently dump, deposit, throw, leave or abandon any litter upon any public highway, street, alley or road, upon public parks or recreation areas or upon any other public property except as designated for such use, or upon property owned by another person without written permission of the owner, or into any bay, channel, harbor, river, creek, stream, reservoir, coastal waters, or other waters of the Territory.

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

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

§51206. Enforcement.

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

§51207. Penalties.

(a) Littering shall be punishable by a fine of not less than Two Hundred Dollars (\$200) nor more than Five Hundred Dollars (\$500) which shall not be suspended by the Court. Additionally, any person convicted under this section may be ordered to pick up and remove litter from a public place under the supervision of the Agency, or as the court shall otherwise provide, for a period not exceeding eight (8) hours for each offense. Furthermore, persons convicted under this section may be required to pay the costs of removing any litter that they caused.

(b) A person charged with a first violation may avoid a court hearing by posting bail in the

amount of the minimum fine or paying such prescribed fine as the Traffic Court Division of the Superior Court shall prescribe.

§51208. Severability Clause.

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

Section 8. Title 9 GCA §55.35 is amended to read as follows:

"A person is guilty of a misdemeanor when, with intent to prevent or delay the arrest of himself or another person by one whom he knows or reasonably should know to be a peace officer acting in an official capacity, he prevents or delays that arrest by the use or threat of force or by physical obstruction. For purposes of this section, a peace officer shall include apprehending officers designated under Article 2 of 10 GCA Chapter 51, as well as peace officers as defined under 9 GCA §1.70."