



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY
 ACKNOWLEDGMENT RECEIPT
 Received By Jaleffi
 Time 11:14
 Date 12/6/95

DEC 06 1995

The Honorable Ted S. Nelson
 Acting Speaker
 Twenty-Third Guam Legislature
 Guam Legislature Temporary Building
 155 Hesler Street
 Agana, Guam 96910

Office of
 VICE-SPEAKER TED S. NELSON
 Received by
Bobbi bee
 Print Name Initial
 Date: 12-6-95 Time: 10:22

Dear Speaker Nelson:

Enclosed please find a copy of Substitute Bill No. 282 (LS), "AN ACT TO REPEAL AND REENACT THE SOLID AND HAZARDOUS WASTE MANAGEMENT AND LITTER CONTROL ACT (10 GCA CHAPTER 51)", which I have signed into law today as **Public Law No. 23-64**.

The Guam Environmental Protection Agency, the USEPA Region IX, and the Attorney General submitted a bill to the Legislature addressing this subject, and it was introduced as Bill No. 280. Substitute Bill No. 282 is different from that version submitted by the Administration. Substitute Bill No. 282 contains some problem areas:

- 1) §51101 (b)(10) deletes the term "hazardous waste". Although "hazardous waste" is later defined as a type of "solid waste", the Guam Environmental Protection Agency has the intent to establish an effective enforcement system to prevent the improper disposal of hazardous waste as well as solid waste and this should be so stated
- 2) §51104, Section 1, page 12, combines renewal requirements for solid waste permits and hazardous waste permits within the same section, thereby causing confusion in those who must follow the law or apply it.
- 3) §51106, Section 1, page 14, provides that interfering with inspections is a misdemeanor. That same section also provides, somewhat inconsistently, that interfering with inspections shall also be subject to civil penalties. This §51106 also contains an incorrect citation. The references to

§51114(b) and §51114(d) should read §51115(b) and §51115(d), respectively.

4) §51107, Section 1, page 14, combines permit fees and inspection fees. These are separate activities, however, and Guam Environmental Protection Agency could charge for these activities separately to cover the costs of the Agency.

Because Guam law is not in conformity with federal requirements at this time, this bill is signed into law as a measure of expediency. Any further amendments needed to bring this law into further conformity with federal requirements and to provide for the closure of the Ordot Landfill and the siting and construction of a new sanitary landfill that complies with all of the requirements of USEPA will have to come subsequent to this enactment.

Very truly yours,


Carl T. C. Gutierrez

Attachment

230896

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 282 (LS), "AN ACT TO REPEAL AND REENACT THE SOLID AND HAZARDOUS WASTE MANAGEMENT AND LITTER CONTROL ACT (10 GCA CHAPTER 51)," was on the 23rd day of November, 1995, duly and regularly passed.



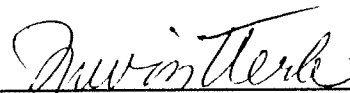
DON PARKINSON
Speaker

Attested:



JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this 29th day of November,
1995, at 4:50 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: 12-5-95

Public Law No. 23-64

1 **SOLID WASTE MANAGEMENT AND LITTER CONTROL**

2 Article 1. Solid Waste Management

3 Article 2. Litter Control

4 Article 3. Annual Contract for Scrap Removal

5 **Article 1**

6 **Solid Waste Management**

7 §51101. Findings of Necessity and Declaration of Purposes

8 §51102. Definitions

9 §51103. Powers and Duties

10 §51104. Permits

11 §51105. Permit Fees

12 §51106. Inspections

13 §51107. Inspection Fees

14 §51108 Notice

15 §51109. Hearings

16 § 51110. Prohibited Solid Waste Activities

17 §51111. Prohibited Hazardous Waste Activities

18 §51112. Injunction

19 §51113. Plats

20 §51114. Applicability to Government Agencies

21 §51115. Penalties

22 §51116. Citizen's Suits

23 §51117. Solid Waste Management Fund

24 **§51101. Findings of Necessity and Declaration of Purposes.** (a) The
25 people of this Territory find:

26 (1) Continuing technological changes in methods of packaging
27 and marketing of consumer products, together with the economic and

1 population growth of the Territory, the rising affluence of its citizens, and its
2 expanding industrial activity have created new and ever mounting problems
3 involving disposal of garbage, refuse, and solid waste materials resulting
4 from domestic, commercial, agricultural, institutional and industrial
5 activities.

6 (2) Traditional methods of disposing of solid waste in the
7 Territory are no longer adequate to meet the ever-increasing problem.
8 Improper methods and practices of handling and disposal of solid wastes
9 pollute our land, air and water resources, blight our countryside, adversely
10 affect land values and damage the overall quality of our environment.

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

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

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

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

23 (4) Establish permanent responsibility for long range solid
24 waste management planning with the Guam Environmental Protection
25 Agency. Operational planning necessary for daily activities of the Solid
26 Waste Division shall remain the responsibility of the Department of Public
27 Works. The Guam Environmental Protection Agency shall be responsible to

1 provide technical assistance in solid waste management and shall have the
2 authority to establish such advisory committees as are necessary to carry out
3 the planning and assistance functions. Such committees should be composed
4 of representatives from concerned government agencies, private solid waste
5 operators, educational groups, federal agencies when applicable, and the
6 public at large;

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

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

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

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

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

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

1 **§51102. Definitions.** For the purpose of this Chapter, the following
2 words and phrases shall have the meaning given herein unless their use in the
3 text of the Chapter clearly demonstrates a different meaning.

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

6 (2) **Agency** shall mean the Guam Environmental Protection
7 Agency.

8 (3) **Board** shall mean the Board of Directors of the Guam
9 Environmental Protection Agency.

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

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

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

19 (7) **Financial Assurance** shall mean a financial guarantee
20 assuring that funds are available to pay for closure of a solid waste
21 management facility, rendering post-closure at a solid waste management
22 facility, and to compensate third parties for bodily injury and property
23 damage caused by sudden and non-sudden accidents related to the operation
24 of a solid waste management facility.

25 (8) **Government** shall mean the government of Guam.

26 (9) **Hardfill** shall mean a method of compaction and earth cover
27 of solid wastes other than those containing garbage or other putrescible

1 (putrescent) waste, including, but not limited to, tree limbs and stumps,
2 demolition material, and like materials not constituting a health or nuisance
3 hazard, where cover need not be applied on a per day used basis.

4 (10) **Hazardous Waste** shall mean a solid waste, or combination
5 of solid wastes, which because of its quantity, concentration, or physical,
6 chemical, or infectious characteristics may:

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

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

13 (11) **Highway** means the entire width between the boundary
14 lines of every right-of-way or publicly maintained travel ways when any part
15 thereof is opened to the use of the public for purposes of vehicular travel.

16 (12) **Incinerator** shall mean an enclosed device using controlled
17 flame combustion, the primary purpose of which is to thermally break down
18 solid waste.

19 (13) **Person** shall mean any individual, partnership, co-
20 partnership, firm, company, trust, estate, or any agency, department of
21 instrumentality of the Federal Government or Government of Guam, or any
22 other legal representative, agent or assigns.

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

26 (15) **Public Nuisance** shall anything which is dangerous to life,
27 injurious to health, or renders soil, or water or food impure or unwholesome.

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

9 (17) **Resource Recovery** shall mean the act of recycling or reusing
10 materials which still have useful physical or chemical properties after serving
11 a specific purpose for the same or other purposes.

12 (18) **Recycling** shall mean the process by which recovered
13 resources are transformed into new products in such a manner that products
14 lose their identity.

15 (19) **Reusing** shall mean the reintroduction of a commodity in the
16 economic stream without any change.

17 (20) **Sanitary Landfill** shall mean an approved site where solid
18 waste is disposed using sanitary landfilling techniques.

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

24 (22) **Separation** shall mean the systematic division of solid waste
25 into designated components.

26 (23) **Solid Waste** shall mean any garbage, refuse, sludge from a
27 waste treatment plant, water supply treatment plant, or air pollution control

1 facility and other discarded and/or spilled materials, including solid, liquid,
2 semisolid, or contained gaseous material resulting from industrial,
3 commercial, mining, and agricultural operations, and from community
4 activities, but does not include solid or dissolved material in domestic sewage,
5 or solid or dissolved materials in irrigation return flows or industrial
6 discharges which are point sources subject to permits under Section 402 of the
7 Federal Water Pollution Control Act, as amended (86 Stat. 880), or source,
8 special nuclear, or byproduct materials as defined by the Atomic Energy Act of
9 1954, as amended (68 Stat. 923).

10 (24) **Solid Waste Management** shall mean the purposeful,
11 systematic control of the generation, storage, collection, transportation,
12 separation, processing, recovery and disposal of solid waste.

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

17 (26) **Solid Waste Management Practices** shall mean the actions
18 to effectuate the generation, storage, collection, transportation, processing
19 or the ultimate disposal of solid waste.

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

24 (28) **Storage** shall mean the interim containment of solid waste
25 in approved manner.

1 (29) **Territorial Solid Waste Management Plan** shall mean a
2 comprehensive plan and all amendments and revisions thereto for provisions
3 of solid waste management throughout the Territory.

4 (30) **Transfer Station** shall mean any intermediate waste facility
5 in which solid waste collected from any source is temporarily deposited and
6 stored while awaiting transportation to another solid waste management
7 facility.

8 **§51103. Power and Duties.** (a) The Agency shall have the responsibility
9 to:

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

12 (2) Provide technical assistance to local and federal agencies,
13 and other persons, and cooperate with appropriate local agencies and
14 private organizations in carrying out the duties under this Chapter;

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

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

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

25 (6) Survey the solid waste management practices within the
26 territory and prepare a solid waste management plan; such plan to include
27 but not necessarily be limited to the development, investigation and research,

1 including the preparation of legislative action as may be required for new
2 disposal sites, processes, recycling facilities or methods. The plan shall be
3 revised at least every five (5) years, or sooner as needed;

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

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

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

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

23 (11) Prepare, adopt, promulgate, modify, update, repeal, and
24 enforce such other rules and regulations as may be necessary to establish a
25 hazardous waste program which may be at least equivalent to or more
26 stringent, or broader in scope than the requirements of Section 3006 of the

1 Federal Resource Conservation and Recovery Act (42 U.S.C. 6926, et seq.)
2 and regulations promulgated pursuant thereto.

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

4 (1) Public solid waste collection, transport and disposal. Such
5 collection and disposal services shall be furnished to all villages and urban
6 areas, and may be extended to further areas by administrative action. The
7 Director of Public Works may by regulation prescribe requirements with
8 regards to solid waste containers, and collection of solid and bulky waste.
9 Public sanitary landfills, hardfills, transfer stations, processing or recycling
10 plants as currently exist or may be established will be operated and
11 maintained by the Department of Public Works. The Director of Public Works,
12 with the approval of the Governor, may execute a contract after public bid
13 with a private party or firm for the collection and disposal of any solid or
14 bulky waste, or other offensive substances, or separate items thereof
15 including the operation of any sanitary landfill, hardfill, transfer station,
16 processing, recycling, or storage plant which is publicly owned provided that
17 any employee whose job is adversely affected by any such contract shall be
18 given first preference for any other job for which he qualifies in the
19 Government of Guam.

20 (2) Operational and logistic planning for solid and bulky waste
21 management to include collection, routing equipment, material and
22 equipment procurement disposal, transfer and storage site operations,
23 processing and recycling plant operations and maintenance, and engineering
24 functions related thereto. The Director of Public Works is authorized to
25 negotiate for and approve contracts for recycling and composting at the
26 Order Landfill, or at any other site approved by the Guam Environmental
27 Protection Agency, under the following procedures: The Director, after duly

1 advertising for a request for proposals for the removal or composting of
2 recyclable materials from the landfill, shall enter into a contract with any
3 interested business organization, either local or off island, to collect and
4 recycle or compost such materials.

5 The successful bidder or bidders shall not be charged for the materials. The
6 Department may assist successful bidders in collecting storage batteries and
7 waste oil which are to be found in the various villages of Guam.

8 **§51104. Permits.** (a) The Administrator is hereby authorized and
9 directed to issue permits for solid waste management facilities and
10 hazardous waste management facilities, including design, operation,
11 maintenance, substantial alteration, modification or enlargement. All such
12 permits shall be non-transferable and conditioned upon the observance of the
13 laws of the territory and rules and regulations authorized herein.

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

19 (c) Each permit application and each permit renewal application
20 shall be submitted with proof of financial assurance, of a type and in a sum
21 established by the Administrator conditioned on the fulfillment by the permit
22 holder of the requirements of this Chapter and the rules and regulations
23 authorized therein. No financial assurance mechanism required under this
24 Chapter may be canceled by the guarantor unless the Administrator has
25 received written notice thereof and there has been a lapse of one hundred
26 twenty (120) days between receipt of notice and cancellation date.

1 (d) Before issuing a solid waste management permit to any person
2 with respect to any facility for the incineration, recycling, or disposal of solid
3 waste, the Administrator shall:

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

7 (2) If, within forty-five (45) days after publication and
8 broadcast, the Agency receives written notice of opposition to the Agency's
9 intention to issue such permit and a request for a hearing is made, the Agency
10 shall provide for a hearing in accordance with the Administrative
11 Adjudication Act if requested by a substantially affected party.

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

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

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

24 **§51105. Permit Fees.** Each application for a permit, or renewal
25 application, shall be accompanied by a certified check or money order in the
26 amount prescribed by regulations. All fees required by the section shall be

1 non-returnable and shall be placed in the revolving fund established under
2 Section 51117 of this Chapter.

3 **§51106. Inspections.** The Agency is hereby authorized to inspect all solid
4 waste management facilities and hazardous waste management facilities at
5 all reasonable times to insure compliance with the laws of the Territory, the
6 provisions of this Chapter and the rules and regulations authorized herein.
7 This authority shall include access to and authority to copy all records
8 relating to hazardous waste, as well as the authority to obtain samples of any
9 waste handled in the facilities. It shall be a misdemeanor for any person to
10 interfere with such inspections. It shall also constitute a violation of
11 Prohibited Solid Waste Activities and Prohibited Hazardous Waste Activities
12 and shall carry the Solid Waste Civil Penalties and Hazardous Waste Civil
13 Penalties as set forth respectively in §51114(b) and §51114(d) below.

14 **§51107. Inspection Fees.** The Agency is hereby authorized to include as
15 part of permit fees under §51105, fees for inspections conducted of all solid
16 waste management facilities, hazardous waste treatment, storage and
17 disposal facilities, hazardous waste transporters, generators of hazardous
18 waste, waste oil generators, recyclers, marketers, brokers and all other waste
19 oil facilities including boilers and industrial furnaces as well as waste to
20 energy facilities.

21 **§51108. Notice.** Any notice, order or other official correspondence
22 affecting the rights of any person under this Chapter shall be delivered by
23 personal service or sent by registered or certified mail with a return receipt to
24 the address of such person as shown by the records of the Agency. The return
25 receipt, signed by the addressee, or his agent, shall be conclusive proof of
26 delivery.

1 **§51109. Hearings.** (a) Any person who received an order from the
2 Administrator as authorized by this Chapter and any person whose permit
3 application is disapproved by the Administrator may, within fifteen (15) days
4 of the date of receipt of such order or disapproval, file a Notice of Intent to
5 appeal with the Board, setting forth in such Notice a verified petition
6 outlining the legal and factual basis for such appeal.

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

11 (c) The **Agency** is hereby authorized to administer oaths, examine
12 witnesses and issue subpoenas to compel the attendance of witnesses and the
13 production of evidence relevant to the matter involved in the hearing.

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

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

22 **§51110. Prohibited Solid Waste Activities.** (a) It shall be unlawful for
23 any person to:

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

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

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

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

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

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

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

16 (8) No person shall destroy or attempt to destroy by burning,
17 except in an incinerator the construction and operation of which is approved
18 by the Administrator, or as may otherwise be authorized by the
19 Administrator, any garbage, dead animals, or other offensive substances, the
20 burning of which may give off foul and noisome odor. Nothing in this Section
21 shall preclude the burning of trees, brush, grass and other vegetable matter
22 authorized by the Administrator.

23 (b) Each day of continued violation of this section or the provisions of
24 this Chapter or rules and regulations authorized herein shall be deemed a
25 separate offense or violation.

26 **§51111. Prohibited Hazardous Waste Activities.** (a) It shall be unlawful
27 for any person to:

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

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

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

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

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

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

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

22 **§51112. Injunction.** The Agency shall maintain an action to restrain any
23 violation or threatened violation of the provisions of this Chapter or the rules
24 and regulations authorized herein. Such right to injunctive relief is in
25 addition to any other powers or penalties conferred by this Chapter.

26 **§51113. Plats.** All persons operating a sanitary landfill, hardfill, or
27 other approved disposal site under permits issued pursuant to this Chapter

1 shall, upon completion of the sanitary landfill or hardfill, file with the
2 Department of Land Management and the Building Permit Section of the
3 Department of Public Works, a plat of each site, together with a description of
4 the waste placed therein and in conformance with rules and regulations
5 adopted pursuant to §51103(a)(8) of this Chapter.

6 **§51114. Applicability to Government Agencies.** Government agencies
7 shall comply with all provisions of this Chapter including planning, review,
8 and permit requirements, with the exception of §51104(c). Government
9 agencies may contract with any person to carry out their responsibilities
10 under this Chapter. Such contractors shall also comply with the provisions of
11 this Chapter.

12 **§51115. Penalties.** (a) **Solid Waste-Criminal Penalties.** Any person
13 who knowingly violates any solid waste management provision of this
14 Chapter, or any valid solid waste management rule or regulation
15 promulgated under this Chapter, or who refuses or neglects to comply with
16 any lawful order issued by the Administrator in carrying out the provisions of
17 this Chapter shall, upon conviction, be imprisoned for a term of not more
18 than one (1) year, and/or be fined not more than \$1,000 per day for each
19 violation or noncompliance, and shall make restitution.

20 (b) **Solid Waste-Civil Penalties.** Any person who violates any solid
21 waste management provision of this Chapter, or any valid solid waste
22 management rule or regulation promulgated under this Chapter, or who
23 refuses or neglects to comply with any lawful order issued by the
24 Administrator in carrying out the provisions of this Chapter shall, in addition
25 to clean-up costs and other damages, forfeit and pay a civil penalty of not
26 more than \$1,000 per day for each violation or noncompliance.

1 (c) Hazardous Waste-Criminal Penalties. Any person who
2 knowingly violates any hazardous waste management provisions of this
3 Chapter, or any valid hazardous waste management rule or regulation
4 promulgated under this Chapter, or who refuses or neglects to comply with
5 any lawful order issued by the Administrator in carrying out the provisions of
6 this Chapter shall be guilty upon conviction of a felony of the third degree,
7 and be fined not less than \$10,000 per day for each violation and/or
8 noncompliance, and shall make restitution.

9 (d) Hazardous Waste-Civil Penalties. Any person who violates any
10 hazardous waste management provision of this Chapter, or any valid
11 hazardous waste management rule or regulation promulgated under this
12 Chapter, or who refuses or neglects to comply with any lawful order issued
13 by the Administrator in carrying out the provisions of this Chapter shall, in
14 addition to clean-up costs and other damages, forfeit and pay a civil penalty
15 of not less than \$10,000 per day for each violation or noncompliance.

16 (e) Administrative Penalties. In addition to any other administrative
17 or judicial remedy provided by this Chapter, or by rules adopted under this
18 Chapter, the Administrator is authorized to impose by order the penalties
19 specified in §51115(b) and (d) respectively. Factors to be considered in
20 imposing an administrative penalty include the nature and history of the
21 violation and of any prior violations, and the opportunity, difficulty, and
22 history of corrective action. It is presumed that the violator's economic and
23 financial conditions allow payment of the penalty, and the burden of proof to
24 the contrary is on the violator. In any proceeding to recover the civil penalty
25 imposed, the Administrator need only show that notice was given, a hearing
26 was held or the time granted for requesting a hearing has expired without

1 such a request, the civil penalty was imposed, and that the penalty remains
2 unpaid.

3 **§51116. Citizen's Suits.** (a) Any person may commence a civil action on
4 his behalf:

5 (1) Against any person (including the United States, and any
6 other governmental instrumentality or agency, to the extent permitted by
7 law) who is alleged to be in violation of any permit, standard, regulation,
8 condition, requirement, prohibition, or order which has become effective
9 pursuant to this Chapter; or

10 (2) Against any person, including the United States, and any
11 other governmental instrumentality or agency, to the extent permitted by
12 law, and including any past or present generator, past or present transporter,
13 or past or present owner or operator of a treatment, storage, or disposal
14 facility, who has contributed or who is contributing to the past or present
15 handling, storage, treatment, transportation, or disposal of any solid or
16 hazardous waste which may present an imminent and substantial
17 endangerment to health or the environment; or

18 (3) Against the Administrator where there is alleged a failure of
19 the Administrator to perform any duty under this Chapter which is not
20 discretionary with the Administrator.

21 Any action under paragraph (a)(1), (a)(2), or (a)(3) of this Section shall
22 be brought in the Superior Court of Guam. The Superior Court shall have
23 jurisdiction, without regard to the amount in controversy or the citizenship of
24 the parties, to enforce the permit, standard, regulation, condition,
25 requirement, prohibition, or order referred to in paragraph (a)(1), to restrain
26 any person who has contributed or is contributing to the past or present
27 handling, storage, treatment, transportation, or disposal of any solid or

1 hazardous waste referred to in paragraph (a)(2), to order such person to take
2 such further action as may be necessary, or both, or to order the
3 Administrator to perform the act or duty referred to in paragraph (a)(3), as
4 the case may be, and to apply any appropriate civil penalties under §51115(b)
5 and (d). No bond shall be required for issuance of an injunction or temporary
6 injunction after a duly noticed hearing.

7 (b) Except for injunctive relief, no action may be commenced under
8 subsection (a)(1) or (a)(2) of this Section:

9 (1) Prior to ninety (90) days after the plaintiff has given notice
10 of the violation or endangerment to (i) the Administrator; (ii) the government
11 of Guam; and (iii) to any alleged violator of such permit, standard,
12 regulation, condition, requirement, prohibition, or order referred in
13 subsection (a)(1) of this Section if applicable or to any person alleged to have
14 contributed or to be contributing to the past or present handling, storage,
15 treatment, transportation, or disposal of any solid or hazardous waste
16 referred to in subsection (a)(2) of this Section if applicable.

17 (2) Except for injunctive relief, if the Administrator or
18 government of Guam has commenced and is diligently prosecuting a civil or
19 criminal action to require compliance with such permit, standard, regulation,
20 condition, requirement, prohibition, or order pursuant to subsection (a)(1) of
21 this Section or if the Administrator or government of Guam, in order to
22 restrain or abate acts or conditions which may have contributed or are
23 contributing to the activities which may present the alleged endangerment
24 under subsection (a)(2) of this Section has commenced and is diligently
25 prosecuting an action under local law or under the Comprehensive
26 Environmental Response, Compensation and Liability Act (CERCLA) or is
27 actually engaging in a removal action under CERCLA or has incurred cost to

1 initiate a remedial Investigation and Feasibility Study under CERCLA and is
2 diligently proceeding with a remedial action.

3 (c) Except for injunctive relief, no action may be commenced under
4 subsection (a)(3) of this Section prior to sixty (60) days after the plaintiff has
5 given notice to the Administrator and the government of Guam in which the
6 failure has occurred that he will commence such action.

7 **§51117. Solid Waste Management Fund.** There is established a non
8 lapsing, revolving fund, hereafter referred to as the "Solid Waste
9 Management Fund" which shall be maintained separate and apart from any
10 other funds of the Government of Guam, and shall be administered by the
11 Administrator. Independent records and accounts shall be maintained in
12 connection therewith. All fees, reimbursements, assessments, fines, bail
13 forfeitures, and other funds collected or received pursuant to this Article shall
14 be deposited in this Fund and used for the administration and implementation
15 of this Article, including purchase of equipment and payment of personnel
16 costs of the Agency.

17 **Article 2**

18 **Litter Control**

- 19 §51201. Declaration of Purpose
20 §51202. Definitions
21 §51203. Powers and Duties
22 §51204. Litter Control Revolving Fund
23 §51205. Prohibited Activities
24 §51206. Enforcement
25 §51207. Penalties
26 §51208. Severability Clause

1 **§51201. Declaration of Purpose.** It is hereby declared to be the purpose
2 of this Article to define and prescribe procedures pertaining to littering, and
3 to provide authority for the regulation of littering in order to enhance the
4 environment for the people of Guam.

5 **§51202. Definitions.** For the purpose of this Article, the following
6 words shall have the meaning given herein unless their use in the text clearly
7 demonstrates a different meaning:

8 (a) **Apprehending Officers** shall mean any designated individual with
9 the Department of Parks and Recreation, the Department of Agriculture, the
10 Guam Environmental Protection Agency, the Department of Public Health
11 and Social Services, the Department of Public Works, all village mayors and
12 assistant mayors, and any peace officer in the Guam Police Department.

13 (b) **Litter** shall mean discarded, used or leftover solid materials,
14 including but not limited to garbage, trash, rubbish, refuse, paper, containers,
15 bulky metallic waste, packing or construction materials or carcasses of dead
16 animals.

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

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

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

26 **§51203. Power and Duties.** (a) The Administrator of the Guam
27 Environmental Protection Agency, in consultation with the Attorney

1 General's Office, is empowered to prescribe and amend such rules and
2 procedures as are necessary for the efficient implementation of this Article.

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

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

7 **§51204. Litter Control Revolving Fund.** There is established a fund to
8 be known as the Litter Control Revolving Fund which shall be maintained
9 separate and apart from any other fund of the Government of Guam and
10 shall be administered by the Administrator. Independent records and
11 accounts shall be maintained in connection therewith. Except as provided in
12 §40115 of Title 5, Guam Code Annotated, 50 percent (50%) of all assessments,
13 fines, bail forfeitures and other funds collected or received pursuant to this
14 Article shall be deposited in the Litter Control Revolving Fund and used for
15 the administration and implementation of this Article; for education
16 programs and advertisement promotions aimed at increasing awareness of
17 litter and defacement problems; for the placement of anti-litter and anti-
18 graffiti signs around the island; and for the cleanup of litter and defacement
19 from public highways, streets, alleys, roads, bridges, buildings, signs,
20 restrooms, public recreational areas or other public lands that are most
21 visible to the public, and 50 percent (50%) shall be deposited in the Guam
22 Beautification Fund as provided in 21 GCA §77114.1.

23 **§51205. Prohibited Activities.** (a) It shall be unlawful for any person to
24 willfully or negligently dump, deposit, throw, leave or abandon any litter
25 upon any public highway, street, alley or road, upon public parks or
26 recreation areas or upon any other public property except as designated for
27 such use, or upon property owned by another person without written

1 permission of the owner, or into any bay, channel, harbor, river, creek,
2 stream, reservoir, coastal waters, or other waters of the Territory.

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

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

18 **§51206. Enforcement.** Any person apprehended for violation of any of
19 the above prohibitions shall be served by the apprehending officer with a
20 citation and an order to appear at the Traffic Court Division of the Superior
21 Court of Guam for prosecution. Parents or legal guardians will assume all
22 responsibility for any violations of this Chapter committed by any minors
23 under their care.

24 **§51207. Penalties.** (a) Littering shall be punishable by a fine of not less
25 than \$500 nor more than \$1,000 which shall not be suspended by the Court.
26 Additionally, any person convicted under this Section for a second or
27 subsequent litter offense shall be required by the Court to pick up and remove

1 litter from a public place under the supervision of the Agency, or as the Court
2 shall otherwise provide for a period not less than 8 hours for each offense.
3 Furthermore, persons convicted under this Section may be required to pay the
4 costs of removing any litter that they caused.

5 (b) A person charged with a first violation may avoid a court hearing
6 by posting bail in the amount of the minimum fine or paying such prescribed
7 fine as the Traffic Court Division of the Superior Court shall prescribe.

8 **§51208. Severability Clause.** The provisions of this Chapter are
9 severable and if any provision or part thereof shall be held invalid or
10 unconstitutional or inapplicable to any person or circumstances, such
11 invalidity, unconstitutionality or inapplicability shall not affect or impair the
12 remaining provisions of this Chapter.

13 **Article 3**

14 **Annual Contract for Scrap Removal**

15 **§51301. Contract to Remove Scrap**

16 **§51302. Yearly Contract**

17 **§51303. Environmental Impact Study**

18 **§51304. Conformity to Waste Removal Regulations**

19 **§51301. Contract to Remove Scrap.** The Director of Public Works, after
20 duly advertising for a request for proposals for the removal of scrap metal,
21 shall enter into a contract with any interested business organization, either
22 local or off-island, to collect and remove from Guam scrap metal. The
23 successful offeror may not be charged for the scrap metal but may post a one
24 hundred thousand dollars (\$100,000) performance bond to assure its
25 completion of the removal project within twelve (12) months from receiving
26 from the Director a Notice to Proceed. "Scrap Metal" for the purpose of this
27 Article means abandoned vehicles and other abandoned metal implements of

1 which the Department of Public Works has jurisdiction and the right to
2 dispose. In so disposing of such scrap metal, the Director shall not charge any
3 fees to the owner of the same.

4 **§51302. Annual Contract.** The Director shall advertise for and execute
5 such a contract each year with any qualified party on the same terms as are
6 set out in §51301 of this Article.

7 **§51303. Environmental Impact Study.** The Guam Environmental
8 Protection Agency (GEPA) shall annually cause an environmental impact
9 study to be undertaken by the successful offeror to ensure that there are no
10 potential adverse ecological damage to aquifers caused by the annual scrap
11 removal contract.

12 **§51304. Conformity to Waste Removal Regulations.** The successful
13 offeror shall perform all work under this Article in compliance with applicable
14 rules and regulations of GEPA on the removal of scrap metal and hazardous
15 waste. As a minimum, the Department of Public Works Director shall ensure
16 that all successful offerors include as part of their processing, an intake
17 system to screen and remove batteries and other potentially hazardous
18 residual material including, engine oil, hydraulic fluids and coolant and freon
19 from air conditioning units.”

VOTING SHEET

Bill No. 282

Resolution No. _____

Question: on the passage

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.				✓
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C				✓
CRISTOBAL, Hope A.				✓
FORBES, -MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou				✓
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C				✓
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.				✓
UNPINGCO, Antonio R.				✓
WONPAT-BORJA, Judith				✓

TOTAL

13 0 0 8

CERTIFIED TRUE AND CORRECT:

Recording Secretary



TWENTY-THIRD GUAM LEGISLATURE
SENATOR ANTHONY C. BLAZ
Republican Co-Leader

155 Hesler Street • Agaña, Guam 96910 • Tel: (671) 472-3557-9 • Fax: (671) 472-3562

LEGISLATIVE
COMMITTEE
MEMBERSHIP

November 17, 1995

Rules

Speaker Don Parkinson

Ways & Means

Twenty-Third Guam Legislature

Economic &
Agricultural
Development &
Insurance

155 Hesler St.

Agana, Guam 96910

Water, Utilities &
Electronic
Communications

Dear Mr. Speaker:

Electrical Power
& Consumer
Protection

The hearing officer whom preceded over the public hearing on substitute Bill 282, wishes to report back to the Legislature with my recommendation to pass Parity/ Fair Play

Federal & Foreign
Affairs

Bill 282, "AN ACT TO REPEAL AND REENACT 10 GCA CHAPTER 51, RELATIVE TO SOLID AND HAZARDOUS WASTE MANAGEMENT AND LITTER CONTROL".

General
Governmental
Operations & M.A.

Copies of the Committee Report and other pertinent documents are attached.

Judiciary &
Criminal Justice

Your attention to this matter is greatly appreciated.

Health, Ecology
& Welfare

Ethics &
Standards


ANTHONY C. BLAZ

Housing &
Community
Development

Attachments

HEARING OFFICER REPORT ON SUBSTITUTE BILL NO. 282

Substitute Bill No. 282 - AN ACT TO REPEAL AND REENACT 10 GCA CHAPTER 51, RELATIVE TO SOLID AND HAZARDOUS WASTE MANAGEMENT AND LITTER CONTROL.

PREFACE

The Hearing Officer on Rules convened at 6:00 p.m. Thursday, November 17, 1995 in the Legislature's Public Hearing Room in Agana, Guam.

Alongside Chairman Sonny Lujan Orsini was Speaker Don Parkinson, and Senators Tony C. Blaz, and Joanne M.S. Brown.

Substitute Bill 282 has been designated by the minority caucus as the ever first parity/fair play bill on September 12, 1995.

In accordance with Rule 7.11.03 of the Standing Rules, Bill 282 shall have a Public Hearing and reported out by the oversight Hearing Officer within 60 **after** the date of designation. Since Bill 282 had not received a public hearing within the required time, the bill was automatically referred to the Hearing Officer on Rules for action within 45 days. (attachment)

In accordance with the above rule, the minority leader (Sen. Tony Blaz) is the designated hearing officer of said hearing.

OVERVIEW

This bill is a necessary amendment to current law that if passed would meet U.S. EPA requirements. It is imperative that Guam implement laws in compliance with federal standards as we prepare to locate an alternative site for the local landfill than the current Ordot Landfill.

Substitute Bill 282 would increase penalties for those in violation of permit standards.

HEARING OFFICER FINDINGS

Mr. Richard B. Cherry, General Manager of Guahan Waste Control testified before the Hearing Officer in favor of Bill 282. Noting that Guam is experiencing a crisis in the area of waste control, it is imminent that the legislature pass bill 282 as expeditiously as possible.

There is approximately "10 acres of garbage stacked about 15-20 feet high strictly uncovered in our current landfill," Mr. Cherry noted. Such crisis would "threaten the life of our residence and would probably do more damage to tourists than earthquakes or typhoons" to the island and its people.

Mr. Cherry further compared the potential danger to the community than the power we have with the power crisis. The lack of power is frustrating but does not present a true danger to the society.

He would further like the Legislature to be pro-active on this issue. The Guam Legislature needs to amend local law to comply with federal statutes in order that we become eligible for permit from the federal Environmental Protection Agency.

Mr. Cherry informed the Hearing Officer of his concern 51107, Inspection Fees. The section in its present form indicates an invitation for abuse by the Government. EPA may inspect the site at any time and the private firm would bear the cost. He supports the need for inspections; but the bill needs to be amended to protect from unnecessary inspections and the cost should be born by the Government, paid for by our tax dollars.

Mr. Joe Cruz, the Administrator of the Guam EPA Office submitted written testimony in support of bill 282. He notes that Bill 282 would address the statutory changes that is overdue. It includes penalties for permit violations relative to solid waste. (Attachment II)

Mr. Cruz requests that bill 282 be expeditiously passed due to the date of 1996 closure of the Ordot Landfill.

Speaker Parkinson recommended the following changes to bill 282

1. under Solid Waste -Civil Penalties, to include any additional cost of the damage and cleanup of the area.
2. Penalties section
Increase the penalty from a misdemeanor to a third degree felony
3. Section 1116 - Citizens Suits
Provide for proper notice of hearing
4. Amend section 1116 §3(b) to provide for the exception of injunction relief's.

Senator Brown expressed the serious need that Substitute Bill 282 become law and that this subject has been bogged down due to politics.

HEARING OFFICER RECOMMENDATION

The Minority Leader to whom presided over the public hearing on Substitute Bill 282 does submit its findings and recommendation to the Twenty-third Guam Legislature to do pass.



Office of Senator Antonio Reyes Unpingco

REPUBLICAN CO-LEADER

23rd Guam Legislature

155 Hesler Place

Agana, Guam 96910

tel: (671) 472-3455/6/7

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September 12, 1995


MEMORANDUM

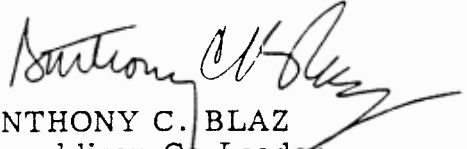
To: Senator Sonny Orsini, Chairman, Committee on Rules

From: Senators Antonio R. Unpingco and Anthony Blaz

Subject: Designation of Bill 282 as a Parity/Fair Play bill
An Act to Repeal and Reenact 10 GCA Chapter 51, Relative
to Solid and Hazardous Waste Management and Litter Control

Pursuant to Rule 7.11.01 of the Standing Rules, Bill 282 introduced by Senator Joanne M. S. Brown is hereby designated as a Parity/Fair Play bill.


ANTONIO R. UNPINGCO
Republican Co-Leader


ANTHONY C. BLAZ
Republican Co-Leader

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No.: _____
(Substitute)
Introduced by:

J.M.S. Brown
A.C. Blaz

**AN ACT TO REPEAL AND REENACT THE SOLID AND
HAZARDOUS WASTE MANAGEMENT AND LITTER
CONTROL ACT (10 GCA, CHAPTER 51).**

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

3 Section 1. Chapter 51 of Title 10, Guam Code Annotated is hereby
4 repealed and reenacted to read as follows:

5 **“Chapter 51**

6 **SOLID WASTE MANAGEMENT AND LITTER CONTROL**

7
8 Article 1. Solid Waste Management

9 Article 2. Litter Control

10 **Article 3. Annual Contract for Scrap Removal**

11
12 **Article 1**

13 **Solid Waste Management**

14
15 Section 51101. Findings of Necessity and Declaration of Purposes

16 Section 51102. Definitions

17 Section 51103. Powers and Duties

18 Section 51104. Permits

19 Section 51105. Permit Fees

20 Section 51106. Inspections

21 **Section 51107. Inspection Fees**

22 Section 51108 Notice

23 Section 51109. Hearings

24 Section 51110. Prohibited Solid Waste Activities

25 **Section 51111. Prohibited Hazardous Waste Activities**

1	Section 51112.	Injunction
2	Section 51113.	Plats
3	Section 51114.	Applicability to Government Agencies
4	Section 51115.	Penalties
5	Section 51116.	Citizen's Suits
6	Section 51117.	Solid Waste Management Fund

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Section 51101. Findings of Necessity and Declaration of Purposes. (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 ensure 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

1 Environmental Protection Agency shall be responsible to provide technical
2 assistance in solid waste management and shall have the authority to establish
3 such advisory committees as are necessary to carry out the planning and
4 assistance functions. Such committees should be composed of representatives
5 from concerned government agencies, private solid waste operators,
6 educational groups, federal agencies when applicable, and the public at large;

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

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

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

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

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

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

25 **Section 51102. Definitions.** For the purpose of this Chapter, the
26 following words and phrases shall have the meaning given herein unless their
27 use in the text of the Chapter clearly demonstrates a different meaning.

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

30 (2) **Agency** shall mean the Guam Environmental Protection
31 Agency.

32 (3) **Board** shall mean the Board of Directors of the Guam
33 Environmental Protection Agency.

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

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

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

8 (7) **Financial Assurance** shall mean a financial
9 guarantee assuring that funds are available to pay for closure of a
10 solid waste management facility, rendering post-closure at a solid
11 waste management facility, and to compensate third parties for
12 bodily injury and property damage caused by sudden and non-
13 sudden accidents related to the operation of a solid waste
14 management facility.

15 (8) **Government** shall mean the government of Guam.

16 (9) **Hardfill** shall mean a method of compaction and
17 earth cover of solid wastes other than those containing garbage or
18 other putrescible (putrescent) waste, including, but not limited to,
19 tree limbs and stumps, demolition material, and like materials not
20 constituting a health or nuisance hazard, where cover need not be
21 applied on a per day used basis.

22 (10) **Hazardous Waste** shall mean a solid waste, or
23 combination of solid wastes, which because of its quantity, concentration, or
24 physical, chemical, or infectious characteristics may:

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

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

31 (11) **Highway** means the entire width between the boundary
32 lines of every right-of-way or publicly maintained travel ways when any part
33 thereof is opened to the use of the public for purposes of vehicular travel.

34 (12) **Incinerator** shall mean an enclosed device using
35 controlled flame combustion, the primary purpose of which is to thermally break
36 down solid waste.

1 (13) **Person** shall mean any individual, partnership, co-
2 partnership, firm, company, trust, estate, or any agency, department of
3 instrumentality of the Federal Government or Government of Guam, or any other
4 legal representative, agent or assigns.

5 (14) **Pollution** shall mean the condition caused by the
6 presence in the environment of substances of such character and in such
7 quantities that the quality of the environment is impaired or rendered offensive
8 to life.

9 (15) **Public Nuisance** shall anything which is dangerous to
10 life, injurious to health, or renders soil, or water or food impure or unwholesome.

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

19 (17) **Resource Recovery** shall mean the act of recycling or
20 reusing materials which still have useful physical or chemical properties after
21 serving a specific purpose for the same or other purposes.

22 (18) **Recycling** shall mean the process by which recovered
23 resources are transformed into new products in such a manner that products
24 lose their identity.

25 (19) **Reusing** shall mean the reintroduction of a commodity in
26 the economic stream without any change.

27 (20) **Sanitary Landfill** shall mean an approved site where
28 solid waste is disposed using sanitary landfilling techniques.

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

33 (22) **Separation** shall mean the systematic division of solid
34 waste into designated components.

35 (23) **Solid Waste** shall mean any garbage, refuse, sludge from
36 a waste treatment plant, water supply treatment plant, or air pollution control

1 facility and other discarded and/or spilled materials, including solid, liquid,
2 semisolid, or contained gaseous material resulting from industrial, commercial,
3 mining, and agricultural operations, and from community activities, but does not
4 include solid or dissolved material in domestic sewage, or solid or dissolved
5 materials in irrigation return flows or industrial discharges which are point
6 sources subject to permits under Section 402 of the Federal Water Pollution
7 Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct
8 materials as defined by the Atomic Energy Act of 1954, as amended (68 Stat.
9 923).

10 (24) **Solid Waste Management** shall mean the purposeful,
11 systematic control of the generation, storage, collection, transportation,
12 separation, processing, recovery and disposal of solid waste.

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

17 (26) **Solid Waste Management Practices** shall mean the
18 actions to effectuate the generation, storage, collection, transportation,
19 processing or the ultimate disposal of solid waste.

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

24 (28) **Storage** shall mean the interim containment of solid waste
25 in approved manner.

26 (29) **Territorial Solid Waste Management Plan** shall
27 mean a comprehensive plan and all amendments and revisions thereto for
28 provisions of solid waste management throughout the Territory.

29 (30) **Transfer Station** shall mean any intermediate
30 waste facility in which solid waste collected from any source is
31 temporarily deposited and stored while awaiting transportation to
32 another solid waste management facility.

33 **Section 51103. Power and Duties.** (a) The Agency shall have
34 the responsibility to:

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

1 (2) Provide technical assistance to local and federal agencies,
2 and other persons, and cooperate with appropriate local agencies and private
3 organizations in carrying out the duties under this Chapter;

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

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

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

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

20 (7) Develop regulations in cooperation with appropriate
21 government agencies, industrial and private parties, for the generation,
22 collection, transportation, storage, processing and disposal of hazardous waste,
23 in accordance with the Administrative Adjudication Act;

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

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

34 (10) Prepare, issue, modify, remove and enforce orders for
35 compliance with any of the provisions of this Chapter or of any rules and
36 regulations issued pursuant thereto and requiring the taking of such remedial

1 measures for solid waste management as may be necessary or appropriate to
2 implement or effectuate the provisions and purposes of this Chapter;

3 (11) Prepare, adopt, promulgate, modify, update, repeal, and
4 enforce such other rules and regulations as may be necessary to establish a
5 hazardous waste program which may be at least equivalent to or more
6 stringent, or broader in scope than the requirements of Section 3006 of the
7 Federal Resource Conservation and Recovery Act (42 U.S.C. 6526, et seq.) and
8 regulations promulgated pursuant thereto.

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

10 (1) Public solid waste collection, transport and disposal. Such
11 collection and disposal services shall be furnished to all villages and urban
12 areas, and may be extended to further areas by administrative action. The
13 Director of Public Works may by regulation prescribe requirements with regards
14 to solid waste containers, and collection of solid and bulky waste. Public
15 sanitary landfills, hardfills, transfer stations, processing or recycling plants as
16 currently exist or may be established will be operated and maintained by the
17 Department of Public Works. The Director of Public Works, with the approval of
18 the Governor, may execute a contract after public bid with a private party or firm
19 for the collection and disposal of any solid or bulky waste, or other offensive
20 substances, or separate items thereof including the operation of any sanitary
21 landfill, hardfill, transfer station, processing, recycling, or storage plant which is
22 publicly owned provided that any employee whose job is adversely affected by
23 any such contract shall be given first preference for any other job for which he
24 qualifies in the Government of Guam.

25 (2) **Operational and logistic planning for solid and**
26 **bulky waste management to include collection, routing equipment,**
27 **material and equipment procurement disposal, transfer and storage**
28 **site operations, processing and recycling plant operations and**
29 **maintenance, and engineering functions related thereto. The**
30 **Director of Public Works is authorized to negotiate for and approve**
31 **contracts for recycling and composting at the Order Landfill, or at**
32 **any other site approved by the Guam Environmental Protection**
33 **Agency, under the following procedures: The Director, after duly**
34 **advertising for a request for proposals for the removal or**
35 **composting of recyclable materials from the landfill, shall enter into**
36 **a contract with any interested business organization, either local or**

1 off island, to collect and recycle or compost such materials.
2 The successful bidder or bidders shall not be charged for the
3 materials. The Department may assist successful bidders in
4 collecting storage batteries and waste oil which are to be found in
5 the various villages of Guam.

6 **Section 51104. Permits.** (a) The Administrator is hereby authorized
7 and directed to issue permits for solid waste management facilities, including
8 design, operation, maintenance, substantial alteration, modification or
9 enlargement. All such permits shall be non-transferable and conditioned upon
10 the observance of the laws of the territory and rules and regulations authorized
11 herein.

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

17 (c) Each permit application and each permit renewal application shall
18 be submitted with proof of financial assurance, of a type and in a sum
19 established by the Administrator conditioned on the fulfillment by the permit
20 holder of the requirements of this Chapter and the rules and regulations
21 authorized therein. No financial assurance mechanism required under this
22 Chapter may be canceled by the guarantor unless the Administrator has
23 received written notice thereof and there has been a lapse of one hundred
24 twenty (120) days between receipt of notice and cancellation date.

25 (d) **Before issuing a solid waste management permit to any**
26 **person with respect to any facility for the incineration, recycling, or**
27 **disposal of solid waste, the Administrator shall:**

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

32 (2) **If, within forty-five (45) days after publication and**
33 **broadcast, the Agency receives written notice of opposition to the**
34 **Agency's intention to issue such permit and a request for a hearing**
35 **is made, the Agency shall provide for a hearing in accordance with**

1 **the Administrative Adjudication Act if requested by a substantially**
2 **affected party.**

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

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

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

16 **Section 51105. Permit Fees.** Each application for a permit, or
17 renewal application, shall be accompanied by a certified check or money order
18 in the amount prescribed by regulations. All fees required by the section shall
19 be non-returnable and shall be placed in the **revolving fund established**
20 **under Section 51117 of this Chapter.**

21 **Section 51106. Inspections.** The Agency is hereby authorized to
22 inspect all solid waste management facilities at all reasonable times to insure
23 compliance with the laws of the Territory, the provisions of this Chapter and the
24 rules and regulations authorized herein. This authority shall include access to
25 and authority to copy all records relating to hazardous waste, as well as the
26 authority to obtain samples of any waste handled in the facilities. **It shall be a**
27 **misdemeanor for any person to interfere with such inspections. It**
28 **shall also constitute a violation of Prohibited Solid Waste Activities**
29 **and Prohibited Hazardous Waste Activities and shall carry the**
30 **Solid Waste Civil Penalties and Hazardous Waste Civil Penalties**
31 **as set forth respectively in Section 51114(b) and Section 51114(d)**
32 **below.**

33 **Section 51107. Inspection Fees.** The Agency is hereby
34 authorized to prescribe fees for inspections conducted of all solid
35 waste management facilities, hazardous waste treatment, storage
36 and disposal facilities, hazardous waste transporters, generators of

1 hazardous waste, waste oil generators, recyclers, marketers,
2 brokers and all other waste oil facilities including boilers and
3 industrial furnaces as well as waste to energy facilities. The
4 Inspection Fees shall be payable by a check or money order in the
5 amount prescribed by regulations. All fees required by this section
6 shall be non returnable and shall be placed in the revolving fund
7 established under Section 51117 of this Chapter.

8 **Section 51108. Notice.** Any notice, order or other official
9 correspondence affecting the rights of any person under this Chapter shall be
10 delivered by personal service or sent by registered or certified mail with a return
11 receipt to the address of such person as shown by the records of the Agency.
12 The return receipt, signed by the addressee, or his agent, shall be conclusive
13 proof of delivery.

14 **Section 51109. Hearings.** (a) Any person who received an order
15 from the Administrator as authorized by this Chapter and any person whose
16 permit application is disapproved by the Administrator may, within fifteen (15)
17 days of the date of receipt of such order or disapproval, file a Notice of Intent to
18 appeal with the Board, setting forth in such Notice a verified petition outlining
19 the legal and factual basis for such appeal.

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

24 (c) The **Agency** is hereby authorized to administer oaths, examine
25 witnesses and issue subpoenas to compel the attendance of witnesses and the
26 production of evidence relevant to the matter involved in the hearing.

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

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

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

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

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

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

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

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

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

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

19 (8) **No person shall destroy or attempt to destroy by**
20 **burning, except in an incinerator the construction and operation of**
21 **which is approved by the Administrator, or as may otherwise be**
22 **authorized by the Administrator, any garbage, dead animals, or**
23 **other offensive substances, the burning of which may give off foul**
24 **and noisome odor.** Nothing in this Section shall preclude the burning of
25 trees, brush, grass and other vegetable matter authorized by the Administrator.

26 (b) Each day of continued violation of this section or the provisions of
27 this Chapter or rules and regulations authorized herein shall be deemed a
28 separate offense or violation.

29 **Section 51111. Prohibited Hazardous Waste Activities. (a) It**
30 **shall be unlawful for any person to:**

31 (1) **Violate any provision of this Chapter or any rule,**
32 **regulation, standard, or order issued pursuant to this Chapter;**

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

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

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

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

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

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

19 **Section 51112. Injunction.** The Agency shall maintain an action to
20 restrain any violation or threatened violation of the provisions of this Chapter or
21 the rules and regulations authorized herein. Such right to injunctive relief is in
22 addition to any other powers or penalties conferred by this Chapter.

23 **Section 51113. Plats.** All persons operating a sanitary landfill,
24 hardfill, or other approved disposal site under permits issued pursuant to this
25 Chapter shall, upon completion of the sanitary landfill or hardfill, file with the
26 Department of Land Management and the Building Permit Section of the
27 Department of Public Works, a plat of each site, together with a description of
28 the waste placed therein and in conformance with rules and regulations
29 adopted pursuant to §51103(a)(8) of this Chapter.

30 **Section 51114. Applicability to Government Agencies.**
31 Government agencies shall comply with all provisions of this Chapter including
32 planning, review, and permit requirements, with the exception of §51104(c).
33 Government agencies may contract with any person to carry out their
34 responsibilities under this Chapter. Such contractors shall also comply with the
35 provisions of this Chapter.

1 Section 51115. Penalties. (a) Solid Waste-Criminal
2 Penalties. Any person who knowingly violates any solid waste
3 management provision of this Chapter, or any valid solid waste
4 management rule or regulation promulgated under this Chapter, or
5 who refuses or neglects to comply with any lawful order issued by
6 the Administrator in carrying out the provisions of this Chapter
7 shall, upon conviction, be imprisoned for a term of not more than
8 one (1) year, and/or be fined not more than \$1,000 per day for each
9 violation or noncompliance, and shall make restitution.

10 (b) Solid Waste-Civil Penalties. Any person who violates
11 any solid waste management provision of this Chapter, or any valid
12 solid waste management rule or regulation promulgated under this
13 Chapter, or who refuses or neglects to comply with any lawful order
14 issued by the Administrator in carrying out the provisions of this
15 Chapter shall forfeit and pay a civil penalty of not more than \$1,000
16 per day for each violation or noncompliance. Any person who
17 violates any solid waste management provisions of this chapter
18 shall also be required to pay any other damages and clean-up
19 costs occurred due to such violation.

20 (c) Hazardous Waste-Criminal Penalties. Any person who
21 knowingly violates any hazardous waste management provisions of
22 this Chapter, or any valid hazardous waste management rule or
23 regulation promulgated under this Chapter, or who refuses or
24 neglects to comply with any lawful order issued by the
25 Administrator in carrying out the provisions of this Chapter shall, be
26 guilty upon conviction of a felony of the third degree, and be fined
27 not more than \$10,000 per day for each violation and/or
28 noncompliance, and shall make restitution.

29 (d) Hazardous Waste-Civil Penalties. Any person who
30 violates any hazardous waste management provision of this
31 Chapter, or any valid hazardous waste management rule or
32 regulation promulgated under this Chapter, or who refuses or
33 neglects to comply with any lawful order issued by the
34 Administrator in carrying out the provisions of this Chapter shall
35 forfeit and pay the Government of Guam a civil penalty of not more
36 than \$10,000 per day for each violation or noncompliance. Any

1 person who violates any solid waste management provisions of this
2 chapter shall also be required to pay any other damages and
3 clean-up costs occurred due to such violation.

4 (e) Administrative Penalties. In addition to any other
5 administrative or judicial remedy provided by this Chapter, or by
6 rules adopted under this Chapter, the Administrator is authorized to
7 impose by order the penalties specified in §51115(b) and (d)
8 respectively. Factors to be considered in imposing an
9 administrative penalty include the nature and history of the
10 violation and of any prior violations, and the opportunity, difficulty,
11 and history of corrective action. It is presumed that the violator's
12 economic and financial conditions allow payment of the penalty,
13 and the burden of proof to the contrary is on the violator. In any
14 proceeding to recover the civil penalty imposed, the Administrator
15 need only show that notice was given, a hearing was held or the
16 time granted for requesting a hearing has expired without such a
17 request, the civil penalty was imposed, and that the penalty
18 remains unpaid.

19 Section 51116. Citizen's Suits. (a) Any person may
20 commence a civil action on his behalf:

21 (1) Against any person (including the United States,
22 and any other governmental instrumentality or agency, to the extent
23 permitted by law) who is alleged to be in violation of any permit,
24 standard, regulation, condition, requirement, prohibition, or order
25 which has become effective pursuant to this Chapter; or

26 (2) Against any person, including the United States,
27 and any other governmental instrumentality or agency, to the extent
28 permitted by law, and including any past or present generator, past
29 or present transporter, or past or present owner or operator of a
30 treatment, storage, or disposal facility, who has contributed or who
31 is contributing to the past or present handling, storage, treatment,
32 transportation, or disposal of any solid or hazardous waste which
33 may present an imminent and substantial endangerment to health
34 or the environment; or

1 (3) Against the Administrator where there is alleged a
2 failure of the Administrator to perform any duty under this Chapter
3 which is not discretionary with the Administrator.

4 Any action under paragraph (a) (1), (a) (2), or (a) (3) of this
5 Section shall be brought in the Superior Court of Guam. The
6 Superior Court shall have jurisdiction, without regard to the amount
7 in controversy or the citizenship of the parties, to enforce the
8 permit, standard, regulation, condition, requirement, prohibition, or
9 order referred to in paragraph (a) (1), to restrain any person who
10 has contributed or is contributing to the past or present handling,
11 storage, treatment, transportation, or disposal of any solid or
12 hazardous waste referred to in paragraph (a)(2), to order such
13 person to take such further action as may be necessary, or both, or
14 to order the Administrator to perform the act or duty referred to in
15 paragraph (a) (3), as the case may be, and to apply any
16 appropriate civil penalties under §51115(b) and (d). No bond shall
17 be required for issuance of an injunction or temporary injunction
18 after a duly notice of hearing.

19 (b) Except for injunction relief, no action may be
20 commenced under subsection (a)(1) or (a)(2) of this Section:

21 (1) Prior to ninety (90) days after the plaintiff has
22 given notice of the violation or endangerment to (i) the
23 Administrator; (ii) the government of Guam; and (iii) to any alleged
24 violator of such permit, standard, regulation, condition,
25 requirement, prohibition, or order referred in subsection (a)(1) of
26 this Section if applicable or to any person alleged to have
27 contributed or to be contributing to the past or present handling,
28 storage, treatment, transportation, or disposal of any solid or
29 hazardous waste referred to in subsection (a)(2) of this Section if
30 applicable.

31 (2) Except for injunction relief, if the Administrator of
32 government of Guam has commenced and is diligently prosecuting
33 a civil or criminal action to require compliance with such permit,
34 standard, regulation, condition, requirement, prohibition, or order
35 pursuant to subsection (a)(1) of this Section or if the Administrator
36 or government of Guam, in order to restrain or abate acts or

1 conditions which may have contributed or are contributing to the
2 activities which may present the alleged endangerment under
3 subsection (a)(2) of this Section has commenced and is diligently
4 prosecuting an action under local law or under the Comprehensive
5 Environmental Response, Compensation and Liability Act
6 (CERCLA) or is actually engaging in a removal action under
7 CERCLA or has incurred cost to initiate a remedial investigation
8 and Feasibility Study under CERCLA and is diligently proceeding
9 with a remedial action.

10 (c) Except for injunction relief, no action may be
11 commenced under subsection (a)(3) of this Section prior to sixty
12 (60) days after the plaintiff has given notice to the Administrator
13 and the government of Guam in which the failure has occurred that
14 he will commence such action.

15 Section 51117. Solid Waste Management Fund. There is
16 established a non lapsing, revolving fund, hereafter referred to as
17 the "Solid Waste Management Fund" which shall be maintained
18 separate and apart from any other funds of the Government of
19 Guam, and shall be administered by the Administrator.
20 Independent records and accounts shall be maintained in
21 connection therewith. All fees, reimbursements, assessments,
22 fines, bail forfeitures, and other funds collected or received
23 pursuant to this Article shall be deposited in this Fund and used for
24 the administration and implementation of this Article, including
25 purchase of equipment and payment of personnel costs of the
26 Agency.

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Article 2
Litter Control

Section 51201.	Declaration of Purpose
Section 51202.	Definitions
Section 51203.	Powers and Duties
Section 51204.	Litter Control Revolving Fund
Section 51205.	Prohibited Activities
Section 51206.	Enforcement
Section 51207.	Penalties
Section 51208.	Severability Clause

Section 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.

Section 51202. Definitions. For the purpose of this Article, the following words shall have the meaning given herein unless their use in the text clearly demonstrates a different meaning:

(a) **Apprehending Officers** shall mean any designated individual with the Department of Parks and Recreation, the Department of Agriculture, the Guam Environmental Protection Agency, the Department of Public Health and Social Services, the Department of Public Works, all village mayors and assistant mayors, and any peace officer in the Guam Police Department.

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

(c) **Littering** shall mean willful or negligent throwing, dropping, placing, depositing, or sweeping, allowing or causing such acts, of any litter on

1 land or water, in other than appropriate storage containers or areas designated
2 for such purpose.

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

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

8 **Section 51203. Power and Duties.** (a) The Administrator of the
9 Guam Environmental Protection Agency, in consultation with the Attorney
10 General's Office, is empowered to prescribe and amend such rules and
11 procedures as are necessary for the efficient implementation of this Article.

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

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

16 **Section 51204. Litter Control Revolving Fund.** There is
17 established a fund to be known as the Litter Control Revolving
18 Fund which shall be maintained separate and apart from any other
19 fund of the Government of Guam and shall be administered by the
20 Administrator. Independent records and accounts shall be
21 maintained in connection therewith. Except as provided in §40115
22 of Title 5, Guam Code Annotated, 50 percent (50%) of all
23 assessments, fines, bail forfeitures and other funds collected or
24 received pursuant to this Article shall be deposited in the Litter
25 Control Revolving Fund and used for the administration and
26 implementation of this Article; for education programs and
27 advertisement promotions aimed at increasing awareness of litter
28 and defacement problems; for the placement of anti-litter and anti-
29 graffiti signs around the island; and for the cleanup of litter and
30 defacement from public highways, streets, alleys, roads, bridges,
31 buildings, signs, restrooms, public recreational areas or other
32 public lands that are most visible to the public, and 50 percent
33 (50%) shall be deposited in the Guam Beautification Fund as
34 provided in 21 GCA §77114.1.

35 **Section 51205. Prohibited Activities.** (a) It shall be unlawful for
36 any person to willfully or negligently dump, deposit, throw, leave or abandon

1 any litter upon any public highway, street, alley or road, upon public parks or
2 recreation areas or upon any other public property except as designated for
3 such use, or upon property owned by another person without written permission
4 of the owner, or into any bay, channel, harbor, river, creek, stream, reservoir,
5 coastal waters, or other waters of the Territory.

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

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

20 **Section 51206. Enforcement.** Any person apprehended for
21 violation of any of the above prohibitions shall be served by the apprehending
22 officer with a citation and an order to appear at the Traffic Court Division of the
23 Superior Court of Guam for prosecution. Parents or legal guardians will
24 assume all responsibility for any violations of this Chapter committed by any
25 minors under their care.

26 **Section 51207. Penalties.** (a) Littering shall be punishable by a
27 fine of not less than \$500 nor more than \$1,000 which shall not be suspended
28 by the Court. Additionally, any person convicted under this Section for a
29 second or subsequent litter offense shall be required by the Court to pick up
30 and remove litter from a public place under the supervision of the Agency, or as
31 the Court shall otherwise provide for a period not less than 8 hours for each
32 offense. Furthermore, persons convicted under this Section may be required to
33 pay the costs of removing any litter that they caused.

34 (b) A person charged with a first violation may avoid a court hearing
35 by posting bail in the amount of the minimum fine or paying such prescribed fine
36 as the Traffic Court Division of the Superior Court shall prescribe.



GUAM ENVIRONMENTAL PROTECTION AGENCY



AHENSIAN PRUTEKSION LINA'LA GUAHAN

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COMMITTEE ON RULES

Date: 11/16/95 Time: 4:30

Testimony of Joseph C. Cruz Administrator,

Guam Environmental Protection Agency

Before the Committee on Rules

Hearing on Bill No. 282: An act to repeal and Re-Enact 10 GCA Chapter 51, Relative to The Solid Waste Management and Litter Control

November 16, 1995

Bill No. 282 was Publicly heard on July 24, 1995, before the Committee on Judiciary, Criminal Justice and Environmental Affairs. At that time, the Agency advised that Bill No. 282 was very similar to Bill 280 which was introduced by Senator Ted Nelson and of which Guam EPA provided testimony during the June 30, 1995 public hearing. One addition that Bill 282 discussed is presented in one sentence at the end of the Bill text. Specifically, Section 51304 of Bill 282, requires the Department of Public Works to ensure offerors include in their processing an intake system to screen and remove hazardous waste residue from batteries to include engine oil, hydraulic fluids, coolant and freon from air conditioning units. Although this addition may be significant such items can be addressed upon adoption of the implementing rules and regulations and as permit conditions during the issuance of a GEPA Solid Waste Management Facility Permit. All other changes are editorial and style changes.

Because Bill 282 is substantially similar to the previously introduced Bill 280, I once again, offer the same Testimony I provided during the July 24, 1995 Public Hearing.

Bill 282 like Bill 280, addresses the necessary, statutory changes required in revising the existing Territorial Solid Waste Management Act to be consistent with

The Administrative Penalties section provides authority to collect penalties for permit violations. In accordance with the Federal Facilities Compliance Act of 1992 which waives sovereign immunity for the Federal Government, the Administrative Penalties section also ensures that Federal Facilities are treated the same as private parties with regard to compliance with the Hazardous waste Management Regulations.

In June 1992, in the Administrative Adjudication Hearing Guam EPA vs. Mr. Roy Cate, jurisdictional authority of the Guam EPA Board was questioned by the Attorney General. Because of the Notice of Violation issued to Mr. Cate included possible penalties of a petty misdemeanor, which is a criminal charge, it was the Attorney General's opinion that the GEPA Board, as an administrative body, had no jurisdiction to hear criminal cases. Although the Attorney General had represented Guam EPA in similar cases in the past, it was at this point that the AG's Office questioned such authority. To avoid further confusion and to prevent any questioned on jurisdictional authority, Guam EPA in consultation with the Attorney General's Office prepared the amendments to Section 51110, 51111, and Section 51115 to provide clarification on Criminal vs. Civil violations, Criminal vs. Civil penalties, solid waste vs. hazardous waste violations and penalties.

Other changes to the existing statute are clearly illustrated in that section of Bill No. 280 that summarizes the main revisions to the Solid Waste Management and Litter Control Act (see attachments).

As stated earlier, due to the location restriction incorporated within the Federal regulations, until Guam has an EPA approved Solid Waste Permit Program, lateral expansion of the landfill will violate the federal requirements. Public Law 22-115 passed in 1994 which mandated the closure of the Ordot landfill in 1997 further complicates the matter.

The current situation at the Ordot Landfill, and the need for Guam to adopt a Solid Waste Permit Program in a timely manner can develop into a solid waste disposal crisis. In an effort to avoid such a crisis, it is imperative that this bill become an approved statute. It is imperative the Guam EPA, the legislature and the Administration work cooperatively in developing an approvable solid waste disposal program for Guam. Passage of this Bill is the first critical step towards substantive progress is adopting such a Program. Passage of this bill, the closure of the Ordot landfill and the siting and construction of a new sanitary landfill that

RULE VII

CONSIDERATION OF BILLS, RESOLUTIONS AND APPOINTMENTS

Notice of hearing

1
2 §7.01. It shall be the duty of the Chairperson of each Standing
3 Committee or the designated hearing officer to deliver to the Executive
4 Director a notice setting forth the name of the Committee, the date and time
5 of any hearing, and the subject matter of the hearing, including the number
6 and title of all bills or resolutions which are to be considered at such hearing;
7 provided, that such bills or resolutions have been duly referred to such
8 Committee. The first such notice shall be given at least five (5) days prior to
9 the hearing.

10 7.01.01. *Hearing officer.* The Chairperson of a Committee
11 hearing a bill or resolution (or his designee if such designee is a member
12 of the Committee) is the official hearing officer for such bill or
13 resolution and has the power and authority to conduct the hearing by
14 himself; provided, that all members of the Legislature shall be given
15 written notice of such hearing as provided in §7.01, supra, and any
16 member of the Legislature may attend and take part in such hearing,
17 questioning witnesses, and otherwise participating.

Committee amendments

18
19 §7.02. Any Committee may recommend amendments to any bill
20 referred to it which are germane to and not inconsistent with the subject as
21 expressed in the title or may recommend a germane substitute bill. In making

1 Min. Bills = No. Minority Bills passed into law during the entire 23rd
2 Guam Legislature

3 Maj. Bills = No. Majority Bills passed into law during the entire 23rd
4 Guam Legislature

5 Unused Parity/Fair Play slots= No. Slots available for Parity/Fair Play
6 bills and unused.

7 Pending Parity/Fair Play Slots= No.. Parity/Fair Play slots used and
8 pending for bills not enacted into law nor vetoed.

9 Unused Parity/Fair Play slots = (.615 x maj. bills) - (min. bills) -pending
10 Parity/Fair Play slots

11 The formula answer for unused Parity/Fair Play slots shall be rounded
12 up or down to the next interger, as the case may be.

13 7.11.02. The minority leader, with the consent of the minority
14 caucus, may designate any bill as a Parity/Fair Play bill at anytime, as
15 long as there is a Parity/Fair Play slot available in the quota. Such
16 designation shall be made in writing to the chairperson of the
17 Committee on Rules. If there are co-minority leaders, both shall sign
18 the initial designation.

19 7.11.03. A bill which has been designated as a Parity/Fair Play
20 bill shall have a public hearing and shall have a committee report from
21 the oversight committee delivered to the recording secretary within 60
22 days after such bill was designated as a Parity/Fair Play bill, for
23 reporting out at the next session of the body. In the event that this 60
24 day deadline is not met, then the bill shall be automatically and without

1 further action required by the Committee on Rules, be automatically
2 referred to the Committee on Rules, which who shall promptly (withir
3 45 days) hold and prepare a report thereon in the same manner as a
4 hearing for a bill before a committee. The hearing shall be chaired by
5 the Minority Leader as a hearing officer, or in the absence of the
6 Minority Leader, the Chairperson of the Committee. Such report may
7 recommend germane amendments. All members of the legislature shall
8 be given notice of the hearing and may fully participate therein. The bill
9 and its accompanying report shall then be reported out to the body by
10 the hearing officer in the same manner as a bill reported out of
11 committee, by submitting the same to the recording secretary.

12 7.11.04. Parity/Fair Play bills which are reported out by the
13 oversight committee or in accordance with this rule shall bypass the
14 Rules Committee on Rules for placement on the session agenda. Any
15 Parity/Fair Play bill which is reported out shall be automatically placed
16 at the bottom of the second reading file on the third legislative day
17 following a written request made by the minority leader and delivered
18 to the chairperson of the committee on rules with a courtesy copy to the
19 Speaker and to the recording secretary to place the bill on the second
20 reading file for further action, being reported out for further action,
21 even if the report recommends some action other than do pass.

22 7.11.05. Except with the prior written approval of the minority
23 leader, neither the Committee on Rules nor a subcommittee thereof



TWENTY-THIRD GUAM LEGISLATURE
SENATOR ANTHONY C. BLAZ
Republican Co-Leader

155 Hesler Street • Agaña, Guam 96910 • Tel: (671) 472-3557-9 • Fax: (671) 472-3562

PHONE CALL AD 7³⁰ BY PAPS BROWN
& RSPD METRO - HE BROWNING LATE
November 12, 1995

RECEIVED - 8³⁰ 11-12-95
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**LEGISLATIVE
COMMITTEE
MEMBERSHIP**

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Judiciary &
Criminal Justice

Health, Ecology
& Welfare

Ethics &
Standards

Housing &
Community
Development

MEMORANDUM:

TO: Executive Director, Twenty-Third Guam Legislature

FROM: Co-Minority Leader, Senator Anthony C. Blaz

SUBJECT: Public Hearing on November 16, 1995

Bill 282 authored by Senator Joanne M.S. Brown was designated a "parity/fair play bill" by the Minority Caucus on September 12, 1995.

In accordance with 7.11.03 of the Legislative Standing Rules, Bill 282 must be given a public hearing after November 12, 1995. The rules indicate that the Committee on Rules shall hold this public hearing and that it will be chaired by the Minority Leader who shall serve as the hearing officer. Therefore, this is to inform you that there will be a public hearing on Bill 282: An Act to Repeal and Reenact 10 GCA Chapter 51, Relative to Solid and Hazardous Waste Management and Litter Control. by J.M.S. Brown.

This public hearing will be at 6:00 PM on Thursday, November 16, 1995. The public hearing will be held at the Public Hearing room of the Guam Legislature.

Thank You for your attention to this matter.


ANTHONY C. BLAZ

cc: Senator Sonny Lujan Orsini
Chairman, Committee on Rules

**SENATOR SONNY LUJAN
ORSINI
Chairman, Committee on Rules
Twenty-third Guam Legislature
Public Hearing Room**

PUBLIC HEARING NOTICE

Rersolution No. - RELATIVE TO REPEALING SUBSECTION 8 OF RULES 17.06 OF THE STANDING RULES OF THE TWENTY-THIRD GUAM LEGISLATURE AND TO FURTHER ADD A NEW SECTION 9 TO RULE 17.13 TO INCLUDE OVERSIGHT JURISDICTION OF THE DEPARTMENT OF VOCATIONAL REHABILITATION BY THE COMMITTEE ON YOUTH, LABOR AND PARKS AND RECREATION OF THE TWENTY-THIRD GUAM LEGISLATURE. by S. L. Orsini, V. C. Pangelinan and J. Won Pat-Borja

Bill No. 282 - AN ACT TO REPEAL AND REENACT 10 GCA CHAPTER 51, RELATIVE TO SOLID AND HAZARDOUS WASTE MANAGEMENT AND LITTER CONTROL. by J. M. S. Brown and A. C. Blaz

Date: Thursday - November 16, 1995

Time: 6:00 p.m.

THE PUBLIC IS INVITED TO ATTEND

Introduced

JUN 23 1995

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No.: 282 (LS)

Introduced by:

J.M.S. Brown
A.C. Blaz

**AN ACT TO REPEAL AND REENACT 10 GCA CHAPTER 51,
RELATIVE TO SOLID AND HAZARDOUS WASTE MANAGEMENT
AND LITTER CONTROL.**

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

Section 1. Legislative Intent. The legislature finds it is critical that the government of Guam take immediate steps to revise and update statutes, rules and regulations of the Territory relative to solid and hazardous waste management and litter control. Actions must be taken which result in the Territory receiving permitting authority for municipal solid waste sanitary landfills from the federal government and effectively facilitating the capacity within the Territory to dispose of solid and hazardous waste.

Section 2. Chapter 51 of Title 10, Guam Code Annotated is hereby repealed and reenacted to read as follows:

**“Chapter 51
SOLID WASTE MANAGEMENT AND LITTER CONTROL**

- Article 1. Solid Waste Management
- Article 2. Litter Control
- Article 3. Annual Contract for Scrap Removal**

Article 1

Solid Waste Management

- Section 51101. Findings of Necessity and Declaration of Purposes
- Section 51102. Definition
- Section 51103. Powers and Duties

1	Section 51104.	Permits
2	Section 51105.	Permit Fees
3	Section 51106.	Inspections
4	Section 51107.	Inspection Fees
5	Section 51108	Notice
6	Section 51109.	Hearings
7	Section 51110.	Prohibited Solid Waste Activities
8	Section 51111.	Prohibited Hazardous Waste Activities
9	Section 51112.	Injunction
10	Section 51113.	Plats
11	Section 51114.	Applicability to Government Agencies
12	Section 51115.	Penalties
13	Section 51116.	Citizen's Suits
14	Section 51117.	Solid Waste Management Fund

15

16 **Section 51101. Findings of Necessity and Declaration of**
 17 **Purposes.** (a) The people of this Territory find:

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

24 (2) Traditional methods of disposing of solid waste in the
 25 Territory are no longer adequate to meet the ever-increasing problem.
 26 Improper methods and practices of handling and disposal of solid wastes
 27 pollute our land, air and water resources, blight our countryside, adversely
 28 affect land values and damage the overall quality of our environment.

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

30 (1) Plan for and regulate the storage, collection, transport,
 31 separation, processing and disposal of solid and hazardous waste in order to
 32 conserve the air, water, and land resources of the Territory, protect the public
 33 safety, health and welfare, prevent environmental pollution and public
 34 nuisances and to enhance the environment of the people of the Territory;

35 (2) Continue authority to regulate solid waste storage practices
 36 within the Department of Public Health and Social Services pursuant to Chapter

1 33 of this Title to ensure that such practices do not constitute a danger to
2 human health and welfare;

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

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

16 (5) Require review of the design and the issuance of permits for
17 the operation of solid waste collection, transport, **transport-related**,
18 processing, and disposal activities by the Guam Environmental Protection
19 Agency;

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

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

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

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

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

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

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

6 (2) **Agency** shall mean the Guam Environmental Protection
7 Agency.

8 (3) **Board** shall mean the Board of Directors of the Guam
9 Environmental Protection Agency.

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

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

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

19 (7) **Financial Assurance** shall mean a financial
20 guarantee assuring that funds are available to pay for closure of a
21 solid waste management facility, rendering post-closure at a solid
22 waste management facility, and to compensate third parties for
23 bodily injury and property damage caused by sudden and non-
24 sudden accidents related to the operation of a solid waste
25 management facility.

26 (8) **Government** shall mean the government of Guam and all
27 of its branches.

28 (9) **Hardfill** shall mean a method of compaction and
29 earth cover of solid wastes other than those containing garbage or
30 other putrescible (putrescent) waste, including, but not limited to,
31 tree limbs and stumps, demolition material, and like materials not
32 constituting a health or nuisance hazard, where cover need not be
33 applied on a per day used basis.

34 (10) **Hazardous Waste** shall mean a solid waste, or
35 combination of solid wastes, which because of its quantity, concentration, or
36 physical, chemical, or infectious characteristics may:

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

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

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

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

13 (13) **Nuisance shall mean anything which is injurious**
14 **to health, or is indecent or offensive to the senses, or an**
15 **obstruction to the free use of property, so as to interfere with the**
16 **comfortable enjoyment of life or property, or unlawfully obstructs**
17 **the free passage or use in the customary manner of any river, bay,**
18 **stream, canal, or basin, or any public park, square, street, or**
19 **highway.**

20 (14) **Person** shall mean any individual, partnership, co-
21 partnership, firm, company, trust, estate, or any agency, department of
22 instrumentality of the Federal Government or Government of Guam, or any other
23 legal representative, agent or assigns.

24 (15) **Pollution** shall mean the condition caused by the
25 presence in the environment of substances of such character and in such
26 quantities that the quality of the environment is impaired or rendered offensive
27 to life.

28 (16) **Public Nuisance** shall mean one which affects at the
29 same time an entire community or neighborhood, or any considerable number
30 of persons, although the extent of the annoyance or damage inflicted upon
31 individuals may be unequal.

32 (17) **Processing** shall mean any method, system, or other
33 treatment designed to change the physical, chemical or biological character or
34 composition of any solid waste. This includes the neutralization of any
35 hazardous waste; the rendering of any hazardous waste non-hazardous, safer
36 for transport, amenable for recovery, amenable for storage, or reduced in

1 volume; or any other activity or processing designed to change the physical
2 form or chemical composition of hazardous waste so as to render it non-
3 hazardous.

4 (18) **Recyclable materials** shall mean materials that meet
5 recognized industry specification-grade standards and when recycled
6 competes or could compete in the marketplace with virgin materials.

7 (19) **Recycling** shall mean the method by which recovered
8 resources are converted for use as raw material or feedstock to make new
9 products.

10 (20) **Resource Recovery** shall mean the act of recycling or
11 reusing materials which still have useful physical or chemical properties after
12 serving a specific purpose for the same or other purposes.

13 (21) **Reusing** shall mean the reintroduction of a commodity in
14 the economic stream without any change.

15 (22) **Sanitary Landfill** shall mean an approved site where
16 solid waste is disposed using sanitary landfilling techniques.

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

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

23 (25) **Solid Waste** shall mean any garbage, refuse, sludge from
24 a waste treatment plant, water supply treatment plant, or air pollution control
25 facility and other discarded and/or spilled materials, including solid, liquid,
26 semisolid, or contained gaseous material resulting from industrial, commercial,
27 mining, and agricultural operations, and from community activities, but does not
28 include solid or dissolved material in domestic sewage, or solid or dissolved
29 materials in irrigation return flows or industrial discharges which are point
30 sources subject to permits under Section 402 of the Federal Water Pollution
31 Control (Clean Water) Act, as amended (33 U.S.C. §§1251, 1342), or source,
32 special nuclear, or byproduct materials as defined by the Atomic Energy Act of
33 1954, as amended (42 U.S.C. §2011 et seq.).

34 (26) **Solid Waste Management** shall mean the purposeful,
35 systematic control of the generation, storage, collection, transportation,
36 separation, processing, recovery and disposal of solid waste.

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

5 (28) **Solid Waste Management Practices** shall mean the
6 actions to effectuate the generation, storage, collection, transportation,
7 processing or the ultimate disposal of solid waste.

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

12 (30) **Storage** shall mean the interim containment of solid waste
13 in an approved manner.

14 (31) **Territorial Solid Waste Management Plan** shall
15 mean a comprehensive plan and all amendments and revisions thereto for
16 provisions of solid waste management throughout the Territory.

17 (32) **Transfer Station** shall mean any intermediate solid
18 waste facility in which solid waste collected from any source is
19 temporarily deposited and stored while awaiting transportation to
20 another solid waste management facility.

21 **Section 51103. Power and Duties.** (a) The Agency shall have
22 the responsibility to:

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

25 (2) Provide technical assistance to local and federal agencies,
26 and other persons, and cooperate with appropriate local agencies and private
27 organizations in carrying out the duties under this Chapter;

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

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

33 (5) Serve as the official territorial representative for all
34 purposes of the Federal Solid Waste Disposal Act, (42 U.S.C. §6901 et seq.) as
35 amended, and such other territorial or federal legislation as has been or may
36 hereafter be enacted to assist in the management of solid waste;

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

7 (7) Review, develop, adopt, promulgate, amend, repeal and
8 enforce rules and regulations governing the generation, collection,
9 transportation, storage, processing and disposal of hazardous waste, in
10 accordance with the Administrative Adjudication Law in order to carry out the
11 purposes and provision of this Chapter;

12 (8) Review, develop, adopt, promulgate, amend, repeal, and
13 enforce rules and regulations governing the collection, transport, separation,
14 processing, and disposal of solid waste, in accordance with the Administrative
15 Adjudication Law, in order to carry out the purposes and provisions of this
16 Chapter;

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

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

25 (11) Review, develop, adopt, promulgate, amend, repeal, and
26 enforce such other rules and regulations as may be necessary to establish a
27 state solid waste management/hazardous waste program which may be at least
28 equivalent to or more stringent, or broader in scope than the requirements of
29 Section 3006 and 4003 of the Solid Waste Disposal Act, as amended by the
30 Resource Conservation and Recovery Act (42 U.S.C. §§6926,6943) and
31 regulations promulgated pursuant thereto.

32 (12) Establish and collect fees for permit reviews and
33 inspections as necessary or appropriate to implement or effectuate the
34 provisions and purposes of this Chapter;

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

1 (1) Public solid waste collection, transport and disposal. Such
2 collection and disposal services shall be furnished to all villages and urban
3 areas, and may be extended to further areas by administrative action. The
4 Director of Public Works may by regulation prescribe requirements with regards
5 to solid waste containers, and collection of solid and bulky waste. Public
6 sanitary landfills, hardfills, transfer stations, processing or recycling plants as
7 currently exist or may be established will be operated and maintained by the
8 Department of Public Works. The Director of Public Works, with the approval of
9 the Governor, may execute a contract after public bid with a private party or firm
10 for the collection and disposal of any solid or bulky waste, or other offensive
11 substances, or separate items thereof including the operation of any sanitary
12 landfill, hardfill, transfer station, processing, recycling, or storage plant which is
13 publicly owned.

14 **(2) Operational and logistic planning for solid and**
15 **bulky waste management to include collection, routing equipment,**
16 **material and equipment procurement disposal, transfer and storage**
17 **site operations, processing and recycling plant operations and**
18 **maintenance, and engineering functions related thereto. The**
19 **Director of Public Works is authorized to negotiate for and approve**
20 **contracts for recycling and composting at the Order Landfill, or at**
21 **any other site approved by the Guam Environmental Protection**
22 **Agency, under the following procedures: The Director, after duly**
23 **advertising for a request for proposals for the removal or**
24 **composting of recyclable materials from the landfill, shall enter into**
25 **a contract with any interested business organization, either local or**
26 **off island, to collect and recycle or compost such materials.**
27 **The successful bidder or bidders shall not be charged for the**
28 **materials. The Department may assist successful bidders in**
29 **collecting storage batteries and waste oil which are to be found in**
30 **the various villages of Guam.**

31 **Section 51104. Permits.** (a) The Administrator is hereby authorized
32 and directed to issue permits for solid waste management facilities, including
33 design, operation, maintenance, substantial alteration, modification or
34 enlargement. All such permits shall be non-transferable and conditioned upon
35 the observance of the laws of the territory and rules and regulations authorized
36 herein.

1 (b) Each permit holder of a solid waste management permit shall
2 apply for the renewal of each such permit held, upon forms provided by the
3 Agency, not less than sixty (60) days prior to the expiration date of each solid
4 waste management permit to be renewed.

5 (c) Each permit holder of a hazardous waste management permit
6 shall apply for the renewal of each said permit held, not less than one hundred
7 and eighty (180) days prior to the expiration date of each hazardous waste
8 management permit to be renewed.

9 (d) Each permit application and each permit renewal application shall
10 be submitted with proof of financial assurance, of a type and in a sum
11 established by the Administrator, payable to the Solid Waste Management Fund
12 and conditioned on the fulfillment by the permit holder of the requirements of
13 this Chapter and the rules and regulations authorized therein. No financial
14 assurance mechanism required under this Chapter may be canceled by the
15 guarantor unless the Administrator has received written notice thereof and there
16 has been a lapse of one hundred twenty (120) days between receipt of notice
17 and cancellation date.

18 (e) **Before issuing a solid waste management permit to any**
19 **person with respect to any facility for the incineration, recycling, or**
20 **disposal of solid waste, the Administrator shall:**

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

25 (2) **If, within forty-five (45) days after publication and**
26 **broadcast, the Agency receives written notice of opposition to the**
27 **Agency's intention to issue such permit and a request for a hearing**
28 **is made, the Agency shall provide for a hearing in accordance with**
29 **the Administrative Adjudication Act if requested by a substantially**
30 **affected party.**

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

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

1 (2) If, within forty-five (45) days after publication and
2 broadcast, the Agency receives written notice of opposition to the
3 Agency's intention to issue such permit and a request for a hearing
4 is made, the Agency shall provide for a hearing in accordance with
5 the Administrative Adjudication Act if requested by a substantially
6 affected party.

7 **Section 51105. Permit Fees.** Each application for a permit, or
8 renewal application, shall be accompanied by a certified check or money order
9 in the amount prescribed by regulations. All fees required by the section shall
10 be non-returnable and shall be placed in the revolving fund established
11 under Section 51117 of this Chapter.

12 **Section 51106. Inspections.** The Agency is hereby authorized to
13 inspect all solid waste management facilities and hazardous waste
14 management facilities at all reasonable times to insure compliance with the
15 laws of the Territory, the provisions of this Chapter and the rules and regulations
16 authorized herein. This authority shall include access to and authority to copy
17 all records relating to solid or hazardous waste, as well as the authority to
18 obtain samples of any waste handled in the facilities.

19 **Section 51107. Inspection Fees.** The Agency is hereby
20 authorized to prescribe fees for inspections conducted of all solid
21 waste management facilities, hazardous waste treatment, storage
22 and disposal facilities, hazardous waste transporters, generators of
23 hazardous waste, waste oil generators, recyclers, marketers,
24 brokers and all other waste oil facilities including boilers and
25 industrial furnaces as well as waste to energy facilities. The
26 inspection fees shall be payable by a certified check or money
27 order in the amount prescribed by regulations. All fees required by
28 this section shall be non-returnable and shall be placed in the
29 revolving fund established under Section 51117 of this Chapter.

30 **Section 51108. Notice.** Any notice, order or other official
31 correspondence affecting the rights of any person under this Chapter shall be
32 delivered by personal service or sent by registered or certified mail with a return
33 receipt to the address of such person as shown by the records of the Agency.
34 The return receipt, signed by the addressee, or his agent, shall be conclusive
35 proof of delivery.

1 **Section 51109. Hearings.** (a) Any person who received an order
2 from the Administrator as authorized by this Chapter and any person whose
3 permit application is disapproved by the Administrator may, within fifteen (15)
4 days after service of such order or disapproval, file a notice of defense with the
5 Agency, setting forth in such notice the legal and factual basis for such defense.

6 (b) The Board of Directors shall, not more than sixty (60) days after
7 receipt of such notice of defense, hold a public hearing at which time the person
8 appealing may appear and present relevant evidence in person or through
9 counsel in support of this petition and be given the opportunity to cross-examine
10 all witnesses testifying against respondent.

11 (c) The **Agency** is hereby authorized to administer oaths, examine
12 witnesses and issue subpoenas to compel the attendance of witnesses and the
13 production of evidence relevant to the matter involved in the hearing.

14 (d) The hearing will be conducted pursuant to the provisions of the
15 Administrative Adjudication Law.

16 (e) The Board shall affirm, modify or revoke any action which is the
17 basis of the administrative hearing and shall notify the respondent of its
18 decision not more than ninety (90) days after the conclusion of the hearing,
19 unless the complexity of the case warrants a longer time frame. The decision
20 shall be in writing and shall become effective thirty (30) days after it is delivered
21 or mailed to respondent unless stated otherwise.

22 (f) Any party affected by the decision may petition for judicial review
23 by filing a petition in the Superior Court of Guam within the time frame provided
24 under the Administrative Adjudication Law. A written notice of such intent to
25 petition for judicial review shall be filed with the Agency at least ten (10) days
26 before the effective date of the Agency decision.

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

29 (1) Violate any provision of this Chapter or any rule, regulation
30 or standard, promulgated thereunder, or order issued pursuant to this Chapter;

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

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

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

1 (5) **Store, collect, transport, process, or dispose of solid waste**
2 **in such a manner that it may present a degradation to the environment or**
3 **create a public nuisance, or an endangerment to health so that a reasonable**
4 **cause of concern exists for the integrity of the public health or the environment;**

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

9 (7) **Not immediately pick up and retrieve any waste**
10 **that has fallen from or been dislodged from the vehicle they are**
11 **operating;**

12 (8) **Destroy or attempt to destroy by burning, any**
13 **garbage, dead animals, or other solid wastes, the burning of which**
14 **may give off foul or offensive odors, except in an incinerator the**
15 **construction and operation of which is approved by the**
16 **Administrator, or as may be otherwise authorized by the**
17 **Administrator.** Nothing in this Section shall preclude the burning of trees,
18 brush, grass and other vegetable matter but prior approval must be obtained
19 from the Administrator.

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

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

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

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

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

33 (4) **Manage hazardous waste facilities without a**
34 **permit issued pursuant to this Chapter;**

35 (5) **Store, collect, transport, process or dispose of**
36 **hazardous waste in such a manner that it may present a**

1 degradation to the environment or create a public nuisance or
2 create a health or safety hazard as determined by the Director of
3 the Department of Public Health and Social Services or the
4 Administrator so that a reasonable cause of concern exists for the
5 integrity of the public health or the environment;

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

10 (b) Each day of continued violation of this section or the
11 provisions of this Chapter or rules and regulations authorized
12 herein shall be deemed a separate offense or violation.

13 **Section 51112. Injunction.** The Agency may maintain an action to
14 restrain any violation or threatened violation of the provisions of this Chapter or
15 the rules and regulations authorized herein. Such right to injunctive relief is in
16 addition to any other powers or penalties conferred by this Chapter.

17 **Section 51113. Plats.** All persons operating a sanitary landfill,
18 hardfill, or other approved disposal site under permits issued pursuant to this
19 Chapter shall, upon completion of the sanitary landfill, hardfill or other approved
20 disposal site, file with the Department of Land Management and the Building
21 Permit Section of the Department of Public Works, a plat of each site, together
22 with a description of the waste placed therein and in conformance with rules
23 and regulations adopted pursuant to this Chapter.

24 **Section 51114. Applicability to Government Agencies.**
25 Government agencies shall comply with all provisions of this Chapter including
26 planning, review, and permit requirements, with the exception of §51104(c).
27 Government agencies may contract with any person to carry out their
28 responsibilities under this Chapter. Such contractors shall also comply with the
29 provisions of this Chapter.

30 **Section 51115. Penalties. (a) Solid Waste-Criminal**
31 **Penalties.** Any person who knowingly violates any solid waste
32 management provision of this Chapter, or any valid solid waste
33 management rule or regulation promulgated under this Chapter, or
34 who refuses or neglects to comply with any lawful order issued by
35 the Administrator in carrying out the provisions of this Chapter
36 shall, upon conviction, be imprisoned for a term of not more than

1 one (1) year, and/or be fined not more than one thousand dollars
2 (\$1,000) per day for each violation or noncompliance, and shall
3 make restitution.

4 (b) Solid Waste-Civil Penalties. Any person who violates
5 any solid waste management provision of this Chapter, or any valid
6 solid waste management rule or regulation promulgated under this
7 Chapter, or who refuses or neglects to comply with any lawful order
8 issued by the Administrator in carrying out the provisions of this
9 Chapter shall forfeit and pay the government of Guam a civil
10 penalty of not more than one thousand dollars (\$1,000) per day for
11 each violation or noncompliance.

12 (c) Hazardous Waste-Criminal Penalties. Any person who
13 knowingly violates any hazardous waste management provisions of
14 this Chapter, or any valid hazardous waste management rule or
15 regulation promulgated under this Chapter, or who refuses or
16 neglects to comply with any lawful order issued by the
17 Administrator in carrying out the provisions of this Chapter shall,
18 upon conviction, be imprisoned for a term of not more than one (1)
19 year, and/or be fined not less than ten thousand dollars (\$10,000)
20 per day for each violation and/or noncompliance, and shall make
21 restitution.

22 (d) Hazardous Waste-Civil Penalties. Any person who
23 violates any hazardous waste management provision of this
24 Chapter, or any valid hazardous waste management rule or
25 regulation promulgated under this Chapter, or who refuses or
26 neglects to comply with any lawful order issued by the
27 Administrator in carrying out the provisions of this Chapter shall
28 forfeit and pay the Government of Guam a civil penalty of not less
29 than ten thousand dollars (\$10,000) per day for each violation or
30 noncompliance.

31 (e) Administrative Penalties. In addition to any other
32 administrative or judicial remedy provided by this Chapter, or by
33 rules adopted under this Chapter, the Administrator is authorized to
34 impose by order the penalties specified in §51114(b) and (d)
35 respectively. Factors to be considered in an administrative penalty
36 include the nature, seriousness, and history of the violation and of

1 any prior violations, recovery of economic benefit of
2 noncompliance, and the opportunity, difficulty, and history of
3 corrective action. It is presumed that the violator's economic and
4 financial conditions allow payment of the penalty, and the burden
5 of proof to the contrary is on the violator. In any proceeding to
6 recover the administrative penalty imposed, the Administrator need
7 only show that notice was given, a hearing was held or the time
8 granted for requesting a hearing has expired without such a
9 request, the administrative penalty was imposed, and that the
10 penalty remains unpaid.

11 Section 51116. Citizen's Suits. (a) Any person may
12 commence a civil action on his behalf:

13 (1) Against any person, including the United States,
14 and any other governmental instrumentality or agency, to the extent
15 permitted by law, who is alleged to be in violation of any permit,
16 standard, regulation, condition, requirement, prohibition, or order
17 which has become effective pursuant to this Chapter; or

18 (2) Against any person, including the United States,
19 and any other governmental instrumentality or agency, to the extent
20 permitted by law, and including any past or present generator, past
21 or present transporter, or past or present owner or operator of a
22 treatment, storage, or disposal facility, who has contributed or who
23 is contributing to the past or present handling, storage, treatment,
24 transportation, or disposal of any solid or hazardous waste which
25 may present an imminent and substantial endangerment to health
26 or the environment; or

27 (3) Against the Administrator where there is alleged a
28 failure of the Administrator to perform any duty under this Chapter
29 which is not discretionary with the Administrator.

30 Any action under paragraph (a)(1), (a)(2), or (a)(3) of this
31 Section shall be brought in the Superior Court of Guam. The
32 Superior Court shall have jurisdiction, without regard to the amount
33 in controversy or the citizenship of the parties, to enforce the
34 permit, standard, regulation, condition, requirement, prohibition, or
35 order referred to in paragraph (a)(1), to restrain any person who
36 has contributed or is contributing to the past or present handling,

1 storage, treatment, transportation, or disposal of any solid or
2 hazardous waste referred to in paragraph (a)(2), to order such
3 person to take such further action as may be necessary, or both, or
4 to order the Administrator to perform the act or duty referred to in
5 paragraph (a)(3), as the case may be, and to apply any appropriate
6 civil penalties under §51115(b) and (d).

7 (b) No action may be commenced under subsection (a)(1)
8 or (a)(2) of this Section:

9 (1) Prior to ninety (90) days after the plaintiff has
10 given notice of the violation or endangerment to (i) the
11 Administrator; (ii) the government of Guam; and (iii) to any alleged
12 violator of such permit, standard, regulation, condition,
13 requirement, prohibition, or order referred to in subsection (a)(1) of
14 this Section if applicable or to any person alleged to have
15 contributed or to be contributing to the past or present handling,
16 storage, treatment, transportation, or disposal of any solid or
17 hazardous waste referred to in subsection (a)(2) of this Section if
18 applicable.

19 (2) If the Administrator or government of Guam has
20 commenced and is diligently prosecuting a civil or criminal action
21 to require compliance with such permit, standard, regulation,
22 condition, requirement, prohibition, or order pursuant to subsection
23 (a)(1) of this Section or if the Administrator or government of Guam,
24 in order to restrain or abate acts or conditions which may have
25 contributed or are contributing to the activities which may present
26 the alleged endangerment under subsection (a)(2) of this Section
27 has commenced and is diligently prosecuting an action under local
28 law or under the Comprehensive Environmental Response,
29 Compensation and Liability Act (CERCLA) or is actually engaging
30 in a removal action under CERCLA or has incurred cost to initiate a
31 remedial investigation and feasibility study under CERCLA and is
32 diligently proceeding with a remedial action.

33 (c) No action may be commenced under subsection (a)(3)
34 of this Section prior to sixty (60) days after the plaintiff has given
35 notice to the Administrator and the government of Guam in which
36 the failure has occurred that he will commence such action.

1 **Section 51117. Solid Waste Management Fund. There is**
2 **established a non lapsing, revolving fund, hereafter referred to as**
3 **the "Solid Waste Management Fund" which shall be maintained**
4 **separate and apart from any other funds of the government of**
5 **Guam, and shall be administered by the Administrator.**
6 **Independent records and accounts shall be maintained in**
7 **connection therewith. All fees, reimbursements, assessments,**
8 **finances, bail forfeitures, and other funds collected or received**
9 **pursuant to this Article shall be deposited in this Fund and used for**
10 **the administration and implementation of this Article, including**
11 **purchase of equipment and payment of personnel costs of the**
12 **Agency.**

Article 2
Litter Control

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Section 51201.	Declaration of Purpose
Section 51202.	Definitions
Section 51203.	Powers and Duties
Section 51204.	Litter and Defacement Control Revolving Fund
Section 51205.	Prohibited Activities
Section 51206.	Enforcement
Section 51207.	Penalties
Section 51208.	Severability Clause

Section 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.

Section 51202. Definitions. For the purpose of this Article, the following words shall have the meaning given herein unless their use in the text clearly demonstrates a different meaning:

(a) **Apprehending Officers** shall mean any designated individual with the Department of Parks and Recreation, the Department of Agriculture, the Guam Environmental Protection Agency, the Department of Public Health and Social Services, the Department of Public Works, all village mayors and assistant mayors, and any peace officer in the Guam Police Department.

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

(c) **Littering** shall mean the negligent dumping, throwing, depositing, dropping, placing, sweeping, disposing, 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.

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

3 **Section 51203. Power and Duties.** (a) The Administrator of the
4 Guam Environmental Protection Agency, in consultation with the Attorney
5 General's Office, is empowered to prescribe and amend such rules and
6 procedures as are necessary for the efficient implementation of this Article.

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

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

11 **Section 51204. Litter and Defacement Control Revolving**
12 **Fund.** There is established a fund to be known as the Litter and
13 Defacement Control Revolving Fund which shall be maintained
14 separate and apart from any other fund of the government of Guam
15 and shall be administered by the Administrator. Independent
16 records and accounts shall be maintained in connection therewith.
17 Except as provided in §40115 of Title 5, Guam Code Annotated, 50
18 percent (50%) of all assessments, fines, bail forfeitures and other
19 funds collected or received pursuant to this Article shall be
20 deposited in the Litter and Defacement Control Revolving Fund and
21 used for the administration and implementation of this Article; for
22 education programs and advertisement promotions aimed at
23 increasing awareness of litter and defacement problems; for the
24 placement of anti-litter and anti-graffiti signs around the island; and
25 for the cleanup of litter and defacement from public highways,
26 streets, alleys, roads, bridges, buildings, signs, restrooms, public
27 recreational areas or other public lands that are most visible to the
28 public, and fifty percent (50%) shall be deposited in the Guam
29 Beautification Fund as provided in 21 GCA §77114.1.

30 **Section 51205. Prohibited Activities.** (a) It shall be unlawful for
31 any person to:

32 (1) Negligently dump, deposit, throw, leave or abandon any
33 litter upon any public highway, street, alley or road, upon public parks or
34 recreation areas or upon any other public property except as designated for
35 such use, or upon property owned by another person without written permission

1 of the owner, or into any bay, channel, harbor, river, creek, stream, reservoir,
2 coastal waters, or other waters of the Territory.

3 (2) Not immediately pick up and retrieve any litter that has
4 fallen from or been dislodged from the vehicle or watercraft they are operating.

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

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

19 **Section 51206. Enforcement.** Any person apprehended for
20 violation of any of the above prohibitions shall be served by the apprehending
21 officer with a citation and an order to appear at the Traffic Court Division of the
22 Superior Court of Guam for prosecution. Parents or legal guardians will
23 assume all responsibility for any violations of this Chapter committed by any
24 minors under their care.

25 **Section 51207. Penalties.** (a) Littering shall be punishable by a
26 fine of not less than five hundred dollars (\$500) nor more than one thousand
27 dollars (\$1,000) which shall not be suspended by the Court. Additionally, any
28 person convicted under this Section may be ordered to pick up and remove
29 litter or defacement, as the case may be, from a public place under the
30 supervision of the Agency, or as the Court shall otherwise provide for a period
31 not less than eight (8) hours for each offense. Furthermore, persons convicted
32 under this Section may be required to pay the costs of removing any litter that
33 they caused.

34 (b) A person charged with a first violation may avoid a court hearing
35 by posting bail in the amount of the minimum fine or paying such prescribed fine
36 as the Traffic Court Division of the Superior Court shall prescribe.

1 **Section 51208. Severability Clause.** The provisions of this
2 Chapter are severable and if any provision or part thereof shall be held invalid
3 or unconstitutional or inapplicable to any person or circumstances, such
4 invalidity, unconstitutionality or inapplicability shall not affect or impair the
5 remaining provisions of this Chapter.

1 **successful offerors include as part of their processing, an intake**
2 **system to screen and remove batteries and other potentially**
3 **hazardous residual material including, engine oil, hydraulic fluids**
4 **and coolant and freon from air conditioning units.”**