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CHAPTER 33
SOLID WASTE

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ARTICLE 1
SOLID WASTE

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§ 33101. Definitions.

As used in this Chapter:

(a) *Garbage* means the solid or semi-solid but reusable animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods, including cans, bottles and cartons, in which it was received and wrapping in which it may have been placed for disposal;

(b) *Rubbish* means nonputrescible solid waste, including ashes, consisting of both combustible and noncombustible waste such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and broken or rejected matter or litter of any kind;

(c) *Dump* means any area, whether on public or private property, where garbage, trash, refuse, junk, debris or other broken and rejected material is deposited, other than in legal trash or garbage receptacles or other authorized disposal sites; and

(d) *Premises* means any vacant lot or any private property on which is located one (1) or more of the following: home, apartment, hotel or commercial or manufacturing establishment but does not include a dump.

SOURCE: GC § 9630.

§ 33102. Prohibition.

No person shall have on his premises any garbage or rubbish except as provided in this Chapter.

SOURCE: GC § 9630.1.

§ 33103. Storage.

All garbage and rubbish shall be stored and maintained in durable receptacles which shall have close fitting covers, unless otherwise prescribed in the rules and regulations promulgated under this Chapter.

SOURCE: GC § 9630.2.

§ 33104. Residence.

Each person shall provide adequate containers for the storage of all garbage and rubbish prior to collection on the premises where he resides except that where there are multiple dwelling units confined to one (1) property and consisting of five (5) or more units, the owner shall provide adequate containers for all tenants.

SOURCE: GC § 9630.3.

§ 33105. Commercial Establishments.

The owner or operator of any business establishments or commercial operation shall provide adequate containers for the storage of garbage or rubbish that is generated in the course of operating his business or commercial enterprise.

SOURCE: GC § 9630.4.

§ 33106. Removal.

Garbage and rubbish shall be removed from all premises at regular intervals as may be established by regulation, but under no circumstances shall garbage or rubbish accumulate for a period exceeding seven (7) days.

SOURCE: GC § 9630.5.

§ 33107. Dumps.

No person shall maintain or permit the establishment of a dump on their premises unless as otherwise permitted by law.

SOURCE: GC § 9630.6.

§ 33108. Edible Garbage.

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The Director is authorized to prescribe by regulation such processing and limitations with respect to the use of garbage as animal feed or other use as he may deem necessary for the public health. No garbage shall be sold or disposed of as food for human consumption.

SOURCE: GC § 9630.7.

§ 33109. Vehicles.

Vehicles used for conveying garbage or rubbish shall not be used for the transportation or conveyance of any food or drink that will or may be used for human consumption.

SOURCE: GC § 9630.8.

ARTICLE 2

SWMF HEALTH MONITORING AND COMPENSATION.

SOURCE: This article was added by P.L. 24-181:1.

§ 33201. Legislative Finding and Intent.

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§ 33201. Legislative Finding and Intent.

Solid Waste Management Facilities ('SWMF') have byproducts that if exposed repeatedly, or consumed in finite amount, can be detrimental to good health. The community where the SWMF is processing municipal solid waste should be compensated for accepting a facility (incinerator, landfill, WTEF, combustion, plasma, processing) which is essential for the Islands' health and welfare, but inherently exposes that village with not only noxious and eyesore surroundings, but perhaps imposes respiratory disease, infection disorders, cancer ailments and other disorders more than the expected distribution for such illnesses. It is therefore imperative that the monitoring of people, since the facilities and the environment are being monitored already by the Guam Environmental Protection Agency ('GEPA') and the Department of Public Health and Social Services ('DPHSS'), be established and also logically that we should compensate villages.

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Recognizing the critical need to establish a Municipal SWMF, it is the intent of the Guam Legislature to provide for the monitoring and compensation of the environmental impact of the Municipal SWMF on the health and welfare of residents in the neighborhood.

§ 33202. Title.

This Article may be cited or referred to as the, "*SWMF Health Monitoring and Compensation Act of 1998.*"

§ 33203. Additional Definitions to this Chapter.

In addition to the words and phrases defined herein, all definitions contained in §51102 of Chapter 51, Part 2, Division 2 of Title 10 of the Guam Code Annotated are applicable, unless specifically defined for in this Chapter:

(1) *Department* means the Department of Public Health and Social Services ('DPHSS').

(2) *Director* means the Director of DPHSS.

(3) *Division* means the Division of Environmental Health of DPHSS.

(4) *DISID* means the Department of Integrated Services for Individuals with Disabilities.

(5) *Base Line Study* shall mean a collection of information and/or test results for the following, but not limited to: laboratory studies, radiology, tissue and specimen samples, etc.

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

(7) *DOAg* shall mean the Department of Agriculture.

§ 33204. Monitoring.

All efforts toward the opening, maintenance, operation and closure of solid waste management facilities, including dump sites, landfills, incinerators and the like, shall be taken with utmost caution, taking into consideration the environmental impact of such municipal solid waste management programs upon the lives and health of the families residing in the neighborhood of such facilities. Specifically, the following related tasks are assigned:

(a) Monitoring Authority. All SWMF that are involved in the following: landfill, waste to energy facility, incineration, plasma torch or flame technology and other SWMF that the Director of DPHSS or

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Administrator of GEPA designates shall be monitored. The Environmental Health Division of DPHSS shall conduct an initial base-line study of the people, vectors and other animals around the solid waste management facility within a radius of one (1) mile from the perimeter of the SWMF and may be extended to cover an area up to five (5) miles at the discretion of the Director of DPHSS. The GEPA and DOAg shall provide assistance to DPHSS, not limited to technical support, training, collaboration of data, etc. The base-line data shall be established and should at least include relevant data of the best indicators determining whether the prevalence of allergies, respiratory disorders, infectious diseases, cancer ailments and other diseases are more than the expected distribution than that of a national standard or an established local standard. The summary report of such findings shall be reported to the Governor, the Speaker of the Guam Legislature, and the Director of DISID for the Division of Health Planning. The follow-up analysis shall be no less than every two (2) years and may be as frequent as authorized by the Director of DPHSS. The Director of DPHSS may hire the assistance of no more than three (3) consultants, such that one (1) must be a certified epidemiologist and one (1) must be a licensed physician. The Director may also contract the project to a qualified company with a certified epidemiologist and a licensed physician staff according to the Procurement Laws, Chapter 5 of Title 5 of the Guam Code Annotated.

(b) Source of Funding. Any person operating a Solid Waste Management Facility(ies) shall be levied one percent (1%) of all tipping fees, as defined in § 51118 of Part 2, Division 2 of Title 10 of the Guam Code Annotated. The collected amount by DPW shall be deposited to the SWMF Medical Monitoring Fund ('SWMF-MMF').

(c) Distribution of Funds. There shall be a quarterly disbursement of funds from the SWMF-MMF by the Director of DPHSS for the amount collected in Paragraph (b) above as follows:

(1) For Landfill Closure. The village(s) where the landfill facility is to be closed shall receive twenty-five percent (25%) of the levied amount from Subsection (b), Source of Funding, up to five (5) years after the date of closure declared by DPW. The monetary amount shall be appropriated from the SWMF-MMF to the respective village(s) Mayor's operational account for community health care needs or community health programs. After the fifth (5th) year, the amount set aside for this Paragraph shall be appropriated equally to Paragraphs

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(2) and (3) below. The Village of Ordot/Chalan Pago Landfill closure shall be the first recipient of this Provision.

(2) For other village(s) with a Solid Waste Management Facility(ies), the sum of twenty-five percent (25%) of the levied amount from Paragraph (b), Source of Funding, shall be appropriated from the SWMF-MMF to the respective village Mayor's operational account for community health care needs or community health programs.

(3) The Department of Public Health and Social Services shall receive fifty percent (50%) of the levied amount from Paragraph (b), Source of Funding, for the purpose of this Act. GEPA and DOAg shall be compensated for all expenses relative to the enforcement of this Act from the SWMF-MMF by the Director of DPHSS.

(4) Administrative Responsibility and Accountability. The respective recipient mayor(s), Director of DPHSS, GEPA and DOAg are hereby authorized to use their share of the SWMF-MMF for the purposes intended in this Act and shall prepare a financial summary report to the Governor and the Speaker of the Guam Legislature on an annual basis, or as per request by the Governor or Speaker of the Guam Legislature.

(5) Creation of SWMF-MMF. There is hereby created, separate and apart from other funds within the Department, a fund to be known as the Solid Waste Management Facilities - Medical Monitoring Fund ('SWMF-MMF'). The SWMF-MMF shall not be commingled with the General Fund or any other funds of the government of Guam, and it shall be maintained in a separate bank account as required under this Article and may be deposited in an interest bearing account.

(6) Promulgating Rules and Regulations. DPHSS shall promulgate rules and regulations within sixty (60) days after enactment of this Act through the Administrative Adjudication Law. The rules and regulations shall include revising and creating forms, maintaining the confidentiality of records, summary reports appropriate for public disclosure, other documents as are necessary in accordance with the management of confidentiality of patient records, provisions for violation or breach of information management and any other provision to falsify the intent and the enforcement of this Act.

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(7) The lack of rules and regulations shall not impede the enforcement of Paragraphs (1), (2) and (3) above.

§ 33205. Standing to Sue, Injunction.

The Director of DPHSS shall have standing to bring a lawsuit in the Superior Court of Guam for public nuisance in order to enjoin the operation of a SWMF.
