



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

Office of the Speaker  
ANTONIO R. UNPINGCO

Date: 2-23-98

Time: 10:44 a.m.

Rec'd by: [Signature]

Print Name: FILED 60 FEB 23 1998

Refer to  
**Legislative Secretary**

**FEB 22 1998**

The Honorable Antonio R. Unpingco  
Speaker  
Twenty-Fourth Guam Legislature  
Guam Legislature Temporary Building  
155 Hesler Street  
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY

ACKNOWLEDGMENT RECEIPT

Received By [Signature]

Time 12:05 p.m.

Date 2-23-98

Dear Speaker Unpingco:

Enclosed please find a copy of Substitute Bill No. 495 (COR), "AN ACT TO REPEAL AND REENACT §§51101, 51102, 51103 AND 51104; TO AMEND §51110(8); AND TO ADD §§51110(a)(9), 51111(a)(7), 51118 and 51119; A;; TO CHAPTER 51, PART 2, DIVISION 2 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF THE ORDOT DUMP CLOSURE AND SOLID WASTE MANAGEMENT ALTERNATIVES ACT; TO AMEND §§6108(a), 7102, 7104, 8107, 8108, 8111(a), 8112(a) AND 9203(e); TO ADD NEW §§2101, 5104(d) AND 7119.1; TO REPEAL AND REENACT §§6109, ALL OF DIVISION 1 OF TITLE 7 OF THE GUAM CODE ANNOTATED, AND TO REPEAL AND REENACT §5502(b) OF CHAPTER 5A, DIVISION 1 OF TITLE 19 OF THE GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING THE POWERS WITHIN THE JUDICIAL BRANCH OF GOVERNMENT; TO AMEND §19 OF CHAPTER V OF P.L. NO. 23-128, RELATIVE TO THE DEAPPROPRIATION OF GOVERNMENT FUNDS; TO ADD A NEW §37 TO P.L. NO. 23-128, RELATIVE TO APPROPRIATIONS; AND TO PROHIBIT THE WITHHOLDING OF APPROPRIATIONS", which has been enacted into law without the signature of the Governor. This legislation is now numbered as **Public Law No. 24-139**.

Substitute Bill No. 495 could neither be endorsed, nor rejected. This legislation provides needed action on Guam's emergency solid waste management problem, yet it contains a completely unrelated rider decimating the newly created Supreme Court of Guam. The rider contains extensive substantive provisions concerning our court system, all added

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without the benefit of a public hearing. Because immediate action on solid waste management is a basic necessity for life, I allowed Substitute Bill No. 495 to go into law without benefit of the signature of the Governor.

## **I. Solid Waste Management**

The situation at the Ordot dump has been continuing for the past 16 years. At that time, the government of Guam acknowledged that it was necessary to begin plans for the closure of the dump, which had a limited life span at that time. The Guam Economic Development Authority granted an exclusive license under the applicable laws at the time for the construction of a waste-to-energy facility to reduce the volume of our waste, and enable the dump to extend its life until a new landfill could be created. Since that time, the Calvo-Ada, Bordallo-Reyes, and Ada-Blas Administrations have all worked towards solving our solid waste management problem. All of these Administrations have worked towards developing a safe and effective plan for our island. Former Governor Joseph Ada and his GEDA Administrator Charles Crisostomo approved a waste-to-energy facility.

Just as "dump" is not the same as "land fill", "incinerator" is not the same as "waste-to-energy facility" or "resource recovery". A dump is a place where a variety of materials are deposited, and the mixture of these materials may be toxic or otherwise dangerous. A dump does not have a liner underneath which prevents liquids and semi-liquids (leachate) from seeping into the ground, becoming mixed with the ground water and even running into rivers and the ocean. By contrast, a landfill is a place where materials are deposited, however, not all types of materials are deposited there. Some materials have other destinations, such as recycling. A proper landfill has a liner underneath, preventing the leachate from mixing with groundwater. A proper landfill also uses adequate daily cover for environmental safety and to keep the surroundings free from odors.

An incinerator is an enclosed facility, even as simple as a box, where materials are burned. A "waste-to-energy" facility or "resource recovery" facility is a licensed, inspected, facility where certain materials are burned safely, and which has mechanisms to keep contaminants out of our air, land, and water. A "waste-to-energy" facility or "resource recovery" facility is regulated by the federal government and there is a considerable

experience throughout the world with these facilities so that they can be run safely and beneficially. Resource recovery means that recyclable materials would be separated out, materials which should not be burned and cannot be recycled would be placed in a landfill, and materials which can be burned to recover energy would be burned in a facility close to an existing power plant.

The Ordot dump is outdated. At this time, the Ordot dump is overflowing; we have literally nowhere to put our trash. Residents of all of Guam's villages are impacted, not just those who are unfortunate enough to live next door to the dump. The Ordot-Chalan Pago residents sorely need some relief from the smells and possible contaminants of a dump near their homes, businesses, and recreational areas. Closing the Ordot dump is not optional; it is mandated now, by federal and local laws, and by the need to maintain a good quality of life for our citizens. This legislation provides a solution to this long overdue problem.

Simply opening a new landfill without any provision for significantly reducing the volume of Guam's waste mean that the new landfill will only last for approximately 14 years. Only 10-20% of Guam's solid waste can be recycled. The large volume of waste which would be placed in the new landfill would quickly fill up the facility. More landfills would be needed over the coming years, using up scarce land resources on an island which is only 30 miles long and 8 miles wide. By contrast, opening a new landfill, operating a "resource recovery" facility at the same time, and increasing recycling activities, will enable Guam to reduce the volume of waste which needs to be placed in a landfill so that the new landfill will last as long as 100 years.

## **II.**

### **Organization of our Judiciary System**

Substitute Bill No. 495 completely reorganizes the Judicial Branch of the government. It does this by rider, with no public hearing on the concept. The rider was attached and passed without the input of any of the judges or justices of either the Supreme Court of Guam or the Superior Court of Guam, and without any input from the public.

Senator Pangelinan announced he is introducing a bill to prevent riders. The Organic Act does not protect us from senators attaching unrelated

riders to bills, regardless of a local law on the subject. Introducing a bill to prevent riders is a little like locking the barn door after the horse has run away, but only with a straw lock. The unrelated judicial rider has already been passed. No anti-rider bill can prevent future riders, or prevent another whimsical reorganization of our local judicial system.

Guam is moving forward in its quest for a more determinate government. We want our government to express the will of our people, its branches should not be subject to the whims of any group. Our Organic Act fails to protect the local judiciary system from the whims of every legislature. A judiciary organization that is passed today can be repealed or amended tomorrow. What is done by the 24th Guam Legislature can easily be undone by the 25th. In fact, our Legislature can simply abolish our third branch of government, the local judiciary, altogether.

The Organic Act, like the Ordot dump, is outdated. At this point in time, the Organic Act does not express the desired government of our people. It is, like the dump, "too small" and ineffectual for our island. One way that this can be seen is in the failure of the Organic Act to provide for a stable local court system. The Commonwealth Act and a subsequent Constitution, voted upon by the people, are needed to resolve this and many other problems and omissions.

In the meantime, lacking a Commonwealth Act or a Constitution, Congressman Underwood has been working on the Judicial Empowerment Act, which would amend the Organic Act to provide for a Supreme Court of Guam, which, like the current Legislature and the Executive Branch, **cannot be changed or abolished** by local legislation. This would put the Judicial Branch on the same level of permanency as the other 2 branches of government. Until there is a Commonwealth Act and a Constitution, this is the best way to ensure the stability of our local court system.

### III. Summary

A solution to Guam's urgent solid waste problem is necessary now. We can no longer delay. We cannot live in today's world without the ability to clean up after ourselves, to keep our island safe and habitable, to ensure a healthy environment and foster a vibrant economy. Substitute Bill No. 495 provides a solution, and provides safeguards for public review: in this

legislation, the Request for Proposal (RFP) for a solid waste facility, as well as the issue of private activity bonds to finance the facility must have the approval of the Legislature. Also, the rules and regulations for operations of the facility must go through the public hearing process under the Administrative Adjudication Law.

As for the judiciary reorganization rider, this action can be undone with the stroke of a pen.

I ask the Legislature, now, to hold a public hearing and seriously consider our local court system in the light of the many years of hard work done by elected leaders over the years to obtain a "real" Supreme Court for Guam. We need to examine, publicly, just what it means to have a Supreme Court, and work with Congressman Underwood to establish a stable Supreme Court within the framework of the Organic Act until another status for Guam is achieved.

Guam does not want to live at the whim of the 24th Guam Legislatures' penchant for judicial organization by rider. By safeguarding our Third Branch of Government within the Organic Act, we will be able to see an end to the Legislature's tail wagging the Judiciary's dog.

Very truly yours,



Carl T. C. Gutierrez

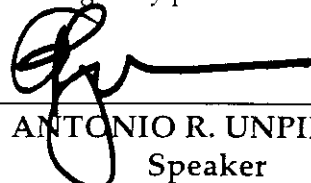
Attachment 00666


cc: The Honorable Joanne M. S. Brown  
Legislative Secretary

TWENTY-FOURTH GUAM LEGISLATURE  
1998 (SECOND) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 495 (COR), "AN ACT TO REPEAL AND REENACT §§51101, 51102, 51103 AND 51104; TO AMEND §51110(8); AND TO ADD §§51110(a)(9), 51111(a)(7), 51118 AND 51119; ALL TO CHAPTER 51, PART 2, DIVISION 2 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF THE ORDOT DUMP CLOSURE AND SOLID WASTE MANAGEMENT ALTERNATIVES ACT; TO AMEND §§6108(a), 7102, 7104, 8107, 8108, 8111(a), 8112(a) AND 9203(e); TO ADD NEW §§2102, 5104(d) AND 7119.1; TO REPEAL AND REENACT §§2101(a), 3107(b), 4101(b), 4101(c), 4103, 5101, 5102, 8102, 8104, 8105, 8106, 8109 AND 8113; AND TO REPEAL §6109, ALL OF DIVISION 1 OF TITLE 7 OF THE GUAM CODE ANNOTATED, AND TO REPEAL AND REENACT §5502(b) OF CHAPTER 5A, DIVISION 1 OF TITLE 19 OF THE GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING THE POWERS WITHIN THE JUDICIAL BRANCH OF GOVERNMENT; TO AMEND §19 OF CHAPTER V OF P.L. NO. 23-128, RELATIVE TO THE DEAPPROPRIATION OF GOVERNMENT FUNDS; TO ADD A NEW §37 TO P.L. NO. 23-128, RELATIVE TO APPROPRIATIONS; AND TO PROHIBIT THE WITHHOLDING OF APPROPRIATIONS," was on the 7<sup>th</sup> day of February, 1998, duly and regularly passed.

  
ANTONIO R. UNPINGCO  
Speaker

Attested:  
  
JOANNE M.S. BROWN  
Senator and Legislative Secretary

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This Act was received by the Governor this 10<sup>th</sup> day of February, 1997, at  
3:27 o'clock P.M.

  
Assistant Staff Officer  
Governor's Office

APPROVED:

\_\_\_\_\_  
CARL T. C. GUTIERREZ  
Governor of Guam

Date: \_\_\_\_\_

Public Law No. 24-139 (Became law without the Governor's signature)

TWENTY-FOURTH GUAM LEGISLATURE  
1998 (SECOND) Regular Session

**Bill No. 495 (COR)**

As substituted on the Floor.

Introduced by:

A. C. Blaz  
E. J. Cruz  
J. C. Salas  
F. B. Aguon, Jr.  
E. Barrett-Anderson  
Felix P. Camacho  
Francisco P. Camacho  
M. C. Charfauros  
Mark Forbes  
L. F. Kasperbauer  
A. C. Lamorena, V

AN ACT TO REPEAL AND REENACT §§51101, 51102, 51103 AND 51104; TO AMEND §51110(8); AND TO ADD §§51110(a)(9), 51111(a)(7), 51118 AND 51119; ALL TO CHAPTER 51, PART 2, DIVISION 2 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF THE ORDOT DUMP CLOSURE AND SOLID WASTE MANAGEMENT ALTERNATIVES ACT; TO AMEND §§6108(a), 7102, 7104, 8107, 8108, 8111(a), 8112(a) AND 9203(e); TO ADD NEW §§2102, 5104(d) AND 7119.1; TO REPEAL AND REENACT §§2101(a), 3107(b), 4101(b), 4101(c), 4103, 5101, 5102, 8102, 8104, 8105, 8106, 8109 AND 8113; AND TO REPEAL §6109, ALL OF DIVISION 1 OF TITLE 7 OF THE GUAM CODE ANNOTATED, AND TO REPEAL AND REENACT §5502(b) OF CHAPTER 5A, DIVISION 1 OF TITLE 19 OF THE GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING THE POWERS WITHIN THE JUDICIAL BRANCH OF

GOVERNMENT; TO AMEND §19 OF CHAPTER V OF  
P.L. NO. 23-128, RELATIVE TO THE  
DEAPPROPRIATION OF GOVERNMENT FUNDS; TO  
ADD A NEW §37 TO P.L. NO. 23-128, RELATIVE TO  
APPROPRIATIONS; AND TO PROHIBIT THE  
WITHHOLDING OF APPROPRIATIONS.

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

2        **Section 1. Short Title.**        This Act shall be known as "*The Ordot*  
3        *Dump Closure and Solid Waste Management Alternatives Act.*"

4        **Section 2.** Notwithstanding any other provision of law, Section 51101  
5        of Chapter 51, Part 2, Division 2 of Title 10 of the Guam Code Annotated is  
6        hereby repealed and reenacted to read as follows:

7                **"Section 51101. Legislative Findings.** (a) The Guam Legislature  
8        finds:

9                (1)    the Ordot Landfill is a threat to the health and safety of  
10               the residents of Guam, and specifically for the residents of Ordot-  
11               Chalan Pago, Yona and the villages downriver and downwind;

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

15               (3)    under the Government of Guam Property Act, the  
16               Ordot Landfill shall be converted to a public park after it is closed  
17               in accordance with applicable U.S. E.P.A. and government of  
18               Guam regulations. In order to protect the health and welfare of  
19               the residents of Chalan Pago-Ordot and the people of Guam, the



1 Agency shall monitor the landfill on an on-going basis for  
2 compliance with this Section and take proper measures to mitigate  
3 environmental damage;

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

8 (5) even with closure of the Ordot Landfill and  
9 construction of a new landfill at the same or any other site,  
10 landfilling cannot continue as the sole method of waste disposal  
11 for Guam due to the shortage of land on Guam, and the general  
12 aversion of any community to the location of a landfill within their  
13 proximity;

14 (6) it is in the best interest of the government to privatize  
15 through free and fair competition, the solid waste management  
16 operations of the Island, from collection to disposal, without  
17 jeopardizing the job security for the employees of the Solid Waste  
18 Management Division of the Department of Public Works as well  
19 as the private businesses currently engaged in solid waste  
20 collection, recycling and other solid waste management  
21 operations;

22 (7) it is in the best interest of the government to establish a  
23 funding procedure or financial arrangement which will pay for  
24 operations and meet the requirements for a totally funded  
25 program for solid waste management;

1           (8) Guam contains approximately 228 square miles of  
2 landmass. Over half of that mass is located over the northern  
3 Guam Lens, a pure groundwater resource that requires protection.  
4 Thus, any landfill more likely should be located in southern  
5 Guam, south of a line running approximately from Cabras Island  
6 to Pago Bay. With the pristine south already imposed upon by  
7 this geological and environmental constraint, and in order to  
8 protect the cultural traditional nature of the villages in the south  
9 and the unique environments there, a source and waste disposal  
10 reduction policy must be implemented to minimize the  
11 requirement for landfilling;

12           (9) source reduction must include a conservation and  
13 recycling program. It must also consider the disposal of green  
14 waste through mulching or composting, or the recovery of  
15 resources through recycling of the green waste. Construction or  
16 demolition waste and metallic debris should be addressed  
17 alternately, and the alternate plan should include hardfilling or  
18 quarrying, recycling or disposal other than at the landfill. Rubber  
19 tires, rubber products, and batteries should be addressed and  
20 recycled, recovered or disposed of at alternate sites.

21           (10) a solid waste management plan for Guam must  
22 address typhoon and other disaster recovery; it is estimated that  
23 Super Typhoon Paka produced over 750,000 cubic yards of waste,  
24 which should be recycled or disposed of; Guam is in the typhoon

1 belt and in an active volcanic range, so disasters will happen on a  
2 regular basis;

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

9 (12) in 1983, the Guam Environmental Protection Agency  
10 ('GEPA') adopted a Solid Waste Management Plan for Guam and  
11 also adopted regulations for solid waste collection and disposal;

12 (13) the government must now establish an updated Solid  
13 Waste Management Plan ('SWMP' or the 'Plan'), which must  
14 include the closure and beneficial use of the Ordot Landfill, the  
15 privatization of the complete solid waste program, including  
16 landfill operations and provisions for job protection for the  
17 employees of the Solid Waste Division, source reduction,  
18 recycling, composting, resource recovery, waste reduction and  
19 regulated landfill disposal in an integrated program for solid  
20 waste collection and disposal, and the funding for the Plan. The  
21 SWMP must also address construction debris or demolition waste;  
22 metallic debris; tires; waste oil; household hazardous waste;  
23 abandoned vehicles and other bulky metallic waste; white goods,  
24 such as washers, dryers and refrigerators; and green waste, which

1 may be useful in some form, but unnecessarily contribute to  
2 landfill volume;

3 (14) the Department of Public Works is directed to  
4 implement the updated Solid Waste Management Plan, as  
5 approved by the Guam Legislature, regulated by GEPA; and

6 (15) any and all solid waste handling and disposal  
7 contemplated by and authorized under this Act must obtain and  
8 operate under any and all permits required by laws, rules and  
9 regulations applicable to Guam.

10 (16) The government of Guam shall not direct or regulate  
11 existing permitted private entities engaged in solid waste  
12 collection or recycling beyond the scope and extent of Federal  
13 statutory and regulatory requirements. The standings of such  
14 private businesses as permitted and proven must be given  
15 maximum protection and support under this Act to promote their  
16 viability and longevity under a free enterprise system.

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

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

22 (2) provide the authority and resources, including  
23 funding to plan for, establish, finance, operate and maintain  
24 efficient, environmentally acceptable solid waste management

1 systems, privatized, but administered by the Department of Public  
2 Works and regulated by GEPA;

3 (3) privatize Guam's Solid Waste Management System  
4 ('SWMS') subject to all applicable laws and Public Law Number  
5 24-06;

6 (4) establish the SWMS to be operated by private  
7 ventures, entities or individuals, to promote land conservation by  
8 limiting landfilling requirements consistent with the SWMP, and  
9 to establish as a limit the reusing, recycling and composting of no  
10 less than twenty percent (20%) of the total solid waste generated  
11 on Guam from all sources within the time frame established by the  
12 Plan, as well as a restriction that all recyclable solid waste  
13 separated at the source or at collection centers shall be processed  
14 only at permitted recycling facilities; and a comprehensive solid  
15 waste disposal and resource recovery program that ultimately will  
16 minimize Guam's need for additional landfills beyond replacing  
17 the Ordot Landfill; quantitative factors to meet such an objective  
18 shall be specified and substantiated in the SWMP;

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

1           (6) continue authority in GEPA to review the design of  
2 and to issue permits for the operation of solid waste collection,  
3 transport, processing and disposal activities;

4           (7) continue authority in GEPA to undertake a  
5 comprehensive investigation of and set minimum standards for  
6 the transportation, processing, storage, treatment, and disposal of  
7 hazardous waste, and conduct surveys for special disposal  
8 facilities for hazardous waste, to protect public health, other living  
9 organisms and the environment through an effective and efficient  
10 hazardous waste management system;

11           (8) continue authority in GEPA to establish and  
12 implement an enforcement system to prevent the improper  
13 disposal of solid waste;

14           (9) promote the application of a Solid Waste Management  
15 System which preserves and enhances the quality of air, water  
16 and land resources;

17           (10) promote and assist in the development of markets for  
18 recovered and recycled materials;

19           (11) support and encourage the rapid and efficient  
20 removal, recycling, processing, or disposal of abandoned vehicles  
21 and other bulky waste, and to assure that the recovery of  
22 resources is facilitated.

23           (12) authorize the closure and beneficial use of the Ordot  
24 Landfill site, and promote, assist and support the construction

1 and operation of a privatized sanitary landfill, resource recovery  
2 and other solid waste management facilities;

3 (13) require consideration and evaluation of treatment of  
4 bottom ash generated from resource recovery facilities any  
5 municipal solid waste incinerator company which operates a  
6 facility which generates bottom ash or waste ash shall be  
7 responsible for the disposal thereof and cost of the disposal  
8 thereof; and

9 (14) authorize GEPA to establish such advisory committees  
10 as are necessary to carry out its planning and solid waste  
11 management responsibilities; the committees shall include but  
12 limited to representatives of GEPA, DPW, the Department of  
13 Public Health and Social Services, collectors, operators, applicable  
14 Federal agencies, educational/environmental groups and the  
15 public at large.

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

19 **"Section 51102. Definitions.** Notwithstanding any other  
20 provision of law, for the purpose of this Chapter, the following words  
21 and phrases shall have the meanings given herein, unless their use in  
22 the text of the Chapter clearly demonstrates a different meaning.

23 (1) **'Administrator'** means the Administrator of the Guam  
24 Environmental Protection Agency ('GEPA') or his designee.

25 (2) **'Agency'** means GEPA.

1           (3) **'Best public interest'** means any activity which lessens  
2 the demand for landfill sites, conserves land resources and serves  
3 to insure proper, cost effective and environmentally sound  
4 disposal of solid waste.

5           (4) **'Board'** means the Board of Directors of GEPA.

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

12          (6) **'Collection'** or **'Collect'** means the act of removing  
13 solid waste from a generator.

14          (7) **'Collector'** means any individual, governmental  
15 organization or business which has received a permit to collect  
16 and transport waste in accordance with applicable laws and  
17 regulations.

18          (8) **'Combustion'** means to thermally break down certain  
19 types of solid waste in an enclosed device using controlled  
20 temperatures.

21          (9) **'Composting'** means the controlled degradation of  
22 organic solid waste.

23          (10) **'Department'** means the Department of Public Works  
24 ('DPW').

25          (11) **'Director'** means the Director of DPW.



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

7           (13) '**Division**' means the Division of Solid Waste  
8           Management of the DPW.

9           (14) '**Dump**' means a land site where solid waste is  
10          disposed without a valid permit or a landfill that has historically  
11          been in regulatory noncompliance.

12          (15) '**Dwelling**' means a building or portion thereof  
13          designed exclusively for residential occupancy by one (1) family  
14          for living and sleeping purposes and not to exceed two (2)  
15          dwelling units.

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

19          (17) '**Financial assurance**' means a financial guarantee  
20          assuring that funds are available to pay for design, construction,  
21          operation and closure of a solid waste disposal facility, rendering  
22          post closure at a solid waste disposal facility.

23          (18) '**Generator**' means any person that generates or  
24          produces solid waste.

1           (19) '**Government**' means the government of Guam, all of  
2 its agencies, whether line or autonomous, and all public  
3 corporations.

4           (20) '**Hardfill**' means a method of compaction and earth  
5 cover of solid waste, other than those containing garbage or other  
6 putrescible (putrescent) waste, including, but not limited to,  
7 demolition waste and like waste not constituting a health or  
8 nuisance hazard, where cover need not be applied on a per day  
9 used basis.

10          (21) '**Hazardous Waste**' means any material or substance  
11 which, by reason of its composition or characteristics,

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

15           (ii) is a hazardous substance as defined by the  
16 Comprehensive Environmental Response, Compensation  
17 and Liability Act of 1980, 42 USC § 9601, et seq.,

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

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

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

1                   (vi) is treated as hazardous waste or as a hazardous  
2 substance under applicable law, or

3                   (vii) requires a hazardous waste or similar permit for  
4 its storage, treatment, incineration or disposal.

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

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

12           (24) '**Multi-family dwelling**' means a building containing  
13 three (3) or more dwellings.

14           (25) '**Office**' means the Office of Recycling of the Division.

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

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

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

1           (29) **'Plan'** means the interim or final Solid Waste  
2 Management Plan ('SWMP') to be prepared and adopted by the  
3 Agency in accordance with the Administrative Adjudication Law.

4           (30) plasma torch heating technology converting electrical  
5 energy into heat energy producing clean fuel gas and recyclable  
6 slag.

7           (31) **'Plasma Remediation In-Situ Materials'** ('PRISM')  
8 means a plasma torch technology process that melts down and  
9 converts landfill material into slag and fuel gas.

10          (32) **'Pollution'** means the condition caused by the presence  
11 in the environment of substances of such character and in such  
12 quantities that the quality of the environment is impaired or  
13 rendered offensive to life.

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

23          (34) **'Recyclable materials'** includes the following materials  
24 discarded from households, businesses, commercial and industrial

1 establishments, hotels, government, agricultural and military  
2 operations which may be reused or for which a market exists:

3 (i) '**aluminum**' means any product manufactured of  
4 aluminum or aluminum alloy;

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

7 (iii) '**biomass**' means any large biomass source, such  
8 as trees, wood, grass, hedge cuttings, jungle growth, yard  
9 waste and sewage sludge;

10 (iv) '**corrugated cardboard**' means kraft, jute or test  
11 liner pulp which is made by combining two (2) or more  
12 webs of paper and formed or shaped into wrinkles or folds  
13 or into alternate ridges and grooves;

14 (v) '**glass**' means any product manufactured from a  
15 mixture of silicates, borates or phosphates;

16 (vi) '**metal scrap**' means any metal, in whole or in  
17 parts, from buildings, equipment, machinery or vehicles;

18 (vii) '**newspaper**' means a publication which is  
19 distributed and contains news articles, opinions, features,  
20 and advertising and is printed on impermanent wood pulp  
21 materials;

22 (viii) '**office paper**' means computer paper and white  
23 and colored ledger paper;

24 (ix) '**used oil**' means any petroleum-based, mineral,  
25 or synthetic oil which through use, storage or handling has

1           become unsuitable for its original purpose due to the  
2           presence of impurities or loss of original properties; and

3           (x) such other materials which the Department  
4           determines, from time to time, may be recycled.

5           (35) '**Recycle**' or '**Recycling**' means the method by which  
6           recovered resources are converted for use as raw material or  
7           feedstock to make new products.

8           (36) '**Recycling Officer**' means the head of the Office of  
9           Recycling.

10          (37) '**Resource recovery**' means the process of recovering  
11          recyclable materials or the recovery of energy from solid waste.

12          (38) '**Resource Recovery Facility**' ('RRF') is a facility which  
13          recovers for sale or reuse of recyclable materials or a facility that  
14          recovers energy from solid waste.

15          (39) '**Reusing**' means the reintroduction of a commodity in  
16          the economic stream without any changes.

17          (40) '**Sanitary landfill**' means an approved site where solid  
18          waste and ash are disposed using modern sanitary landfilling  
19          techniques in accordance with Federal and local regulations.

20          (41) '**Sanitary landfilling**' means an engineered method of  
21          disposing of solid waste on land in accordance with Federal and  
22          local regulations in a manner that protects the environment by  
23          spreading the waste in thin layers, compacting it to the smallest  
24          practical volume, and covering it with approved material at the  
25          end of each working day.

1           (42) '**Separation**' means the systematic division of solid  
2 waste into designated components.

3           (43) '**Solid waste**' means any garbage, refuse or sludge  
4 from a waste treatment plant, water supply treatment plant, or air  
5 pollution control facility and other discarded and/or spilled  
6 materials, including solid, liquid, semisolid or contained gaseous  
7 material resulting from industrial, mining, commercial, and  
8 agriculture operations, and from community activities, but does  
9 not include solid or dissolved material in domestic sewage, or  
10 solid or dissolved materials in irrigation return flows or industrial  
11 discharges which are point sources subject to permits under §402  
12 of the Federal Water Pollution Control Act, as amended (68 Stat.  
13 880), or source, special nuclear, or by-product material as defined  
14 by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

15           (44) '**Solid waste management**' means the purposeful,  
16 systematic control of the generation, storage, collection,  
17 transportation, separation, processing and disposal of solid waste.

18           (45) '**Solid waste management facilities**' means any  
19 facility, or any machinery, equipment, vehicles, structures or any  
20 part of accessories thereof installed or acquired for the primary  
21 purpose of: collection, transportation, storage, recycling,  
22 processing or disposal of solid waste, and shall include sanitary  
23 landfills, resource recovery facilities, or plasma torch or flame  
24 technological application.

1           (46) **'Solid Waste Management Plan'** means a  
2           comprehensive plan and all amendments and revisions thereto for  
3           provisions of solid waste management throughout Guam.

4           (47) **'Solid waste management practices'** means the actions  
5           to effectuate the generation, storage, collection, transportation,  
6           processing, recycling, combustion, incineration, plasma torch or  
7           flame technological application, resource recovery or disposal of  
8           solid waste.

9           (48) **'Solid Waste Management System'** ('SWMS') means  
10          the entire system covered in the SWMP and designated by the  
11          Director for the storage, collection, generation, transportation,  
12          processing, recycling, combustion, incineration, plasma torch and  
13          disposal of solid waste within Guam.

14          (49) **'Source separated waste'** means recyclable materials  
15          which are set aside by the generator for segregated collection and  
16          transport to solid waste management facilities.

17          (50) **'Storage'** means the interim containment of solid waste  
18          in accordance with Federal and local regulations.

19          (51) **'Transfer station'** shall mean any intermediate waste  
20          facility in which solid waste collected from any source is  
21          temporarily deposited and stored while awaiting transportation to  
22          another solid waste management facility."

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



1           **"Section 51103. Powers and Duties of the Agency and the**  
2     **Department.**     (a)   Notwithstanding any other provision of law, the  
3     Agency shall have the authority under this Act and other laws of Guam,  
4     including the Administrative Adjudication Law, to:

5           (1)   prepare and adopt in accordance with the  
6           Administrative Adjudication Law an interim Solid Waste  
7           Management Plan, consistent with the provisions of this Act,  
8           within one hundred eighty (180) days of the effective date of this  
9           Act;

10          (2)   prepare and adopt in accordance with the  
11          Administrative Adjudication Law a final Solid Waste  
12          Management Plan, consistent with the provisions of this Act,  
13          within three hundred (300) days of the effective date of this Act.  
14          The Plan shall be revised at least every Five (5) years, or sooner as  
15          needed;

16          (3)   administer Guam's Solid Waste Management Program  
17          pursuant to provisions of this Chapter.

18          (4)   prepare, adopt, promulgate, modify, update, and  
19          repeal rules and regulations in cooperation with appropriate  
20          government agencies, industries and private parties, for the  
21          collection, transportation, storage and disposal of hazardous  
22          waste;

23          (5)   prepare, adopt, promulgate, modify, update, repeal,  
24          and enforce rules and regulations setting environmental standards  
25          for collection, transportation, separation, processing, recycling,

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

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

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

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

24 (9) prepare, issue, modify, remove and enforce orders for  
25 compliance with any of the provisions of this Chapter or of any

1 rules and regulations issued pursuant thereto and requiring the  
2 taking of such remedial measures for solid waste management as  
3 may be necessary or appropriate to implement or effectuate the  
4 provisions and purposes of this Chapter;

5 (10) impose and collect penalties against any person for the  
6 violation of any of its rules, regulations or compliance orders  
7 issued under this Chapter;

8 (11) require a financial guarantee assuring that funds are  
9 available to pay for design, construction, operation and closure of  
10 a solid waste disposal facility, rendering post-closure at a solid  
11 waste disposal facility;

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

18 (13) provide technical assistance to local and Federal  
19 agencies, and other persons, and cooperate with appropriate local  
20 agencies and private organizations in carrying out the duties  
21 under this Chapter;

22 (14) encourage and recommend procedures for private  
23 financing to develop, design, construct and operate solid waste  
24 management system in accomplishing the desired objectives of  
25 this Chapter; and

1           (15) Insure that the interest of existing permitted private  
2 entities engaged in solid waste management operations are duly  
3 and lawfully protected and are not unfairly jeopardized or  
4 removed.

5           (b) Notwithstanding any other provision of law, the  
6 Department shall have the following powers and duties:

7           (1) adopt and enforce rules, regulations and other  
8 procedures for the implementation of the solid waste management  
9 system created by the Plan and such other rules and regulations as  
10 are necessary to fulfill the Department's powers and duties under  
11 this Act;

12           (2) privatization of the collection, transportation and  
13 disposal of solid waste from all dwellings in all villages of Guam.  
14 The Department shall not have jurisdiction over and shall not  
15 privatize the collection of solid waste from any hotels, commercial  
16 or industrial establishments, or from any multi-family dwellings.  
17 The definition of and distinction between dwellings and multi-  
18 family dwellings are found in §3;

19           (3) privatization of all other solid waste management  
20 facilities and operations not addressed above in Subsection (2) and  
21 within the policy guidelines of the Solid Waste Management Plan,  
22 including the closure and beneficial use of the Ordot Landfill site,  
23 source reduction, recycling, composting, resource recovery, waste  
24 reduction, new landfill and transfer stations. This responsibility  
25 shall also address construction debris or demolition waste,

1 metallic debris, white goods, tires and green waste; contracts with  
2 private entities shall fully encompass development, financing,  
3 construction and operation of any such facilities;

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

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

18 (6) administer, supervise and fulfill the responsibilities of  
19 the government in any contract entered into for the development,  
20 construction, operation or closure of landfills, RRF or any other  
21 solid waste management facility contracted or prescribed in the  
22 Plan and legally established under Guam and Federal laws, rules  
23 and regulations;

24 (7) organize, plan for, secure and manage resources and  
25 promote the implementation of the Plan;

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

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

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

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

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

13           (13) the inspection and monitoring of all solid waste  
14 management facilities to assure compliance with this Act, the Plan,  
15 other law, rules and regulations applicable to Guam; and

16           (14) the preparation and filing of all grants-in-aid requests  
17 and administration of any such programs or funds, except those  
18 established for recycling.

19           (c) There is established within the Division of Solid Waste of the  
20 Department the Office of Recycling and the position of Recycling Officer  
21 who shall head the Office. The Office shall be responsible for the  
22 following:

23           (1) establishing and managing in conjunction with the  
24 Plan a promotional program for recycling, composting and the  
25 recovery of resources, including recommendations on the size,

1 character, location and ownership of any RRF or composting  
2 facility;

3 (2) evaluating and insuring adequate capacities within the  
4 solid waste management system for recycling;

5 (3) plan, organize, coordinate and pursue the following  
6 objectives:

7 (i) publish and disseminate guidebooks, newsletters  
8 and instruction manuals to promote recycling;

9 (ii) in conjunction with the Mayors Council of  
10 Guam, conduct public outreach activities to promote  
11 recycling;

12 (iii) establish a recycling demonstration project in at  
13 least six (6) selected villages throughout Guam, wherein  
14 compartmentalized containers will be located and serve as  
15 recycling drop-off centers for the community; the  
16 Department shall contract for the supply of the containers  
17 and their hauling for recycling or other disposal; all  
18 revenues generated by the sale of recyclable materials shall  
19 be paid to the Mayors and be used by the Mayors to support  
20 programs which further encourage recycling; moreover,  
21 individual accounts shall be established for each Mayor to  
22 record all costs and revenues in order to evidence the  
23 commercial feasibility, or lack thereof, of recycling;

24 (iv) develop a recommended program for  
25 composting of biomass on government property;

1 (v) formulate and recommend other recycling  
2 demonstration projects and initiatives;

3 (vi) identify economically priced products  
4 manufactured of recycled material which are usable by the  
5 government in the place of products manufactured of virgin  
6 material;

7 (vii) study recycling techniques to determine the most  
8 cost-effective manner of collecting, processing, storing,  
9 marketing, transporting or reusing recyclable materials;

10 (viii) establish a recycling telephone hotline serving to  
11 take inquiries and disseminate information on recycling;

12 (ix) recommend the establishment or revision of  
13 administrative or procurement practices which will promote  
14 recycling;

15 (x) determine and report through the Director to the  
16 Guam Legislature the costs and benefits of establishing a  
17 system for source separated waste;

18 (xi) recommend new legislation to facilitate recycling  
19 through planning, market research, source separated waste,  
20 surcharges, fees, operational subsidies, tax incentives and  
21 other similar means;

22 (xii) identify and promote businesses reusing or  
23 converting recyclable materials;

24 (xiii) advise and assist collectors on efficient  
25 techniques for recycling; and



1 (xiv) conduct media advertising, public opinion  
2 surveys, seminars, workshops and community relations  
3 campaigns to promote public awareness of the benefits and  
4 methods of recycling.”

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

8 **"Section 51104. Permits.** (a) Notwithstanding any other  
9 provision of law, the Administrator is authorized and directed to issue  
10 permits for all collectors, operators and solid waste management  
11 facilities, their design, operation, maintenance, substantial alteration,  
12 modification or enlargement. All such permits shall be non-transferable  
13 and conditioned upon the observance of the laws of Guam and rules,  
14 compliance orders or regulations authorized in this Chapter.

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

21 (c) Each permit application and each permit renewal  
22 application shall be submitted with proof of financial assurance, of a  
23 type and in a sum established by the Administrator conditioned on the  
24 fulfillment by the permit holder of the requirements of this Chapter and  
25 the rules and regulations authorized therein. No financial assurance

1 mechanism required under this Chapter may be canceled by the  
2 guarantor unless the Administrator has received written notice thereof  
3 and there has been a lapse of one hundred twenty (120) days between  
4 receipt of notice and cancellation date.

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

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

12 (2) If, within forty-five (45) days after publication and  
13 broadcast, the Agency receives written notice of opposition to the  
14 Agency's intention to issue such permit and a request for a hearing  
15 is made, the Agency shall provide for a hearing in accordance with  
16 the Administrative Adjudication Law, if requested by a  
17 substantially affected party.

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

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

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 Law, if requested by a  
6 substantially affected party or an informal public meeting if  
7 requested by any other person.

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

13       **Section 6. Exemption from Prohibited Solid Waste Activities.**

14 Subsection (8) of §51110 of Chapter 51, Part 2, Division 2 of Title 10 of the  
15 Guam Code Annotated is hereby amended to read as follows:

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

1       **Section 7. Addition to Prohibited Solid Waste Activities.**     A new  
2 Item (9) is hereby added to Subsection (a) of §51110 of Chapter 51, Part 2,  
3 Division 2 of Title 10 of the Guam Code Annotated to read as follows:

4               "(9) Improperly manage or operate a solid waste management  
5 facility."

6       **Section 8. Addition to Prohibited Hazardous Waste Activities.**

7 A new Item (7) is hereby added to Subsection (a) of §51111 of Chapter 51, Part  
8 2, Division 2 of Title 10 of the Guam Code Annotated to read as follows:

9               "(7) Improperly manage or operate a hazardous waste  
10 management facility."

11       **Section 9.** Notwithstanding any other provision of law, a new §51118 is  
12 hereby added to Chapter 51, Part 2, Division 2 of Title 10 of the Guam Code  
13 Annotated to read as follows:

14               **"Section 51118. Tipping/User Fees and Solid Waste Operations**  
15 **Fund.**     (a) **Legislative Intent.**     Tipping and user fees shall  
16 provide a financing source for government of Guam costs and expenses  
17 directly related to the closure of the Ordot landfill, the development,  
18 design, construction, operation and final closure of a new sanitary  
19 landfill and the Ordot Landfill, as well as other solid waste management  
20 facilities that are contracted or may be established by this Act and in  
21 accordance with the plan and annual fiscal year appropriation for the  
22 Division of Solid Waste Management of DPW.

23               (1) Tipping/user fees will vary depending on the nature  
24 of collection, privatized contract for residential dwellings or hired  
25 commercial collectors for other municipal solid wastes outlets.

1           (2) For residential or dwelling, the charge is a user fee  
2           which includes the collection fee with the disposal tipping fee.

3           (3) For commercial, including multi-family dwellings and  
4           government agencies, the charge is a disposal tipping fee and does  
5           not include collection fees independently charged by commercial  
6           waste haulers.

7           **(b) Effective Date of Charging Tipping Fees.** The  
8           commercial and residential tipping fees established in this §51118 are  
9           charged beginning the first day of the month following the adoption of  
10          supporting rules and regulations by DPW under the Administrative  
11          Adjudication Law.

12          **(c) Commercial & Governmental Tipping Fees.** A commercial  
13          tipping fee of Forty-five Dollars (\$45.00) per ton is hereby established.  
14          This fee does not include collection charges which are independently set  
15          by licensed commercial haulers.

16          **(d) Residential Tipping Fees.** A residential tipping fee, which  
17          includes collection charges, is hereby established for residential users in  
18          the amount of Eight Dollars (\$8.00) per dwelling, per month.

19          **(e)** The Public Utilities Commission ('PUC') is hereby  
20          authorized to set tipping fees to replace the commercial and residential  
21          tipping fees mandated in this Section two (2) years after enactment of  
22          this Act. Rate setting by PUC shall be based on actuarial analysis of  
23          costs of services and focused management audit of existing operations.

1           (f) **Solid Waste Operations Fund.** All tipping, user and  
2 other fees authorized under this Section and collected based on duly  
3 established rules and regulations shall be deposited in a special fund  
4 designated and hereby established as the Solid Waste Operations Fund.  
5 All tipping/user fees in the Fund shall be used solely for solid waste  
6 management practices.

7           (g) **Notification to Department of Interior.** Within thirty  
8 (30) days of the enactment of this Act, the Governor shall notify the  
9 Department of Interior of the establishment of tipping fees, for the  
10 purpose of releasing Federal funds available to resolve environmental  
11 issues relative to the Ordot Landfill. Unless otherwise restricted by any  
12 conditions, Federal-funding will be allocated between the Ordot Landfill  
13 compliance mitigation work and closure."

14 **Section 10.** A new §51119 is hereby added to Chapter 51, Part 2,  
15 Division 2 of Title 10 of the Guam Code Annotated to read as follows:

16 **"Section 51119. The Solid Waste Management Plan.**

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

1           (1) a program for the privatization of all solid waste  
2 management and operations within the authorized frameworks as  
3 enacted by this Article; the Agency shall submit a privatization  
4 plan to the Guam Legislature. The Guam Legislature shall have  
5 up to ninety (90) calendar days after official receipt to review and  
6 amend the plan as appropriate, and approve or disapprove the  
7 plan;

8           (2) an inventory of current residential, business, military  
9 and other institutional solid waste generation;

10          (3) an inventory of existing publicly available solid waste  
11 management facilities and an inventory of existing collection  
12 systems and routes;

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

17          (5) projections for decrease in solid waste disposal as a  
18 result of source reduction, recycling and solid waste management  
19 facilities;

20          (6) an identification of potential sites for future sanitary  
21 landfills;

22          (7) projections for potential requirements for monofills at  
23 future sanitary landfill for special wastes, such as asbestos or ash;

24          (8) provide for and incorporate recycling activities  
25 required in Item (3) of Subsection (b) of §51120 of this Article;

1           (9) provide guidelines for the orderly collection,  
2           transportation, storage, separation, processing, recycling,  
3           combustion and disposal of all solid waste;

4           (10) provide programs for the educational training of  
5           collectors, operators and other solid waste management  
6           professionals;

7           (11) provide for a public education program encouraging  
8           recycling and source reduction and explaining the Plan;

9           (12) suggest new legislation to improve solid waste  
10          management;

11          (13) evaluate and determine markets for recycled materials;

12          (14) investigate and recommend new technologies for  
13          source reduction, recycling, composting, sanitary landfill and  
14          other solid waste disposal; and

15          (15) provide guidelines, including timeline for converting  
16          the Ordot Landfill to beneficial use.

17          (b) The Plan shall be revised and updated by the Agency every  
18          five (5) years."

19          **Section 11. Guam Economic Development Authority Bonding**  
20          **Authorization.** Notwithstanding any other provision of law, the Guam  
21          Economic Development Authority ("GEDA") is authorized to issue private  
22          activity tax-exempt bonds for the financing, development, design,  
23          construction and operation of privately owned and operated solid waste  
24          management facilities in accordance with this Act and consistent with the  
25          Plan. Two Hundred Fifty Thousand Dollars (\$250,000) is appropriated from



1 the General Fund to GEDA for legal, technical, and financial consultants, and  
2 for obtaining a preliminary soil investigation of the site.

3 **Section 12. Ownership of Solid Waste.** (a) Unless otherwise  
4 provided, the owner of solid waste shall be:

5 (1) the generator of the solid waste until the solid waste is  
6 accepted by a collector or an operator;

7 (2) the collector until the solid waste is deposited with, and  
8 accepted by, an operator;

9 (3) an operator, after delivery and acceptance of the solid waste;  
10 or

11 (4) in the event that a generator of solid waste is unknown,  
12 insolvent or not a resident of Guam, then the fee simple owner of the  
13 land on which the solid waste is located shall be its owner.

14 (b) The owner of solid waste shall be responsible for its storage,  
15 shipment, and disposal in a manner consistent with this Act and other  
16 applicable Guam and Federal laws, rules and regulations."

17 **Section 13. Requests for Proposals.** Notwithstanding any  
18 other provision of law, within thirty (30) days of the enactment of this Act, the  
19 Department of Public Works, in coordination with the Guam Environmental  
20 Protection Agency, Guam Economic Development Authority and other  
21 appropriate government agencies, shall issue requests for proposals ("RFP's")  
22 with the prior approval and consent of the Guam Legislature for the  
23 privatization of Guam's solid waste management operations as described in  
24 this Act. Further, within one hundred eighty (180) days, supporting contracts  
25 for privatization shall be executed and implemented.

1 Specific to the Request for Proposals ("RFP's") for the closure of the  
2 Ordot Landfill and opening of a new landfill, the Department of Public Works  
3 is hereby authorized and directed to close the Ordot Landfill and, in doing so,  
4 shall comply with all applicable Federal and local rules, regulations and  
5 standards including but not limited to the requirements of the U.S.E.P.A. and  
6 GEPA. The cessation of dumping at the Ordot Landfill shall be no later than  
7 July 31, 1998.

8 **Section 14. Ordot Landfill Closure and Opening of New**  
9 **Landfill.** Notwithstanding any other provision of law, the Department must  
10 take immediate actions to expedite the closure of the Ordot Landfill and  
11 opening of a new landfill within six (6) months of enactment of this Act.

12 (a) The Department is authorized to proceed expeditiously with  
13 earthwork (cleaning and grading), other civil works, such as infrastructure  
14 and access road, with necessary permits secured.

15 (b) The RFP for the landfills shall be separate and apart from other  
16 RFP's or privatization contracts, shall not be combined with other solid waste  
17 management facilities and shall be finalized through the bidding process  
18 under the Guam Procurement Law.

19 (c) There is hereby appropriated the sum of Four Million Dollars  
20 (\$4,000,000) from the General Fund to the Department of Public Works to be  
21 expended toward the closure of the Ordot Landfill.

22 **Section 15. DPW Personnel Status.** Notwithstanding any  
23 other provision of law, the Governor shall have transfer authority over staff  
24 personnel of the Division of Solid Waste Management, Department of Public  
25 Works ("DPW"), who will be affected by privatization and who shall be

1 retained at DPW or transferred to GEPA as appropriate to meet the intent of  
2 this Act, the Plan and personnel realignment necessitated by privatization.  
3 Classified status and ratings of effected personnel shall be maintained.

4       **Section 16.**       Within sixty (60) days of enactment of this Act, the  
5 Department of Land Management shall submit a report to the Guam  
6 Legislature detailing the status of the non-government property on which the  
7 Ordot Landfill is situated. The report shall include a schedule of what the  
8 Department and/or the government of Guam intends to do with the property  
9 and shall specify in particular its intent with regards to compensation of the  
10 private property owners.

11       **Section 17.**       Section 6108(a) of Chapter 6, Division 1 of Title 7 of the  
12 Guam Code Annotated is hereby amended to read as follows:

13               “(a) When there is no judge qualified or available to hear a cause,  
14 action or hearing in the Superior Court, the Presiding Judge shall  
15 appoint a judge pro tempore to hear the matter. Such judge pro  
16 tempore shall meet the same qualifications as a regularly appointed  
17 judge of the Superior Court, or be a justice or judge of the  
18 Commonwealth of the Northern Marianas Islands (‘CNMI’) who is  
19 appointed, in consultation with the Chief Justice of the CNMI. When  
20 there is no justice qualified or available to hear a cause, action or hearing  
21 in the Supreme Court, the Chief Justice shall appoint a justice pro  
22 tempore to participate in the matter. Such justice pro tempore shall  
23 meet the same qualifications as a regularly appointed justice of the  
24 Supreme Court.”

1       **Section 18.**       Section 7102 of Chapter 7, Division 1 of Title 7 of the  
2 Guam Code Annotated is hereby amended to read as follows:

3               **“Section 7102. Sessions of the Superior Court.** The Superior  
4 Court shall always be open on court days. It shall hold its regular  
5 sessions in Agana at times determined by the rules of the Court. Special  
6 sessions may be held at such places as the nature of the business may  
7 require and upon such notices as the Court orders, pursuant to rules  
8 prescribed by the Judicial Council.”

9       **Section 19.**       Section 7104 of Chapter 7, Division 1 of Title 7 of the  
10 Guam Code Annotated is hereby amended to read as follows:

11              **“Section 7104. Clerks. (a) Superior Court Clerk.** The  
12 Presiding Judge shall appoint a Superior Court Clerk who shall be  
13 subject to removal by him or her. The Superior Court Clerk may  
14 appoint, with the approval of the Presiding Judge, such deputies and  
15 assistants in such numbers as are necessary for the daily operations of  
16 the Superior Court. Such deputies and assistants shall be subject to  
17 removal by the Superior Court Clerk, with the approval of the Presiding  
18 Judge. The salaries of the Superior Court Clerk and his or her deputies  
19 and assistants shall be fixed by the Judicial Council pursuant to a  
20 general personnel rule covering compensation. The appointment and  
21 removal of such deputies and assistants shall be subject to the applicable  
22 personnel rules and regulations governing employment practices within  
23 the Superior Court.

24              **(b) Supreme Court Clerk.**       The Chief Justice shall appoint  
25 a Supreme Court Clerk who shall be subject to removal by him or her.

1 The Supreme Court Clerk may appoint, with the approval of the Chief  
2 Justice, such deputies and assistants in such numbers as are necessary  
3 for the daily operations of the Supreme Court. Such deputies and  
4 assistants shall be subject to removal by the Supreme Court Clerk, with  
5 the approval of the Chief Justice. The salaries of the Supreme Court  
6 Clerk and his or her deputies and assistants shall be fixed by the  
7 Supreme Court pursuant to a general personnel rule covering  
8 compensation. The appointment and removal of such deputies and  
9 assistants shall be subject to the applicable personnel rules and  
10 regulations governing employment practices within the Supreme  
11 Court."

12 **Section 20.** Section 8107 of Chapter 8, Division 1 of Title 7 of the  
13 Guam Code Annotated is hereby amended to read as follows:

14 **"Section 8107. Marshal; Appointment of Special Deputies.**

15 The Superior Court may appoint employees of the Department of  
16 Law and of the Department of Revenue and Taxation of the government  
17 of Guam as special deputy marshals of the Superior Court Marshal.  
18 Such appointments shall be for a term of one (1) year, unless sooner  
19 revoked by the Superior Court, or for as long as such employees remain  
20 in their employment with their respective departments, whichever is  
21 earlier."

22 **Section 21.** Section 8108 of Chapter 8, Division 1 of Title 7 of the  
23 Guam Code Annotated is hereby amended to read as follows:

24 **"Section 8108. Special Deputy Marshal; Duties,**  
25 **Compensation.** The employees of the Department of Law who are

1 appointed as deputies under §8107 of this Chapter shall exercise their  
2 office only in cases wherein the government of Guam is a party. The  
3 employees of the Department of Revenue and Taxation who are  
4 appointed as deputies under said §8107 shall exercise their office only in  
5 matters concerning the income tax laws and other tax and revenue laws  
6 of Guam. No deputies under said §8107 shall be entitled to  
7 compensation in addition to the compensation they are receiving as  
8 employees of the government of Guam.

9 **Section 22.** Section 8111(a) of Chapter 8, Division 1 of Title 7 of the  
10 Guam Code Annotated is hereby amended to read as follows:

11 “(a) Each clerk of the Supreme and Superior Courts, before  
12 entering on the duties of his or her office, shall give a bond in the sum of  
13 Ten Thousand Dollars (\$10,000.00), for the faithful performance of duty  
14 by himself or herself, his or her deputies and assistant clerks during his  
15 or her continuance in office and by his or her deputies and assistant  
16 clerks after his or her death until his or her successor is appointed and  
17 qualified. The bond of the Supreme Court Clerk shall be approved by  
18 the Chief Justice for the Supreme Court and filed and recorded in the  
19 office of the clerk of the Supreme Court. The bond of the Superior Court  
20 Clerk shall be approved by the Superior Court Administrator and filed  
21 and recorded in the Office of the Clerk of the Superior Court.”

22 **Section 23.** Section 8112(a) of Chapter 8, Division 1 of Title 7 of the  
23 Guam Code Annotated is hereby amended to read as follows:

24 “(a) The Marshal of the Superior Court, and of the Supreme  
25 Court, before entering on the duties of his or her office, shall give a bond

1 in the sum of Ten Thousand Dollars (\$10,000.00) for the faithful  
2 performance of duty by himself or herself and his or her deputies  
3 during his or her continuance in office and by his or her deputies after  
4 his or her death until his or her successor is appointed and qualifies.  
5 The bond of the Supreme Court Marshal shall be approved by the Chief  
6 Justice of the Supreme Court and filed and recorded in the office of the  
7 clerk of the Supreme Court. The bond of the Superior Court Marshal  
8 shall be approved by the Superior Court Administrator and filed and  
9 recorded in the office of the Clerk of the Superior Court.”

10 **Section 24.** Section 9203(e) of Article 2, Chapter 9, Appendix A,  
11 Division 1 of Title 7 of the Guam Code Annotated is hereby amended to read  
12 as follows:

13 “(e) Upon receipt of a recommendation for discipline, the  
14 Presiding Judge of the Superior Court shall promptly set the matter for a  
15 hearing. The hearing shall be conducted by a panel composed of three  
16 (3) judges of the Superior Court and any decision shall require the  
17 concurrence of at least two (2) of such judges. If any of the judges of the  
18 Superior Court shall disqualify themselves in the matter so that there  
19 are not three (3) judges remaining to sit on the panel, the Presiding  
20 Judge shall appoint as judges pro tempore: (1) from attorneys as are  
21 admitted to the Bar of Guam and who are in good standing before it,  
22 and who have not previously been subject of an order imposing  
23 discipline in Guam, or (2) in consultation with the Chief Justice of the  
24 Commonwealth of the Northern Marianas Islands (‘CNMI’), a justice or

1 judge from the CNMI, so as to make up a total of three (3) judges to hear  
2 the discipline matter."

3 **Section 25.** Section 2102 is hereby added to Chapter 5, Division 1  
4 of Title 7 of the Guam Code Annotated to read as follows:

5 **"Section 2102. Administration of the Courts of Guam.**

6 The Supreme Court shall administer the operations of the  
7 Supreme Court and may promulgate rules and policy governing its  
8 personnel, procurement, finance and travel. The Supreme Court shall  
9 adopt the unified pay schedule for the employees of the Supreme Court.

10 (b) Administration of the Superior Court of Guam shall be  
11 separate from the Supreme Court and shall not be subject to any  
12 authority of the Supreme Court or its justices. Administration of the  
13 Superior Court shall be in accordance with applicable laws of Guam and  
14 rules adopted by the Judicial Council."

15 **Section 26.** Section 5104(d) is hereby added to Chapter 5, Division  
16 1 of Title 7 of the Guam Code Annotated to read as follows:

17 "(d) If a member of the subcommittee is recused, then the  
18 Chairperson shall appoint a member of the Guam Bar Association, or in  
19 consultation with the Chief Justice of the Commonwealth of the  
20 Northern Marianas Islands ("CNMI"), a justice or judge of the CNMI to  
21 serve as a member of the subcommittee pro tempore."

22 **Section 27.** Section 7119.1 is hereby added to Chapter 7, Division 1  
23 of Title 7 of the Guam Code Annotated to read as follows:



1           **"Section 7119.1.** The Presiding Judge may assign referees to hear  
2 cases in more than one (1) division or court of the Superior Court of  
3 Guam."

4       **Section 28.**       Section 2101(a) of Chapter 2, Division 1 of Title 7 of the  
5 Guam Code Annotated is hereby repealed and reenacted to read as follows:

6           “(a) The Courts of justice within Guam consist of the Supreme  
7 Court of Guam and the Superior Court of Guam. The Supreme Court  
8 may, by rules of court, create such divisions of the Supreme Court as  
9 may be desirable. The Superior Court, by and through the Judicial  
10 Council, may create such divisions of the Superior Court as may be  
11 desirable, and may designate which of the divisions of the Superior  
12 Court are to be courts of record and which shall be courts not of record;  
13 *provided*, however, that three (3) such divisions of the Superior Court  
14 shall continue, one being the Traffic Division, not a court of record; one  
15 being the Small Claims Division, not a court of record; and the third  
16 being the Family Division, a court of record. The Supreme Court of  
17 Guam and the Superior Court of Guam, *except* for the Traffic and Small  
18 Claims Divisions of the Superior Court, are courts of record.”

19       **Section 29.**       Section 3107(b) of Chapter 3, Division 1 of Title 7 of the  
20 Guam Code Annotated is hereby repealed and reenacted to read as follows:

21           **“(b) Additional Authority.**       Its authority also includes  
22 jurisdiction of original proceedings for mandamus, prohibition,  
23 injunction, and similar remedies to protect its appellate jurisdiction. The  
24 Supreme Court shall have jurisdiction of all appeals arising from  
25 judgments, final decrees or final orders of the Superior Court in criminal

1 cases and in civil cases and proceedings. The Supreme Court has  
2 jurisdiction over attorney disciplinary matters.”

3 **Section 30.** Section 4101(b) of Article 1, Chapter 4, Division 1 of  
4 Title 7 of the Guam Code Annotated is hereby repealed and reenacted to read  
5 as follows:

6 “(b) If the Judicial Council determines that additional judges are  
7 required for the proper dispatch of business, it shall so notify the  
8 Governor and the Guam Legislature. If the Governor concurs the he or  
9 she shall declare the existence of the new position and shall appoint a  
10 new judge as in the case of a vacancy; *provided*, that no such declaration  
11 nor appointment shall take effect until the Guam Legislature has funded  
12 the position and the personnel required to assist the new judge.”

13 **Section 31.** Section 4101(c) of Article 1, Chapter 4, Division 1 of  
14 Title 7 of the Guam Code Annotated is hereby repealed and reenacted to read  
15 as follows:

16 “(c) If, for any reason, a vacancy is created in the Superior Court  
17 and the Judicial Council determines that the business of the court is such  
18 that no new judge is required to fill the vacancy, it shall so declare, and  
19 upon such declaration, no judge shall be appointed to fill the vacancy  
20 until the Judicial Council again determines that a need exists and  
21 proceeds in the manner prescribed by Subsection (b) of this §4101.”

22 **Section 32.** Section 4103 of Article 1, Chapter 4, Division 1 of Title  
23 7 of the Guam Code Annotated is hereby repealed and reenacted to read as  
24 follows:

1           **"Section 4103. Powers of the Presiding Judge.** The Presiding  
2 Judge of the Superior Court shall prescribe the order of business and  
3 assign the cases to the judges, referees and hearing officers of the Court.  
4 The Presiding Judge may preside at any session of the Court which he  
5 or she attends. During the Presiding Judge's temporary absence or  
6 temporary disability, the Presiding Judge's duties shall be performed by  
7 his or her designated appointee. Appointment shall be on a rotating  
8 basis among all judges of the Superior Court."

9           **Section 33.** Section 5101 of Chapter 5, Division 1 of Title 7 of the  
10 Guam Code Annotated is hereby repealed and reenacted to read as follows:

11           **"Section 5101. Judicial Council for the Superior Court of**  
12 **Guam.** (a) There shall be a Judicial Council for the Superior Court  
13 of Guam ("Council") that shall consist of the following members:  
14 Presiding Judge of the Superior Court, the other judges of the Superior  
15 Court and three (3) members from the community appointed by the  
16 Presiding Judge. The Presiding Judge shall be chairperson of the  
17 Council and may designate a chairperson in his absence.

18           (b) The Council shall operate in a wholly nonpartisan manner.

19           (c) The term of each member of the Council shall be concurrent  
20 with the term of such member's respective office with the exception of  
21 the community members whose term shall be for one (1) year from the  
22 date of their appointment.

23           (d) A quorum shall consist of no less than a majority of the  
24 members. No act of the Council shall be valid except with the  
25 concurrence of no less than a majority of the quorum.

1 (e) The Council shall promulgate rules for its conduct and  
2 operation. Said rules shall include provisions designed to comply with  
3 the spirit and intent of Chapter 8 of the Guam Code Annotated, *the*  
4 *Open Government Law of Guam*.

5 (f) Whenever the Judicial Council shall consider matters  
6 directly related to the Judicial Building Fund or the Judicial Building  
7 Loan, in addition to the members provided for in Subsection (a), the  
8 Judicial Council shall also include all full-time justices of the Supreme  
9 Court, the Legislative Chairperson of the Finance Committee, an  
10 additional member appointed by the Presiding Judge and a member  
11 appointed by the Governor to serve at his pleasure."

12 **Section 34.** Section 5102 of Chapter 5, Division 1 of Title 7 of the  
13 Guam Code Annotated is hereby repealed and reenacted to read as follows:

14 "Section 5102. Powers of the Judicial Council. (a) The  
15 Judicial Council shall have the following powers:

16 (1) to adopt the unified pay schedule for the employees of  
17 the Superior Court;

18 (2) to adopt policy and rules for the operations of the  
19 Superior Court, including, but not limited to, personnel,  
20 procurement, facilities and property, financial and travel (the  
21 provisions of §§6302(c), 6303 and 4105 of Title 4 of the Guam Code  
22 Annotated and §§23104(b) and 23109 of Title 5 of the Guam Code  
23 Annotated are reaffirmed);

24 (3) to establish rules and regulations to hear in executive  
25 session appeals and grievances brought by classified employees of

1 the Superior Court who have exhausted administrative remedies,  
2 or designate a hearing officer to hear and recommend action on a  
3 personnel matter before the Council;

4 (4) to appoint members to the Elected Officials  
5 Compensation Commission;

6 (5) to review the budget for the operation of the Superior  
7 Court and submit its recommendation to the Guam Legislature;

8 (6) to employ, retain or contract for the services of  
9 qualified specialists or experts, as individuals or as organizations,  
10 to advise and assist the Superior Court in the fulfillment of its  
11 duties;

12 (7) to adopt rules and policies governing financial  
13 obligations and funds, such as court appointed and jury fees;

14 (8) to adopt filing fees and other court fees;

15 (9) to promulgate the Judicial Council's own rules for its  
16 conduct and operation;

17 (10) to initiate, receive and consider charges concerning  
18 alleged misconduct or incapacity of any judge, referee or  
19 administrative hearing officer of the Superior Court of Guam, and  
20 to form subcommittees that will determine and make  
21 recommendations as to the removal of any judge, referee or  
22 hearing officer of the Superior Court;

23 (11) to recommend policies or laws to the Guam  
24 Legislature as may be deemed appropriate for the effective and  
25 expeditious administration of the Superior Court;

1           (12) to adopt such rules as may be necessary for the  
2           exercise of the powers and performance of the duties conferred or  
3           imposed upon the Superior Court or the Judicial Council by  
4           statute;

5           (13) to adopt rules which assign cases and matters to the  
6           various Divisions and determine whether they may be heard by a  
7           referee or hearing officer; and

8           (14) to sue on behalf of the Superior Court of Guam,  
9           including on behalf of the Superior Court employees, or itself to  
10          enforce any rights granted to the Superior Court or the Judicial  
11          Council under Guam law.

12          (b) The Judicial Council is attached to the Judicial Branch for the  
13          purposes of administration and is the sole policy making body for the  
14          Superior Court of Guam and its Divisions.

15          (c) Nothing contained in this Section shall be construed directly  
16          or by implication to be in any way in derogation or limitation of the  
17          powers conferred upon the Judicial Council or existing in the Superior  
18          Court or the Judicial Council by virtue of any provisions of the Organic  
19          Act of Guam or any statutes of Guam or any other provision of the  
20          Guam Code Annotated.

21          (d) For the sole and limited purpose of administering the  
22          Judicial Building Fund, all full time justices of the Supreme Court, the  
23          Legislative Chairperson of the Finance Committee, an additional  
24          member appointed by the Presiding Judge and a designee of the  
25          Governor shall sit as voting members along with the Judicial Council

1 made up of the members provided for in Section 5101 Subsection (a).  
2 Nothing in this Subsection shall be construed, either directly or  
3 indirectly, to mean that the justices, legislative or gubernatorial  
4 members shall be considered as members of the Judicial Council for any  
5 other purpose."

6 **Section 35.** Section 8102 of Chapter 8, Division 1 of Title 7 of the  
7 Guam Code Annotated is hereby repealed and reenacted to read as follows:

8 **"Section 8102. Supreme Court Reporters; Appointment,**  
9 **Qualifications, Compensation, Fee.** (a) The Chief Justice for the  
10 Supreme Court may appoint official reporters in such number as the  
11 Chief Justice may designate who shall be subject to removal by the Chief  
12 Justice as provided in the personnel rules of the Supreme Court. The  
13 qualifications of the reporters shall be determined by standards  
14 formulated by the Supreme Court.

15 (b) Each reporter shall receive a salary to be fixed by the  
16 Supreme Court and may charge and collect fees, at rates fixed by the  
17 Supreme Court, for transcripts requested by the parties, but not for the  
18 certified copy filed with the clerk for the records of the court. Each  
19 reporter shall make such reports as the Supreme Court may require as to  
20 the transcripts prepared and fees charged by him or her."

21 **Section 36.** Section 8104 of Chapter 8, Division 1 of Title 7 of the  
22 Guam Code Annotated is hereby repealed and reenacted to read as follows:

23 **"Section 8104. Superior Court Reporters; Appointment,**  
24 **Qualifications, Compensation, Fee.** (a) The Presiding Judge for  
25 the Superior Court may appoint official reporters in such number as the

1 Presiding Judge may designate who shall be subject to removal as  
2 provided in the personnel rules. The qualifications of the reporters shall  
3 be determined by standards formulated by the Superior Court.

4 (b) Each reporter shall receive a salary to be fixed by the Judicial  
5 Council and may charge and collect fees, at rates fixed by the Judicial  
6 Council, for transcripts requested by the parties, but not for the certified  
7 copy filed with the clerk for the records of the Court. Each reporter shall  
8 make such reports as the Superior Court may require as to the  
9 transcripts prepared and fees charged by him or her."

10 **Section 37.** Section 8105 of Chapter 8, Division 1 of Title 7 of the  
11 Guam Code Annotated is hereby repealed and reenacted to read as follows:

12 **"Section 8105. Marshal of the Supreme Court; Appointment,**  
13 **Salary.** (a) The Chief Justice for the Supreme Court may appoint a  
14 marshal of the court who shall be subject to removal by the Chief Justice.  
15 The marshal shall receive a salary to be fixed by the general rule on  
16 compensation. The marshal, with the approval of the Court, may  
17 appoint deputies whose salaries shall be fixed by the general rule on  
18 compensation.

19 (b) The marshal or his or her deputies shall attend all sessions of  
20 the Supreme Court, *unless* excused by a justice at whose session the  
21 marshal or a deputy should otherwise attend, and preserve order  
22 thereat. He or she shall serve and execute process, writs and orders  
23 issued under the laws of Guam by the Supreme Court when so directed  
24 by the Court. He or she shall perform such other duties as may be



1 directed by the Supreme Court, or by the rules and procedures adopted  
2 by the Supreme Court."

3 **Section 38.** Section 8106 of Chapter 8, Division 1 of Title 7 of the  
4 Guam Code Annotated is hereby repealed and reenacted to read as follows:

5 **"Section 8106. Marshal of the Superior Court; Appointment,**  
6 **Salary, Duties.** (a) The Superior Court may appoint a Chief Marshal  
7 of the Court who shall be subject to removal by the Presiding Judge.  
8 The marshal shall receive a salary to be fixed by the general rule on  
9 compensation. The marshal, with the approval of the Court, may  
10 appoint deputies whose salaries shall be fixed by the general rule on  
11 compensation.

12 (b) The marshal or his or her deputies shall attend all the  
13 sessions of the Superior Court, *unless* excused by a judge at whose  
14 session the marshal or a deputy should otherwise attend, and preserve  
15 order thereat. He or she shall serve and execute process, writs and  
16 orders issued under the laws of Guam by a court of record when so  
17 directed by the Court and for this purpose shall have all the powers  
18 conferred by law on the Police Chief of the Guam Police Department  
19 and on the Mayors of municipal districts. He or she shall perform such  
20 other duties as may be directed by the Superior Court, or by the rules  
21 and procedures adopted by the Judicial Council."

22 **Section 39.** Section 8109 of Chapter 8, Division 1 of Title 7 of the  
23 Guam Code Annotated is hereby repealed and reenacted to read as follows:

24 **"Section 8109. Chief Probation Officer; Appointment, Salary.**

1 The Presiding Judge may appoint a Chief Probation Officer who shall be  
2 subject to removal by him or her. The salary of the Chief Probation  
3 Officer shall be fixed by the unified pay schedule. Appointment and  
4 removal of assistant probation officers shall be subject to applicable  
5 Personnel Rules of the Superior Court. The duties of the Chief  
6 Probation Officer shall be established in writing by the Court  
7 Administrator."

8 **Section 40.** Section 8113 of Chapter 8, Division 1 of Title 7 of the  
9 Guam Code Annotated is hereby repealed and reenacted to read as follows:

10 "Section 8113. Other Court Personnel. The Presiding Judge  
11 for the Superior Court, may appoint and may remove, pursuant to all  
12 applicable Personnel Rules and Regulations of the Superior Court, such  
13 other officers and personnel as are necessary to carry out the duties of  
14 the Court. If such officers and personnel are appointed to fill new  
15 positions not already specified in law, no such appointments shall be  
16 made until a plan therefore has been approved by the Judicial Council."

17 **Section 41.** Section 6109 of Chapter 6, Division 1 of Title 7 of the  
18 Guam Code Annotated is hereby repealed.

19 **Section 42.** Section 5502(b) of Chapter 5A, Division 1 of Title 19 of  
20 the Guam Code Annotated is hereby repealed and reenacted to read as  
21 follows:

22 "(b) The Presiding Judge of the Superior Court may assign such  
23 other matters as he considers proper to the Division, including Family  
24 Division matters as provided in §5113 of Title 19 of the Guam Code

1 Annotated, provided such assignments do not impair the principal  
2 purpose of the Division as set out in Subsection (a) of this Section."

3 **Section 43.** Section 19 of Chapter V of Public Law Number 23-128  
4 is hereby amended to read as follows:

5 "Section 19. Upon enactment of this Act, any and all  
6 appropriations deemed effective for Fiscal Year 1997 pursuant to Title 48  
7 U.S.C. §1423 j(b) of the Organic Act of Guam shall be hereby de-  
8 appropriated and repealed. Any sum spent, used or encumbered  
9 pursuant to the Organic Act appropriation described in this Section on  
10 or after October 1, 1996, shall be charged against the respective  
11 Agency's, Department's or other entity's Fiscal Year 1997 budgeted  
12 appropriation as established in this Act. Chapter III, §§11 and 12 of  
13 Public Law Number 23-128 are exempted."

14 **Section 44.** A new §37 is hereby added to Chapter III of Public  
15 Law Number 23-128 to read as follows:

16 "Section 37. Appropriations made pursuant to Chapter III,  
17 §11 shall continue until completely expended. Funding for said shall be  
18 released and no later than April 30, 1998."

19 **Section 45. Appropriations to the Superior Court of Guam.**  
20 Sections 9(a) and (b) of Chapter III of Public Law Number 24-59 are hereby  
21 amended to read as follows:

22 "(a) From Fiscal Year 1998 revenues, Nineteen Million Three  
23 Hundred Thirty Thousand Two Hundred Forty-six Dollars (\$19,330,246)  
24 is appropriated from the General Fund to the Superior Court Operations  
25 Fund for operations during Fiscal Year 1998 to be expended as set forth

1 in the Fiscal Year 1998 budget digest of the Superior Court of Guam as  
2 contained in the 1998 Budget certified by the Superior Court  
3 Administrative Director.

4 (b) From Fiscal Year 1999 revenues, Nineteen Million Three  
5 Hundred Thirty Thousand Two Hundred Forty-six Dollars (\$19,330,246)  
6 is appropriated from the General Fund to the Superior Court Operations  
7 Fund for operations during Fiscal Year 1999 to be expended as set forth  
8 in the Fiscal Year 1998 budget digest of the Superior Court of Guam as  
9 contained in the 1999 Budget certified by the Superior Court  
10 Administrative Director."

11 **Section 46. Withholding of Payments of Appropriation**  
12 **Prohibited.** (a) Notwithstanding any rules, regulations, policies,  
13 procedures, executive orders, administrative orders or laws, withholding of  
14 any payments of appropriation allotment requests or funds pursuant to an  
15 appropriation for the Legislative or Judicial Branches, organizations, entities,  
16 programs, projects, personnel and rents for either Branch is prohibited. Upon  
17 enactment of this Act, appropriations for the Legislative and Judicial Branches  
18 operating funds shall be released and paid in equal monthly installments over  
19 the fiscal year, and in no event shall the accumulative appropriations released  
20 by December 31, March 31, June 30, and September 30 be less than one fourth  
21 (1/4) of the annual appropriations for the fiscal year. Nothing in this Act shall  
22 preclude the accelerated release of these payments. The receipt of monthly  
23 installments by the Legislative and Judicial Branches' operating fund shall  
24 occur no later than the twentieth (20<sup>th</sup>) day of the month in which such  
25 payments are due.

1       (b) Any prior year appropriations which have not been released and  
2 paid to the Legislative and Judicial Branches' operating funds, shall be  
3 released and paid by the Department of Administration by April 30<sup>th</sup>, 1998.

4       (c) Five Hundred Thousand Dollars (\$500,000.00) is hereby  
5 appropriated to supplement the FY 98 Budget of the Superior Court.

6       **Section 47. Severability.** If any provision of this Law or its  
7 application to any person or circumstance is found to be invalid or contrary to  
8 law, such invalidity shall not affect other provisions or applications of this  
9 Law which can be given effect without the invalid provisions or application,  
10 and to this end the provisions of this Law are severable.



TWENTY-FOURTH GUAM LEGISLATURE

Office of the Vice-Speaker  
ANTHONY C. BLAZ

February 5, 1998

LEGISLATIVE  
COMMITTEE  
MEMBERSHIP

Chairman  
Finance & Taxation

Vice-Chairman  
Rules,  
Government Reform  
& Federal Affairs

Education

Natural Resources

Health &  
Human Services

Tourism, Economic  
Development & Cultural  
Affairs

Judiciary,  
Public Safety &  
Consumer Protection

Transportation,  
Telecommunications, &  
Micronesian Affairs

MEMBERSHIP

Guam Finance  
Commission

Commission on Self  
Determination

The Honorable Antonio R. Unpingco  
Speaker, 24<sup>th</sup> Guam Legislature  
Agana, Guam

Via: Committee on Rules

Dear Mr. Speaker:

The Committee on Finance & Taxation, to which was referred **Bill No. 495: "AN ACT PROVIDING FOR INTEGRATED SOLID WASTE MANAGEMENT,"** herein reports back with the recommendation **TO DO PASS Bill No. 495.**

Votes of the committee members are as follows:

8 To Pass  
0 Not to Pass  
0 To the Inactive File  
0 Abstained

Sincerely,

  
ANTHONY C. BLAZ

Attachment

# COMMITTEE ON FINANCE & TAXATION



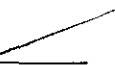





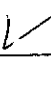
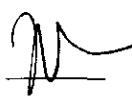

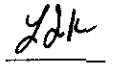

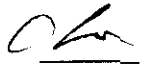

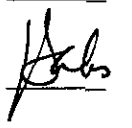

## TWENTY-FOURTH GUAM LEGISLATURE

155 Hesler Street, Agana, Guam 96910

Chairman: Vice Speaker Anthony C. Blaz    Vice Chairman: Senator Mark Forbes  
Ex-Officio Member: Speaker Antonio R. Unpingco

### VOTING SHEET ON:

#### Bill No. 495: "AN ACT PROVIDING FOR INTEGRATED SOLID WASTE MANAGEMENT."

<u>COMMITTEE MEMBERS</u>	<u>INITIAL</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>TO PLACE IN INACTIVE FILE</u>
Sen. Anthony C. Blaz <i>Chairman</i>					
Sen. Mark Forbes <i>Vice-Chairman</i>					
Spkr. Antonio R. Unpingco <i>Ex-Officio Member</i>					
Sen. Thomas C. Ada <i>Member</i>					
Sen. Elizabeth Barrett-Anderson <i>Member</i>					
Sen. Joanne M.S. Brown <i>Member</i>					
Sen. Mark Charfauros <i>Member</i>					
Sen. Edwardo J. Cruz <i>Member</i>					
Sen. William B.S.M. Flores <i>Member</i>					
Sen. Lawrence F. Kasperbauer <i>Member</i>					
Sen. Alberto A.C. Lamorena, V <i>Member</i>					
Sen. Carlotta A. Leon Guerrero <i>Member</i>					
Sen. John C. Salas <i>Member</i>					
Sen. Francis E. Santos <i>Member</i>					



***Committee on Finance & Taxation***

*Vice Speaker Anthony C. Blaz, Chairman*

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***Committee Report on  
Bill No. 495***

“AN ACT PROVIDING FOR INTEGRATED  
SOLID WASTE MANAGEMENT”





## Committee on Finance & Taxation

Vice Speaker Anthony C. Blaz, Chairman

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### Committee Report on Bill No. 495(COR) (Formerly Bill 456(COR))

"AN ACT PROVIDING FOR INTEGRATED  
SOLID WASTE MANAGEMENT."

#### I. OVERVIEW:

The Committee on Finance and Taxation held a public hearing on Tuesday, January 13, 1998 at 9:00 a. m. in the Legislative Public Hearing Room to hear public testimony on Bill 456(COR) which is now re-introduced as Bill 495(COR) in its identical form. Public Notice was announced and published on January 9 and 12, 1998 issues of the Pacific Daily News.

This Original Committee Report for Bill 456(COR) is being used as the same Committee Report for Bill 495(COR) because pursuant to Title 2 Guam Code Annotated, if the identical bill in its exact form is reintroduced, Public Hearing may be waived. In this respect, while a public hearing is considered waived for Bill

495(COR), for continuity purpose, the Committee Report for Bill 456(COR) is used. It is to be understood that the testimonies used for Bill(456(COR) is exactly applicable to the new Bill 495(COR) because the exact bill is reintroduced.

## **II. COMMITTEE MEMBERS PRESENT:**

The hearing was called to order by the Chairman of the Committee on Finance and Taxation, Vice Speaker Anthony C. Blaz.

Other members of the Committee on Finance and Taxation present were:

Speaker Antonio R. Unpingco, Ex-Officio Member  
Senator Joanne M.S. Brown, Member  
Senator Edwardo J. Cruz, Member  
Senator Lawrence F. Kasperbauer, Member  
Senator Alberto A.C. Lamorena, V, Member  
Senator Francis E. Santos, Member

Other Senators present were:

Senator Vicente Pangelinan.  
Senator Judith Wonpat-Borja  
Senator Lou A. Leon Guerrero  
Senator Frank B. Aguon

### **Providing Public Testimony on the Bill:**

Dr. David Camacho, Plasma Tech. Guam, Written/Oral  
Robert Richmond, Self, Written/Oral  
\*Mayor R. San Miguel, Chalan Pago/Ordot, Written/Oral  
\*Mayor P. McDonald, Agana Heights, Written/Oral  
\*Elizabeth Dezell, Chalan Pago MPC, Written/Oral  
\*Herman Sablan, Self, Mayor's Council, Written/Oral  
\*Peter Sgro, Jr., Mayor San Miguel & MPC, Written/Oral

\*Consuelo Pingue Lee, Self, Written/Oral  
 Graeme Dawe, Fletcher Pacific, Written/Oral  
 Richard Cherry, Guam Waste Haulers, Written/Oral  
 Berrie Straefman, R. A. G., Oral  
 David Andrus, Oka Towers Condo, Oral  
 Eugene Schmitz, Self, Oral  
 Darwin Nelson, Texta Tech, Oral  
 Jesse T. Bascon, Inarajan MPC, Oral  
 Jim Gamlde, Tetra Tech, Oral  
 \*Paul Pachbier, PCR Environ, Written/Oral  
 \*Jesse L. G. Perez, Inarajan Mayor, Oral  
 \*Michael Riedy, DOA, Written/Oral  
 Paul Tobiason, R. A. G, Oral  
 \*Gil Shinohara, Gov Off, Written/Oral  
 Eloise R. Baza, Chamber of Commerce, Written/Oral  
 Mark Mamczarez, Chamber of Commerce, Oral  
 \*Mayor “Buck” Cruz, Merizo Mayor, Oral  
 \*Peter Melnyk, GRRP, Oral

(\*) These individuals presented favorable testimonies in favor of enactment of Bill 456(COR) (Now Bill 495(COR)), as introduced.

### **III. BACKGROUND ON BILL 456(COR) (Now Bill 495(COR)):**

**Findings of Necessity and Declaration of Purposes.** (a) The Guam Legislature finds:

- (1) The current methods of solid waste disposal on Guam do not provide sufficient means of disposing of all waste and do not eliminate the threat this waste poses to the health, safety, and welfare of our residents.
- (2) The Ordot landfill approached its capacity in the 1990's, and the United States Environmental Protection Agency has notified the government of Guam that

closure of the landfill is necessary in order to eliminate an existing serious environmental hazard.

- (3) Even with closure and the construction of a new landfill at the same or any other site, landfilling cannot continue as the sole method of waste disposal for Guam.
- (3) In 1983, the Guam Environmental Protection Agency adopted a Solid Waste Management Plan for Guam and also adopted regulations for solid waste collection and disposal.
- (4) The government must now establish a new Solid Waste Management Plan (the 'Plan') which may include source reduction, recycling, composting, a materials and resources recovery facility (MRRF), waste reduction, and landfilling in an integrated program for solid waste collection, processing and disposal.
- (5) For the foreseeable future, it is in the best interest of Guam to adopt and implement a Solid Waste Management Plan with emphasis towards privatization as demonstrated under Public Law No. 24-06 and to proceed with privatization of a new sanitary landfill, a materials resources recovery facility under the integrated approach.
- (6) It is in the best interest of the government, based on an adopted Solid Waste Management Plan and other policies set by law, to obtain long-term contractual agreements under Guam procurement and open government laws to

include the Administrative Adjudication Laws from private sector entities for the financing, construction, and operation of solid waste management facilities as identified in the Solid Waste Management Plan and initially prescribed in Public Law No. 24-06.

- (7) The key and essential component and foundation to municipal solid waste processing and disposal under an integrated solid waste management plan is a municipal sanitary landfill. Guam will always need a landfill to dispose of non recyclable and non combustible wastes. Other components under an integrated plan are considered to reduce costs, extend the operational life of sanitary landfill and minimize impacts on public health and the environment.
- (8) The Department of Public Works in accordance with laws, rules and regulations applicable to Guam is directed to support the implementation of the Solid Waste Management Plan once adopted; to encourage and require source reduction, recycling, composting and the construction and operation of a sanitary landfill as well as consideration of other options such as a MRRF; to investigate and recommend new technologies for solid waste management that meet permit requirements in accordance with requirements of the Guam Environmental Protection Agency and the United States Environmental Protection Agency; and to provide for the disposal of municipal solid waste in a cost-effective and

environmentally acceptable manner consistent with public safety, health, and welfare.

- (9) The solid waste disposal methods contemplated must receive any and all permits required by laws, rules and regulations applicable to Guam.
- (10) The purposes of a solid waste management plan are to:  
Plan for and regulate, in a sound, sustainable, economically feasible and cost effective approach, the storage, collection, transportation, 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 Guam.
- (11) Provide specified authority and resources to plan for, establish, finance, operate, and maintain efficient, environmentally acceptable solid waste management systems within the Department of Public Works.
- (12) Establish solid waste management systems in conjunction with private sector initiatives and permitted facilities, which results in the recycling and composting of at least Ten Percent (10%) of the total solid waste generated on Guam from all sources within a time frame established in the Plan; which effectively considers optional applications of other solid waste processing and disposal options and which promotes land conservation by limiting landfill space consistent with the Plan.
- (13) Continue authority to regulate solid waste storage practices within the Department of Public Health and

Social Services and, where applicable, establish such authority in the Department of Public Works to insure that such practices do not constitute a danger to human health, safety, and welfare.

- (14) Continue authority in the Guam Environmental Protection Agency to review the design of and to issue permits for the operation of solid waste collection, transport, processing, and disposal activities.
- (15) Continue authority in the Guam Environmental Protection Agency to undertake a comprehensive investigation of and set minimum standards for the transportation, processing, storage, treatment, and disposal of hazardous waste: conduct surveys for special disposal facilities for hazardous waste, to protect public health, other living organisms and the environment through an effective and efficient hazardous waste management system.
- (16) Continue authority in the Guam Environmental Protection Agency to establish an effective enforcement system to prevent the improper disposal of solid waste.
- (17) Promote the application of a Solid Waste Management System which preserves and enhances the quality of air, water, and land resources.
- (18) Promote and assist in the development of markets for recovered and recycled materials.
- (19) Support and encourage the rapid and efficient removal, recycling, processing, or disposal of abandoned vehicles

and other bulky waste and to assure that the recovery of resources is facilitated.

- (20) Promote, assist and support consideration and approval of construction and operation of a sanitary landfill, and options such as MRRF or other solid waste management facilities, consistent with laws, rules and regulations applicable to Guam.
- (21) Authorize the Guam Environmental Protection Agency to establish such advisory committees as are necessary to carry out its planning and solid waste management responsibilities. These committees shall include representatives of the Guam Environmental Protection Agency, the Department of Public Works, the Department of Public Health and Social Services, collectors, operators, applicable federal agencies, educational groups, and the public at large.

#### **SUMMARY OF TESTIMONIES:**

The testimonies presented at the public hearing, both orals as well as written and those in favor of or against the enactment of Bill 456(COR) (*Now Bill 495(COR)*), were extensive.

As much of the testimonies are repetitive in nature and involving an evolution of discussions and debates dating as far back as nearly twenty (20) years ago, for the sake of brevity and in the interest of efficiency and less repetition, the following summary split between “favorable” and “unfavorable” were drafted condensing all of the testimonies into this “nutshell” conclusive summary.



The actual testimonies as well as the audiotapes of the public hearing are enclosed in the control folder of Bill 456(COR) (Now Bill 495(COR)) for further scrutiny by anyone.

**FAVORABLE:**

The Governor's Office, Department of Public Works, Department of Administration, Guam Environmental Protection Agency and the Mayor's Council presented a testimony supporting the enactment of Bill 456(COR) (Now Bill 495(COR)) as introduced. The representatives present to deliver the testimony were Mr. Gil Shinohara, Executive Assistant of the Governor and Mr. Michael Riedy, Director, Department of Administration.

Mayor Rossana D. San Miguel, Mayor of Chalan Pago/Ordot, Mayor Paul McDonald, Mayor of Agana Heights and President of the Mayor's Council, Attorney Peter R. Sgro, Jr., Esq., Attorney representing the Mayor's Council and Mayor Rossana D. San Miguel, Mr. Herman Sablan, a private citizen and a consultant with the Mayor's Council, Mayor "Buck" Cruz, Mayor of Merizo, Mayor Jesse L. G. Perez, Mayor of Inarajan, Ms Elizabeth Dezell, Chalan Pago/Ordot MPC member, Consuelo P. Lee, private citizen and associated with Mayor Rossana San Miguel, Mr. Paul C. Packbier, of PCR Environmental, Inc., Mr. Peter Melnyk, GRRP all testified in favor of Bill 456 as introduced (Now Bill 495(COR)).

While the testimonies presented by those in favor of Bill 456(COR) (Now Bill 495(COR)) as introduced were extensive, the following points were the core and common denominator of their testimonies:

1. An integrated solid waste management policy and program must be firmly established for Guam.

Bill 456(COR) (Now Bill 495(COR)) will substantially accomplish this concern pending development of the plan by the Guam Environmental Protection Agency and final acceptance of proposals and funding mechanisms based on a user/tipping fee.

2. Concerns about the island solid waste crisis is a serious public health problem and is a serious threat to our tourism industry.

3. Bill 456(COR) (Now Bill 495(COR)) provide a long-term solution that will satisfy a multitude of requirements, including standards communicated by the U. S. EPA.

4. Solid Waste system of disposal of waste has been supported by the General Fund from the very start.

**UNFAVORABLE:**

While the following individuals appeared at the public hearing and delivered their oral or written testimony against the passage of Bill 456(COR) (Now Bill 495(COR)) in its present form, most are favorable to the enactment of Bill 456(COR) (Now Bill 495(COR)) provided the user/tipping fee schedule is set at a more reasonable rate and the issue concerning the incinerator be excluded until more credible information can be obtained covering the health aspect as well as the need for such an “outdated” technology.

Dr. David Camacho, Plasma Tech. Guam, Written/Oral, Robert Richmond, Self, Written/Oral, Graeme Dawe, Fletcher Pacific, Written/Oral, Richard Cherry, Guam Waste Haulers, Written/Oral, Berrie Straefman, R. A. G., Oral, David Andrus, Oka Towers Condo, Oral, Eugene Schmitz, Self, Oral, Darwin Nelson, Texta Tech, Oral,

Jesse T. Bascon, Surajan MPC, Oral, Jim Gamko Tetra Tech, Oral, Paul Tobiason, R. A. G, Oral, Eloise R. Baza, Chamber of Commerce, Written/Oral, Mark Mamczarez, Chamber of Commerce, Oral

Further, issues concerning the privatization of the solid waste system for the island was brought up and favorably supported by everyone, including those who favored the passage of Bill 456(COR) (Now Bill 495(COR)) in its present draft and as introduced. Concerns on the ninety-one (91) employees of the DPW Solid Waste Management Division were voiced to the effect that privatization must not jeopardize their government jobs.

On this issue of the incinerator contract, several testified that the health issue was not covered by those testifying in favor of Bill 456(COR) as introduced (Now Bill 495(COR)). Committee members and other senators voiced similar concerns on the health issue and the fact that incinerator systems are being closed down, especially those built during the 1970's because of higher EPA requirements as it relates to dioxins emissions. Also, concerns were brought up as to the added cost of paying an outdated technology at the same time when a newer and better technology is permitted by the EPA, such as the Plasma Technology, is placed in operations.

Public Law Number 24-06 covered the privatization of the landfill. It is the consensus of those present testifying on Bill 456(COR) (Now Bill 495(COR)) that the entire solid waste system must be privatized so that the government can get out of the "trash business" but most importantly, there are considerable interest from the private sector to run the solid waste needs for the island without the government having to subsidize the cost of this activity. Further,

it is believed that private concerns can operate solid waste needs far better and more cost effective than government of Guam has been doing from the very start.

#### **COMMITTEE RECOMMENDATION:**

An integrated solid waste management policy and program must be firmly established for Guam. Bill 456(COR) (*Now Bill 495(COR)*) will substantially accomplish this pending development of the plan by the Guam Environmental Protection Agency and final acceptance of proposals and funding mechanisms based on user/tipping fees.

Establishment of comprehensive user/tipping fees is not feasible until actuarial analysis are conducted and appropriate request for proposals are evaluated and negotiated. At best, the Guam legislature should adopt interim tipping fees for both residential and commercial including government and authorize and direct the Public Utilities Commission (PUC) to establish final fees upon completion of actuarial study and focused management audit of current operations of the Department of Public Works, Division of Solid Waste.

Of primary urgency, privatization of a new sanitary landfill at Guatali and closure of the Ordot Dump must proceed expeditiously with funding through private bond financing within the framework of Public Law Number 24-06.

Recognizing the need to fully consider waste to energy waste processing as an integral, reasonable and logical component of materials and resources recovery facility and an integrated solid waste management plan for Guam and the controversy and

unacceptability of the GEDA negotiated incinerator agreement, an approach or methodology must be prescribed to allow some form of resolution towards public benefit and at reasonable costs including the elimination of provisions under contention to include lowering of fees, charges and other costs in existing agreement or negotiation of a whole new agreement based on a binding license.

The prime considerations should be low reasonable long-term costs, optional integration allowing innovative and regulated technology and maximum extension of the life of a new landfill.

The bottom line initially is open a new landfill and close Ordot Dump with continuing focus and pursuit of an integrated solid waste management plan and program.

The Committee, having conducted a sufficient hearing, does hereby recommend to the Legislature to pass, as substituted by the Committee, **Bill 456(COR), (Now Bill 495(COR))- "AN ACT PROVIDING FOR INTEGRATED SOLID WASTE MANAGEMENT."**