I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
284-36 (LS) As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning; and substituted and further amended on the Floor	Sabina Flores Perez Telo T. Taitague Jose "Pedo" Terlaje Tina Rose Muña Barnes	AN ACT TO *AMEND* ARTICLE 3 OF CHAPTER 51, TITLE 10, GUAM CODE ANNOTATED, AND AMEND ARTICLE 3 OF CHAPTER 24, DIVISION 4, TITLE 22, GUAM RULES AND REGULATIONS, RELATIVE TO PROMOTING RECYCLING AND ZERO WASTE INITIATIVES.	4/4/22 5:38 p.m.	4/8/22	Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning	5/11/22 9:00 a.m.	9/14/22 2:24 p.m. As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning	Request: 4/11/22 4/26/22	

SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE LAPSED	NOTES
9/23/22	AN ACT TO *AMEND* ARTICLE 3 OF CHAPTER 51, TITLE 10, GUAM CODE ANNOTATED, TO CODIFY AND *AMEND* ARTICLE 3 OF CHAPTER 24, DIVISION 4, TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO PROMOTING RECYCLING AND ZERO WASTE INITIATIVES.	9/30/22	9/30/22	10/12/22	36- 115	10/12/22	Received: 10/12/22 Mess and Comm. Doc. No. 36GL-22-2669

LOURDES A. LEON GUERRERO
GOVERNOR

JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

Transmitted via email to: speaker@guamlegislature.org

October 12, 2022

Doc Type: 36GL-22-2669
OFFICE OF THE SPEAKER
THERESE M. TERLAJE
-10- 12 2022
Time: 4:38pm
Received:

HONORABLE THERESE M. TERLAJE
Speaker
I Mina'trentai Sais Na Liheslaturan Guåhan
36th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: SUBSTITUTE BILL NO. 284-36 (LS) - AN ACT TO *AMEND* ARTICLE 3 OF CHAPTER 51, TITLE 10, GUAM CODE ANNOTATED, TO CODIFY AND *AMEND* ARTICLE 3 OF CHAPTER 24, DIVISION 4, TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO PROMOTING RECYCLING AND ZERO WASTE INITIATIVES

Hafa Adai Madame Speaker,

For the reasons provided below, Substitute Bill No. 284-36 will lapse into law without my signature. Our Administration supports this legislation's general intent to effectuate zero waste initiatives for the purpose of safeguarding our environment and benefitting Guam's tourism industry. However, this legislation seeks to amend both law and regulations. Pursuant to 10 GCA § 51307(c), amendments to rules that implement Guam's Recycling Revolving Fund could have been properly accomplished through formal rulemaking by the Guam Environmental Protection Agency ("GEPA")—the agency charged with implementing Guam Laws governing the Recycling Revolving Fund, 10 GCA §§ 51301 to 51309.

The separation of powers doctrine recognizes that each branch of government has its own appropriate sphere of activity. Under the Organic Act of Guam, the powers of the three branches of government are enumerated and separated in Subchapters II—Executive Branch, III—The Legislature, and IV—The Judiciary. The Organic Act of Guam charges the Executive Branch with powers to issue "regulations" not in conflict with any applicable law, including Guam's rulemaking laws. In contrast, the Legislature is charged with drafting and passing "bills." The powers over rulemaking and law-making roles are separate and distinct under the Organic Act of Guam.

While the Legislature has the power to pass a bill containing Substitute Bill No. 284-36's exact language as a law, it cannot do so under the guise of promulgating a rule. The separation of powers doctrine would prohibit legislation from amending executive rules and regulations, just as it would prohibit an agency from amending legislative enactments. Effectuating the well-meaning intent of

Substitute Bill No. 284-36 should not come at the expense of observing the distinct powers conferred on our respective branches of government.

Once the Legislature has delegated rule-making authority to an agency—such as GEPA—in this case, it must abide by that delegation and not interfere with agency rulemaking until altered or revoked by law.

Accordingly, I direct GEPA to begin the formal rulemaking process to perfect the amendment sought in Substitute Bill 284-36. This will ensure the rule will survive possible challenges to its validity and, ultimately, best achieve the agency's mission to prevent pollution from degrading our island's environment.

Again, I thank the agency and the Legislature for their efforts in preparing legislation with the intention of effectuating zero waste initiatives—one supported through non-lapsing funding—that will safeguard our environment and support our tourism industry. However, for the reasons noted above, Substitute Bill 284-36 will lapse into law without my signature.

Senseremente,

LOURDES A. LEON GUERRERO
Maga'hågan Guåhan
Governor of Guam

Enclosure: Substitute Bill No. 284-36 (LS) *nka P.L. No. 36-115 (LAPSE)*

cc via email: *Honorable* Joshua F. Tenorio, Lt. Governor of Guam
Compiler of Laws

RECEIVED
OCT 13 2022
8:00 A.M.
COMMITTEE ON RULES

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Substitute Bill No. 284-36 (LS), "AN ACT TO *AMEND* ARTICLE 3 OF CHAPTER 51, TITLE 10, GUAM CODE ANNOTATED, TO CODIFY AND *AMEND* ARTICLE 3 OF CHAPTER 24, DIVISION 4, TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO PROMOTING RECYCLING AND ZERO WASTE INITIATIVES,"** was on the 30th day of September 2022, duly and regularly passed.

Therese M. Terlaje

Therese M. Terlaje
Speaker

Attested:

Amanda L. Shelton

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 30TH day of Sept., 2022, at 7:30 o'clock P.M.

RO3 CC Chong

Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 10/12/22

Public Law No. 36-115

Georgiana Rodrigues
2022-17530
RCVD AT CENTRAL FILES
OCT 3 '22 AM10:31

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

Bill No. 284-36 (LS)
As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning; and substituted and further amended on the Floor.

Introduced by:

Sabina Flores Perez
Telo T. Taitague
Jose "Pedo" Terlaje
Tina Rose Muña Barnes
V. Anthony Ada
Frank Blas Jr.
Joanne Brown
Christopher M. Dueñas
James C. Moylan
Telena Cruz Nelson
Clynton E. Ridgell
Joe S. San Agustin
Amanda L. Shelton
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *AMEND* ARTICLE 3 OF CHAPTER 51, TITLE 10, GUAM CODE ANNOTATED, TO CODIFY AND *AMEND* ARTICLE 3 OF CHAPTER 24, DIVISION 4, TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO PROMOTING RECYCLING AND ZERO WASTE INITIATIVES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the global recycling industry has changed significantly in the sixteen (16) years

since the Recycling Revolving Fund (RRF) was established. While traditional recycling models are no longer financially sustainable, newer "zero waste" initiatives are proving successful. "Zero waste" expands upon principles of recycling by focusing on overall waste reduction, and the approach is a cost-effective means of preserving resources and building resiliency against the negative impacts of climate change.

With the drastic economic impacts of the global pandemic, measures must be taken now to improve the management of waste streams and reduce their financial impact on our community. The Guam Zero Waste Act modernizes local statutes to catalyze island-wide implementation of recycling and zero waste programs, improves recycling and cleanup processes that are currently costly and inefficient, and establishes the Zero Waste Grants Program within the Recycling Revolving Fund to support innovative solutions that significantly divert materials from our landfill and gainfully employ our people.

I Liheslatura further finds that it is necessary to increase the Guam Environmental Protection Agency's capacity to promote and implement recycling and zero waste programs within the government and the community through a self-sustaining and long-term approach that combines research, planning, implementation, and evaluation. To this end, it is necessary to fund studies to determine the effectiveness of existing recycling and zero waste initiatives, and research best practices for reducing and diverting different waste streams to reach fifty percent (50%) and seventy-five percent (75%) waste reduction by 2035 and 2045, respectively. Additionally, it is essential to provide funding to support innovative solutions to significantly reduce our waste stream by repurposing materials and rethinking production in order to reduce the environmental and social impacts from the extraction, distribution, and use of raw materials.

I Liheslatura further finds that plastic has become the priority along with abandoned vehicles and white goods due to the uncertainty of global recyclers

accepting plastics. Additionally, the increasing volume of non-biodegradable, single-use plastics imported into Guam poses cumulative environmental impacts, which can be addressed with proactive, upstream and other zero waste measures.

I Liheslatura further finds that promoting and coordinating with the Guam Solid Waste Authority (GSWA), a government-run utility, in recycling and zero waste initiatives is essential. The challenges of shipping plastics and other materials to off-island recyclers have become financially challenging or unsustainable and may significantly decrease the life of our landfill.

I Liheslatura further finds that it is important to ensure the Recycling Revolving Fund's sustainability by ensuring accountability, transparency, and ethical behavior in carrying out recycling and zero waste projects.

Additionally, this Act moves the Fund's fee schedule into the Guam Code Annotated Administrative Rules and Regulations, which was the original intent of the law, but the fees are not being adjusted at this time.

I Liheslatura further finds that the island-wide cleanup program undertaken by the Mayors Council of Guam (MCOG) is a valuable tool in combating litter and cleaning illegal dump sites; and this Act affords the option of utilizing the Department of Public Works and/or the MCOG to contract private recycling companies.

Therefore, *I Liheslaturan Guåhan* intends to modernize the provisions of the Recycling Revolving Fund, which is retooled to build capacity and develop long-term sustainable solutions towards zero waste and circular use of materials, as the Recycling Revolving Fund is intended to fund far-reaching, impactful, effective zero waste initiatives to transition toward a circular economy, create new green jobs, save taxpayer funds by extending the life of Guam's landfill, reduce litter and illegal dumping, and thereby benefit Guam's tourism industry, and safeguard the environment.

Section 2. This Act shall be known and may be cited as the *Guam Zero Waste Act.*

Section 3. Article 3 of Chapter 51, Title 10, Guam Code Annotated, is hereby *amended* to read as follows:

"ARTICLE 3

RECYCLING REVOLVING FUND

§ 51301. Definitions.
§ 51302. Recycling Revolving Fund.
§ 51303. Continuing Appropriation and Use of Funds.
§ 51304. Administration of the Recycling Revolving Fund.
§ 51305. Levy and Collection of Recycling Fees.
§ 51306. Authorization for Department of Public Works and the Mayors Council of Guam to Contract with Recycling Companies.
§ 51307. Adjustment of Recycling Fees.
§ 51308. Recycling Industry Economic Stimulus Program.
§ 51309. Zero Waste Grant Program.
§ 51310. Guam Solid Waste Authority Residential Recycling Program.

§ 51301. Definitions.

As used in this Article, and except as otherwise provided, the following words and phrases shall mean:

(a) "Administrator" shall mean the Administrator of the Guam Environmental Protection Agency, or his designee.

(b) "Beneficial Use" shall mean the substitution of materials, either as generated or following additional processing, for some or all of the virgin materials in a natural or commercial product in a way that

provides a functional benefit; meets product specifications; and does not pose concerns to human health or the environment.

(c) "Best Available Technology" shall mean a recognized and approved technology by the United States Environmental Protection Agency.

(d) "Board" shall mean the Board of Directors of the Guam Environmental Protection Agency.

(e) "Compost" or "Composting" shall mean a mixture, consisting primarily of decayed organic matter and is used for fertilizing and conditioning land or to converting a material, such as plant debris, to compost.

(f) "DPW" shall mean the Department of Public Works.

(g) "Director" shall mean the Director of the Department of Public Works.

(h) "Disaster Debris" shall mean any items and materials broken, destroyed, or displaced by a natural or man-made federally or locally declared disaster. Examples of disaster debris include, but are not limited to, trees, construction and demolition material, and personal property.

(i) "Disaster Debris Management" shall mean the removal and disposal of debris that was generated by a disaster and which presents an immediate threat to the public interest.

(j) "Electronic Waste" or "E-Waste" shall mean electrical and electronic equipment that is dependent on electric currents or electromagnetic fields to function (including all components, subassemblies and consumables, which are part of the original equipment at the time of discarding). E-waste may include, but is not limited to, consumer electronics, entertainment devices, televisions,

DVD players and tuners, office devices, information and communications technology, computers, circuit boards, telephones, and mobile phones.

(k) "Enameled White Goods" shall mean appliances for home or commercial use, including, but not limited to, refrigerators, water heaters, air conditioners, washers, dryers, and stoves.

(l) "Extended User Responsibility" shall mean policies or practices that place a shared responsibility for end-of-life product management on producers and other entities involved in the product chain.

(m) "GEPA" or "Guam EPA" shall mean the Guam Environmental Protection Agency.

(n) "Gross Vehicle Weight" or "Gross Vehicle Weight Rating" means the value specified by the manufacturer as the loaded weight of a single vehicle.

(o) "Heavy Equipment" shall mean any equipment, motor vehicle or motor carrier, or non-road motor vehicle with a gross weight or gross vehicle weight of five (5) tons or more.

(p) "Junk Vehicle" means a motor vehicle, regardless of operating condition, that the registered owner has declared to have no value or no use, or that is abandoned by being placed, discarded, or disposed of on public or private property without approval by the owners of said property, or that is no longer registered in accordance with Chapter 7 of Title 16 GCA.

(q) "Motor Vehicle" or "Motorized Vehicle" shall mean automobiles, automobile trucks, automobile wagons, buses, trucks, motorcycles, or other self-propelled wheeled conveyances that are primarily for use on Guam's public streets, roads, and highways that

are required to be registered with the Motor Vehicles Division, Department of Revenue and Taxation, Government of Guam.

(r) "Municipal Solid Waste" is a subset of solid waste and is defined as durable goods (e.g., appliances, batteries, tires), nondurable goods (e.g., newspapers, books, magazines), containers and packaging, food wastes, yard trimmings, and miscellaneous organic wastes from residential, commercial, and industrial non-process sources.

(s) "Person" or "Persons" shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint-stock company, trust, estate, or any agency, department, or instrumentality of the federal or local government, or any other legal representatives, agents or assigns.

(t) "Recovered Resources" shall mean material or solid waste that has been diverted from disposal for recycling, composting, or mulching. This term does not include incineration of those materials generated and normally reused on-site for manufacturing purposes.

(u) "Recyclable Materials" means materials which still have useful physical or chemical properties after serving a specific purpose for the same or other purpose. Recyclable materials are as follows:

(1) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium, sealed types for power backup);

(2) automobiles, buses, and trucks or any motor vehicle;

(3) tires (passenger/commercial);

(4) enameled white goods;

(5) home appliances (other small appliances that are not considered enameled white goods);

(6) glass and plastic bottles;

(7) foam padding;

(8) lead;

(9) metals (ferrous/non-ferrous);

(10) organic material (i.e., tree trimmings, palm fronds, grass, food waste, soiled cardboard);

(11) paper products;

(12) wood pallets and scrap wood;

(13) construction and demolition debris ("C&D");

(14) x-ray film;

(15) automobile oil and fluids;

(16) freon and other refrigerant gases;

(17) electronic waste (i.e., computers, circuit boards, televisions, and portable phones);

(18) heavy equipment;

(19) abandoned derelict vessels; and

(20) other recyclable materials deemed recyclable by Guam EPA pursuant to its rules and regulations.

(v) "Recycle or Recycling" means a method by which recovered resources are converted for use as raw materials or feedstock to make new products, as defined in § 51102(ii) of Chapter 51 of Title 10 GCA.

(w) "Recycling Company" shall mean any business licensed by the Department of Revenue and Taxation, and permitted, as required in § 51104 of Chapter 51 of Title 10 GCA, by the Guam Environmental Protection Agency to conduct business on Guam.

(x) "Recycling Facility" shall mean all contiguous land, structures, and other appurtenances, and improvements on land used for the collection, separation, recovery, and sale or reuse of recovered

resources that would otherwise be disposed of as municipal solid waste, and is an integral part of a manufacturing process aimed at producing a marketable product made of post-consumer material.

(y) "Recycling Fee" shall mean an annual fee levied upon the registered owner of a motor vehicle to assist in the recycling and disposal of motor vehicles and other recyclable materials in accordance with this Article.

(z) "Recycling Industry Economic Stimulus Program" shall mean a program that provides economic stimulus to local recycling companies that ship recyclable materials off-island.

(aa) "Reuse" shall mean to use again, including in a different way or after reclaiming or reprocessing.

(bb) "Solid Waste Management Facility" means any facility, or any machinery, equipment, vehicles, structures, or any part of accessories thereof installed or acquired for the primary purpose of collection, transportation, storage, recycling, processing or disposal of solid waste, and shall include sanitary landfills or resource recovery facilities.

(cc) "Stimulus Certification Form" shall mean a form officially issued by Guam EPA to be completed by an eligible recycling facility to disclose and certify the types and quantities of recyclable materials shipped off-island to a recycling facility.

(dd) "Sustainable Materials Management" means a systemic approach to using and reusing materials more productively over their entire lifecycles.

(ee) "Upcycle" or "Upcycling" shall mean to recycle material in such a way that the resulting product is of a higher value than the component materials.

(ff) "Zero Waste" means a holistic approach to addressing the problem of unsustainable resource flows. Zero Waste encompasses waste eliminated at the source through product design and producer responsibility, and waste reduction strategies further down the supply chain such as recycling, upcycling, reuse and composting.

§ 51302. Recycling Revolving Fund.

There is hereby created the Recycling Revolving Fund (Fund), which shall be non-lapsing and maintained separate and apart from any other funds, including the General Fund of the government of Guam, and independent records and accounts shall be maintained thereof. The Recycling Revolving Fund shall not be commingled with the General Fund and shall be kept in a separate bank account. All revenue generated from recycling fees collected pursuant to this Article, including interest earned, shall be deposited into the Recycling Revolving Fund and shall be expended exclusively for the purposes authorized in Article 3 of Chapter 51 of Title 10, Guam Code Annotated. All monies in the Recycling Revolving Fund are hereby appropriated, and shall continue to be deemed appropriated, to the Guam Environmental Protection Agency to be expended in accordance with this Article. The Administrator of Guam Environmental Protection Agency shall present the budget to the GEPA Board of Directors and the expenditures shall be reported quarterly to *I Liheslaturan Guåhan.* The funds deposited into the Recycling Revolving Fund shall not be subject to the transfer authority of *I Maga'hågan Guåhan.*

§ 51303. Continuing Appropriation and Use of Funds.

(a) All revenues from the Recycling Revolving Fund are hereby appropriated to the Guam Environmental Protection Agency to fund the following:

(1) Guam EPA Administration and Planning of the Zero Waste and Recycling Programs.

(A) The Administrator is authorized to spend ten percent (10%) of the Fund to administer and implement this Article. Funds may be used for:

(i) operational costs directly related to recycling and zero waste for the Solid Waste Management Program, which includes, but is not limited to, personnel, supplies, equipment, and training of staff;

(ii) compliance training for prospective recipients of funds from the Recycling Revolving Fund;

(iii) implementation of a zero waste and recycling program for the government and the community in accordance with this Article.

(B) In addition to amounts specified in § 51303 (a)(1)(A), upon approval by the Board, the Administrator is authorized to spend up to Fifty Thousand Dollars ($50,000) to either procure professional services, pursuant to the Guam Procurement Law, or fund grants for education and outreach to promote recycling and zero waste.

(C) In addition to amounts specified in § 51303 (a)(1)(A), upon approval by the Board, the Administrator is authorized to spend up to Two Hundred Thousand Dollars ($200,000) to either procure professional and technical services, pursuant to the Guam Procurement Law, or fund grants to update and further develop the Guam Zero Waste Masterplan and a holistic government and island-wide Zero Waste implementation plan to reach fifty percent (50%) and seventy-five percent (75%) waste reduction by 2035 and 2045, respectively; to evaluate the effectiveness of zero waste and recycling programs; and/or to

research other areas deemed priority by the Administrator. Grants are awarded through a competitive process using established criteria by the Board and Administrator.

(D) General Terms and Conditions for Use of Funds.

(i) All proposals for use of funds shall be submitted to the Board and Administrator for review. Proposals must be approved by the Board and Administrator before the expenditure of funds, which are subject to availability.

(ii) Prior to submitting bids or grant proposals, potential recipients of funds shall obtain environmental regulatory compliance, ethics, and other relevant training provided by Guam EPA or a designated provider. Required permits shall be obtained as a condition of the use of the funds.

(iii) Performance Targets. Projects shall meet performance/waste diversion targets as determined by the Administrator.

(iv) Reporting Requirements. Reports and deliverables shall be presented biannually to the Board and posted on Guam EPA's website.

(v) Ethical Requirement. All persons utilizing funds from the Recycling Revolving Fund shall complete ethics training sponsored by the Ethics Commission, or a designated provider, and shall attest to spending funds according to ethical requirements by Guam law. Non-compliance of ethics, in addition to other remedies allowed under Guam law, may result in termination of the

award and barring of future application for grants for a minimum period of two (2) years upon the findings of non-compliance by the Ethics Commission or, in the absence of the Ethics Commission, by the Board.

(2) Community Zero Waste and Recycling Programs.

(A) The Mayors Council of Guam (MCOG) Island-wide Environmental Cleanup Program (IECP) authorized in § 51306.

(B) The Recycling Industry Economic Stimulus Program authorized in § 51308.

(C) The Zero Waste Grant Program authorized in § 51309.

(D) The Guam Solid Waste Authority Residential Recycling Program authorized in § 51310.

(3) All other purposes stipulated in Article 3; provided, that the rules and regulations regarding the Recycling Revolving Fund have been promulgated by the Guam Environmental Protection Agency and adopted in accordance with the Administrative Adjudication Law.

(b) The Department of Administration shall prepare and transmit to the Guam Environmental Protection Agency a weekly report on the current balance and transactions of the Recycling Revolving Fund. The Guam Environmental Protection Agency shall post this information on its website as it becomes available.

§ 51304. Administration of the Recycling Revolving Fund.

The Administrator shall administer the Fund and shall encumber all amounts available in the Fund as expeditiously as possible for the purposes of assisting and encouraging recycling of recyclable materials and zero waste initiatives. The Administrator shall administer the Fund in accordance with

this Article to cause the following material/waste to be recycled or otherwise disposed according to the following priority:

(a) First Priority - junk vehicles, tires, batteries, waste oil, white goods/appliances, and plastic;

(b) Second Priority - paper, cardboard, and glass;

(c) Third Priority - other recyclable materials as determined by the Administrator and waste that can be reduced, reused, recycled, or prevented.

§ 51305. Levy and Collection of Recycling Fees.

The Director of Revenue and Taxation is hereby authorized to levy a Recycling Fee on individuals who are renewing their annual motor vehicle registration with the Department of Revenue and Taxation Division of Motor Vehicles, through the vehicle registration system. The Director of Revenue and Taxation shall collect the Recycling Fees mandated by this Article and transmit the fees to the Administrator for deposit in the Recycling Revolving Fund.

§ 51306. Authorization for the Department of Public Works and the Mayors Council of Guam to Contract with Recycling Companies.

(a) The Department of Public Works (DPW) and the Mayors Council of Guam (MCOG), in accordance with the applicable procurement laws and with the approval of the Administrator, are authorized to enter into contracts with recycling companies for the collection, recycling, zero waste initiatives, interim storage, disposal, and processing, or any combination thereof, of automobiles, buses, heavy equipment, trucks, batteries, tires, white goods, and other recyclable materials, and as required by, or in accordance with, Articles 3 and 4 of Title 10 GCA, Chapter 51.

(b) At a minimum, DPW and MCOG shall require that all solicitations include proof of current approved permits, certification of

compliance with Title 10, GCA, Chapter 51 from GEPA, and a plan to remove collected recyclable materials, including abandoned vehicles, from Guam's waste stream. Contractors employed under this Section shall perform all work under this Article in compliance with all applicable laws, including those of this Chapter, and the applicable rules and regulations of GEPA.

(c) The Guam Environmental Protection Agency shall promulgate the necessary rules and regulations, in accordance with the Administrative Adjudication Law, to properly implement this Article.

(d) It is at the discretion of the Administrator to approve DPW, MCOG, or both to contract for services as provided by this § 51306, and such approval may be revoked by the Administrator at any time.

§ 51307. Adjustment of Recycling Fees.

(a) The Administrator may establish new fees pursuant to the Administrative Adjudication Act.

(b) The Administrator shall review the fees authorized by § 51305 and this Act, supra, every twenty-four (24) months, and is authorized to adjust the fees by not more than twenty-five percent (25%) in accordance with the Administrative Adjudication Law.

§ 51308. Recycling Industry Economic Stimulus Program.

There is hereby created a Recycling Industry Economic Stimulus Program (Program) to be administered by the Guam Environmental Protection Agency. The purpose of the Program is to provide economic stimulus funding to local recycling companies to support their recycling efforts. To qualify for this Program, a recycling company must be licensed to do business in Guam and hold a valid permit from the Guam Environmental Protection Agency for the processing, temporary storage, and beneficial reuse of recyclable materials solely generated on Guam. Recycling companies who qualify under this Program shall receive subsidies for the off-island shipment of recyclables to

recycling facilities, pending funding availability and based on an economic sliding scale developed by Guam EPA that is based on factors such as fair market value and transportation. Qualified companies must provide documentation to Guam EPA evidencing proof of delivery of recyclable materials, such as with a bill of lading or similar document from off-island recycling facilities confirming receipt of recyclable materials from Guam. Evidence of proof of delivery shall be submitted to Guam EPA no later than fourteen (14) days after recyclable materials are received by off-island recycling facilities. Solid waste or recyclables imported into Guam shall not qualify under this Program. The Administrator of the Guam Environmental Protection Agency shall make quarterly and annual reports to *I Maga'hågan Guåhan* and *I Liheslaturan Guåhan* on the condition of, and activity within, the Program.

§ 51309. Zero Waste Grant Program.

The Administrator is authorized to establish a Zero Waste Grant Program that is in accordance with the Guam Zero Waste Masterplan that targets fifty percent (50%) and seventy-five percent (75%) waste reduction by 2035 and 2045, respectively.

(a) Funds may be used for development, infrastructure, and operations of waste reduction and/or diversion projects or other assistance for zero waste initiatives within the community, including, but not limited to, the following:

(1) development or deployment of technologies or practices to increase rates of waste prevention, re-cycling, composting, or product reuse;

(2) capital investment in infrastructure to start or expand waste prevention, recycling, composting, or product reuse programs; and

(3) partnerships with local businesses interested in incorporating new technologies or processes to reduce or prevent waste in production or packaging.

(b) With Board approval, the Administrator is authorized to spend up to Four Hundred Thousand Dollars ($400,000) for zero waste grants. With Board approval, the Administrator is authorized to award Tier 1, Tier 2, and/or Tier 3 level grants in the following manner:

(1) Tier 1 grants range are above $50,000 but not to exceed $100,000;

(2) Tier 2 grants are above $25,000 but not to exceed $50,000;

(3) Tier 3 grants are not to exceed $25,000.

(c) Selection of proposals for grant awards and the tier levels will be based on selection criteria developed by Guam EPA with public input and approval by the Board of Directors.

(d) Proposals shall include performance waste diversion targets.

(e) Proposals shall be selected by the Board and the Administrator using criteria developed pursuant to § 51309(c).

§ 51310. Guam Solid Waste Authority Residential Recycling Program.

The Administrator is authorized to annually reimburse Guam Solid Waste Authority, as a government entity, up to Four Hundred Thousand Dollars ($400,000) in accordance with the Guam Zero Waste Masterplan for expenses that includes, but is not limited to, curbside recycling, household hazardous waste, electronic, and white goods collection, processing, and marketing/shipping. GSWA shall submit a proposal, including total costs, to the Administrator and Board for approval."

Section 4. Article 3 of Chapter 24, Division 4, Title 22, Guam Administrative Rules and Regulations, is hereby *codified* and *amended* to read as follows:

"CHAPTER 24

GUAM RECYCLING REVOLVING FUND

RULES AND REGULATIONS

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§ 24301. GENERAL PROVISIONS

§ 24301.1. Purpose and Applicability.

§24301.2. Definitions.

§ 24301.3. Fees.

§ 24301.4. General Terms and Conditions for Use of Recycling Revolving Funds.

§ 24302. ADMINISTRATION AND PLANNING OF THE RECYCLING REVOLVING FUND

§ 24302.1. Administration of Recycling Revolving Fund.

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§ 24303. COMMUNITY ZERO WASTE AND RECYCLING INITIATIVES

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§ 24301. GENERAL PROVISIONS

§ 24301.1. Purpose and Applicability.

The purpose of this Chapter is to clarify existing statute, provide a uniform competitive business environment to all, and establish the minimum standards to properly implement and administer Guam's Recycling Revolving Fund in accordance with Title 10 GCA, Chapter 51, Article 3, under the authority granted by 10 GCA § 51306(c).

§ 24301.2. Definitions.

For the purposes of this Chapter, the terms defined in 10 GCA, Chapter 51, Article 3, § 51301 shall have the meaning ascribed to them therein, and the following words and phrases, together with all of the common derivations thereof, shall have the meaning ascribed to them as follows:

(a) "Administrator" shall mean the Administrator of the Guam Environmental Protection Agency, or designee.

(b) "Beneficial Use" shall mean the substitution of materials, either as generated or following additional processing, for some or all of the virgin materials in a natural or commercial product in a way that provides a functional benefit, meets product specifications, and does not pose concerns to human health or the environment.

(c) "Best Available Technology" shall mean a recognized and approved technology by the United States Environmental Protection Agency.

(d) "Board" shall mean the Board of Directors of the Guam Environmental Protection Agency.

(e) "Compost" or "Composting" shall mean a mixture, consisting primarily of decayed organic matter and is used for fertilizing and conditioning land or converting a material, such as plant debris, to compost.

(f) "DPW" shall mean the Department of Public Works.

(g) "Director" shall mean the Director of the Department of Public Works.

(h) "Disaster Debris" shall mean any items and materials broken, destroyed, or displaced by a natural or man-made federally or locally declared disaster. Examples of disaster debris include, but are not limited to, trees, construction and demolition material, and personal property.

(i) "Disaster Debris Management" shall mean the removal and disposal of debris that was generated by a disaster and which presents an immediate threat to the public interest.

(j) "Electronic Waste" or "E-Waste" shall mean electrical and electronic equipment dependent on electric currents or electromagnetic fields to function (including all components, subassemblies and consumables, which are part of the original equipment at the time of discarding). E-waste may include, but is not limited to, consumer electronics, entertainment devices, televisions, DVD players and tuners, office devices, information and communications technology, computers, circuit boards, telephones, and mobile phones.

(k) "Enameled White Goods" shall mean appliances for home or commercial use including, but not limited to, refrigerators, water heaters, air conditioners, washers, dryers, and stoves.

(l) "Extended User Responsibility" shall mean policies or practices that place a shared responsibility for end-of-life product

management on producers and other entities involved in the product chain.

(m) "GEPA" or "Guam EPA" shall mean the Guam Environmental Protection Agency.

(n) "Gross Vehicle Weight" or "Gross Vehicle Weight Rating" means the value specified by the manufacturer as the loaded weight of a single vehicle.

(o) "Heavy Equipment" shall mean any equipment, motor vehicle or motor carrier, or non-road motor vehicle with a gross weight or gross vehicle weight of five (5) tons or more.

(p) "Junk Vehicle" means a motor vehicle, regardless of operating condition, that the registered owner has declared to have no value or no use, or that is abandoned by being placed, discarded, or disposed of on public or private property without approval by owners of said property, or that is no longer registered in accordance with Chapter 7 of Title 16 GCA.

(q) "Motor Vehicle" or "Motorized Vehicle" shall mean automobiles, automobile trucks, automobile wagons, buses, trucks, motorcycles, or other self-propelled wheeled conveyances that are primarily for use on Guam's public streets, roads, and highways that are required to be registered with the Motor Vehicles Division, Department of Revenue and Taxation, Government of Guam.

(r) "Municipal Solid Waste" is a subset of solid waste and is defined as durable goods (e.g., appliances, batteries, tires), nondurable goods (e.g., newspapers, books, magazines), containers and packaging, food wastes, yard trimmings, and miscellaneous organic wastes from residential, commercial, and industrial non-process sources.

(s) "Person" or "Persons" shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, or any agency, department, or instrumentality of the federal or local government, or any other legal representatives, agents or assigns.

(t) "Priority Materials" shall mean all those materials identified by the Fund, in the order specified in § 24302.1(b) of this Chapter.

(u) "Recovered Resources" shall mean material or solid waste that has been diverted from disposal for the purpose of recycling, composting or mulching. This term does not include incineration or those materials that are generated and normally reused on-site for manufacturing purposes.

(v) "Recyclable Materials" means materials that still have useful physical or chemical properties after serving a specific purpose for the same or other purpose. Recyclable materials are as follows:

(1) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium, sealed types for power backup);

(2) automobiles, buses, and trucks or any motor vehicle;

(3) tires (passenger/commercial);

(4) enameled white goods;

(5) home appliances (other small appliances that are not considered enameled white goods);

(6) glass and plastic bottles;

(7) foam padding;

(8) lead;

(9) metals (ferrous/non-ferrous);

(10) organic material (i.e., tree trimmings, palm fronds, grass, food waste, soiled cardboard);

(11) paper products;

(12) wood pallets and scrap wood;

(13) construction and demolition debris ('C&D');

(14) x-ray film;

(15) automobile oil and fluids;

(16) freon and other refrigerant gases;

(17) electronic waste (i.e., computers, circuit boards, televisions, and portable phones);

(18) heavy equipment;

(19) abandoned derelict vessels; and

(20) other recyclable materials deemed recyclable by Guam EPA pursuant to its rules and regulations.

(w) "Recycle or Recycling" means a method by which recovered resources are converted for use as raw materials or feedstock to make new products, as defined in § 51102(ii) of Chapter 51 of Title 10 GCA.

(x) "Recycling Company" shall mean any business licensed by the Department of Revenue and Taxation, and permitted, as required in § 51104 of Chapter 51 of Title 10 GCA, by the Guam Environmental Protection Agency to conduct business on Guam.

(y) "Recycling Facility" shall mean all contiguous land, structures, and other appurtenances, and improvements on land used for the collection, separation, recovery, and sale or reuse of recovered resources that would otherwise be disposed of as municipal solid waste,

and is an integral part of a manufacturing process aimed at producing a marketable product made of post-consumer material.

(z) "Recycling Fee" shall mean an annual fee levied upon the registered owner of a motor vehicle to assist in the recycling and disposal of motor vehicles and other recyclable materials in accordance with this Chapter.

(aa) "Recycling Industry Economic Stimulus Program" shall mean a program that provides economic stimulus to local recycling companies that ship recyclable materials off-island.

(bb) "Solid Waste Management Facility" means any facility, or any machinery, equipment, vehicles, structures, or any part of accessories thereof installed or acquired for the primary purpose of collection, transportation, storage, recycling, processing or disposal of solid waste, and shall include sanitary landfills or resource recovery facilities.

(cc) "Stimulus Certification Form" shall mean a form officially issued by Guam EPA to be completed by the Economic Stimulus Program Participants to disclose and certify the types and quantities of recyclable materials shipped off-island to a recycling facility.

(dd) "Sustainable Materials Management" means a systemic approach to using and reusing materials more productively over their entire lifecycles.

(ee) "Special Waste" means white goods, household hazardous waste, automotive batteries, and abandoned vehicles.

(ff) "Upcycle" or "Upcycling" shall mean to recycle material in such a way that the resulting product is of a higher value than the component materials.

(gg) "Zero Waste" means a holistic approach to addressing the problem of unsustainable resource flows. Zero Waste encompasses waste eliminated at the source through product design and producer responsibility, and waste reduction strategies further down the supply chain such as recycling, upcycling, reuse and composting.

§ 24301.3. Fees.

The Recycling Fees authorized in § 51305 of Article 3, Chapter 51,10 GCA are hereby imposed as follows:

(a) Twenty-Five Dollars ($25.00) annually for each automobile, bus, and truck registered by the Department of Revenue and Taxation through the annual vehicle registration system.

(b) Three Dollars ($3.00) for each motorcycle and trailer registered by the Department of Revenue and Taxation through the annual vehicle registration system.

(c) Thirty Dollars ($30.00) for each piece of heavy equipment registered by the Department of Revenue and Taxation through the annual vehicle registration system.

(d) The Recycling Fee in Subsection (a) shall be waived upon initial issuance and subsequent renewal of vehicle license and registration for any veteran determined by the U.S. Department of Veterans Affairs (USDVA) to be 100% Disabled or Individually Unemployable due to military service-connected injuries. The fee shall be waived for one (1) non-commercial passenger vehicle, which includes sedans, coupes, pick-up trucks, motorcycles, and station wagons manufactured primarily to carry passengers, and including those passenger cars pulling other light trailers registered to the veteran, or legal guardian applying for benefits under this Section. A document issued by the USDVA or a U.S. military ID card, which certifies the

disability rating, must be furnished to the Department of Revenue and Taxation in order to waive the annual Recycling Fee.

§ 24301.4. General Terms and Conditions for Use of Recycling Revolving Funds.

(a) All proposals for use of funds shall be submitted to the Board and Administrator for review and approval, before the expenditure of funds that are subject to availability. Award amounts are final. Reimbursement for additional costs are not allowed.

(b) Prior to submitting bids or grant proposals, potential recipients of funds shall obtain environmental regulatory compliance, ethics, and other relevant training provided by Guam EPA or a designated provider. Required permits shall be obtained as a condition for the use of funds.

(c) Performance Targets. Projects shall meet performance/waste diversion targets as determined by the Administrator.

(d) Reporting Requirements. Reports and deliverables shall be presented biannually to the Board and posted on Guam EPA's website.

(e) Ethical Requirement. All recipients of funds from the Recycling Revolving Fund shall complete ethics training sponsored by the Ethics Commission, or a designated provider, and shall attest to spending funds according to ethical requirements under Guam law. Non-compliance of ethics, in addition to other remedies allowed under Guam law, can result in termination of the award and barring of future application for grants for a minimum period of two (2) years upon the findings of non-compliance by the Ethics Commission or, in the absence of the Ethics Commission, by the Board.

§ 24302. ADMINISTRATION AND PLANNING OF THE RECYCLING REVOLVING FUND

§ 24302.1. Administration of Recycling Revolving Fund.

(a) Monies in the Recycling Revolving Fund shall be administered, managed, and maintained by the GEPA Administrator to implement 10 GCA Chapter 51, Article 3, in accordance with the requirements of the Article.

(b) The Administrator may use the Fund for the purposes described under §§ 24302 and 24303 of this Chapter with the following priorities:

(1) First Priority: junk vehicles, tires, batteries, waste oil, white goods/appliances, and plastic;

(2) Second Priority: paper, cardboard, and glass; and

(3) Third Priority: other recyclables as determined by the Administrator.

(c) The Administrator shall determine the funding for each recycling and zero waste initiatives and submit the determination to the Guam EPA Board of Directors for approval by March 31st of the current fiscal year, and the approved funding will be effective in the following fiscal year.

(d) The Administrator is authorized to spend ten percent (10%) of the Fund to administer and implement this Chapter. Funds may be used for:

(1) operational costs directly related to recycling and zero waste initiatives for the Solid Waste Management Program, which includes, but is not limited to, personnel, supplies, equipment, and training of staff;

(2) compliance training for prospective recipients of funds of the Recycling Revolving Fund; and the

(3) implementation of a zero waste and recycling program for government and the community in accordance with Article 3, Chapter 51 of Title 10 Guam Code Annotated.

§ 24302.2. Planning of Recycling Revolving Fund.

(a) The Administrator may approve contracts between the Department of Public Works (DPW) or the Mayors Council of Guam

(MCOG) and recycling companies for the collection, recycling, zero waste initiatives, interim storage, disposal and processing, or any combination thereof, of automobiles, buses, heavy equipment, trucks, batteries, tires, white goods, and other recyclable materials in accordance with Articles 3 and 4 of Chapter 51, Title 10 GCA, and § 24303.1(b) of this Chapter, to implement an Island-wide Environmental Cleanup Program (IECP) on behalf of the Mayors Council of Guam with the following conditions:

(b) In addition to amounts specified in 10 GCA, Chapter 51, § 51303(a)(1)(A), upon approval by the Board, the Administrator is authorized to spend up to Two Hundred Thousand Dollars ($200,000) to either procure professional and technical services, pursuant to the Guam Procurement Law, or to fund grants to update and further develop the Guam Zero Waste Masterplan and holistic implementation plan to reach zero waste targets of fifty percent (50%) and seventy-five percent (75%) waste reduction by 2035 and 2045, respectively; to evaluate the effectiveness of zero waste and recycling programs; and/or to research other areas deemed a priority by the Administrator. Grants are awarded through a competitive process using established criteria by the Board and Administrator.

§ 24303. COMMUNITY ZERO WASTE AND RECYCLING INITIATIVES.

§ 24303.1. Mayors Council of Guam (MCOG) Island-wide Environmental Cleanup Program (IECP).

(a) The Administrator may approve contracts between the Department of Public Works (DPW) or the Mayors Council of Guam (MCOG) and recycling companies for the collection, recycling, zero waste initiatives, interim storage, disposal and processing or any combination thereof, of automobiles, buses, heavy equipment, trucks, batteries, tires, white goods, and other recyclable materials in accordance with Articles 3 and 4 of

Title 10 GCA, Chapter 51, and § 24303.1(b) of this Chapter, to implement an Island-wide Environmental Cleanup Program (IECP) on behalf of the Mayors Council of Guam with the following conditions:

(1) all applicable procurement laws must be followed;

(2) each contract must be conditioned upon proof that the recycling company has current permits for the work it is to perform, including, but not limited to, solid waste facility permits, solid waste collection permits, certifications, or other permits or licenses required to collect, remove, recycle or dispose of solid waste;

(3) each contract must be conditioned upon compliance with all solid waste rules and regulations; and

(4) each contract must require the recycling company to report all recyclables collected per village under this program to Guam EPA upon submittal of invoices to DPW or MCOG, as outlined in the contract approved by the Administrator, for payment.

(b) In each fiscal year, prior to any collection, processing, or storage of recyclable materials under contract pursuant to this Section, a comprehensive *Operation Plan* for the contractual work described in §24303.1(a) must be submitted by DPW or MCOG, as outlined in the contract approved by the Administrator, to Guam EPA and receive approval from the Administrator. The Administrator shall only approve the *Operation Plan* if the *Operation Plan* contains in detail the operational systems that address collection, processing, storage, emergency procedures, health and safety, reporting, and closeout procedures for each municipality.

(c) The Administrator may use funds to support the recycling and zero waste initiatives in this Section subject to the following conditions:

(1) funds may be expended only in accordance with valid contracts approved under this Section;

(2) no funds shall be disbursed prior to the Administrator's approval of the *Operation Plan* described in § 24303.1(b); and

(3) unused funds must be returned to the Recycling Revolving Fund every fiscal year.

§ 24303.2. Recycling Industry Economic Stimulus Program; Applicability and Eligibility.

(a) Potential Recycling Industry Economic Stimulus Program participants must establish eligibility by meeting all of the following criteria:

(1) possess a valid license from the Guam Department of Revenue and Taxation to conduct business on Guam;

(2) possess a valid solid waste management facility permit from Guam EPA for processing and storage;

(3) provide a bill of lading or similar documentation detailing the types of recyclable materials shipped, quantity in tons, and name of receiving facility;

(4) complete and submit all applicable Stimulus Certification Forms provided by Guam EPA; and

(5) remain in compliance with all solid waste rules and regulations.

(b) Only recyclable materials generated on Guam are eligible for payments under this Section. Recyclable materials imported into Guam for purposes such as, but not limited to, transit, transshipment, or consolidation shall not qualify under this Program.

§ 24303.3. Recycling Industry Economic Stimulus Program; Payment Calculation.

(a) Recycling Industry Economic Stimulus Program participants who establish eligibility by meeting all the criteria specified in § 24303.2(a)

may receive an economic stimulus payment for each ton of recyclable material transported off Guam to a recycling facility.

(b) Stimulus payments will be made in the order that completed forms are received by Guam EPA until approved funding has been exhausted.

(c) By March 31st of each year, the Administrator may select the eligible recycling materials for the next fiscal year based on global market trends, and submit a written recommendation to the Board for its approval. If the Board does not approve any eligible recycling materials for a particular year, no stimulus payments will be made in that year.

(d) Each year, the Administrator may determine the dollar amount per recyclable material to be disbursed to the eligible recycling facilities and submit a written recommendation to the Board for its approval. The dollar amount per recyclable material shall be based on factors, including the prioritization of materials, market conditions, economic analyses, and operational, transportation, and processing costs in its assessment, and:

(1) A base stimulus payment calculation per recyclable material expressed as follows: Base Stimulus Payment [dollars per ton] = Shipping Cost - Market Price.

(A) "Shipping Cost" is calculated using the World Freight Rates Freight Calculator or comparable shipping cost resource for port-to-port containerized ocean shipments and the USEPA Office of Resource Conservation and Recovery Volume-to-Weight Conversion Factors.

(B) "Market Price" is equivalent to the RecycleNet scrap index or comparable market index material sale price on the first day of the quarter preceding the start of the next fiscal year.

(2) A stimulus payment may be issued for recyclable materials when the calculated Stimulus Payment exceeds zero dollars ($0.00) per ton (i.e., stimulus will not be paid when the recycled material is revenue positive).

(3) The Administrator shall determine the funding levels of stimulus payments to be paid subject to the availability of funds and funding priorities.

(e) For the fiscal year beginning October 1, 2019, the Administrator may select the eligible materials, subject to Board approval and applicable stimulus payments.

§ 24303.4. Guam Beverage Container Recycling - RESERVE

§ 24303.5. Integrated Solid Waste Management Plan - RESERVE

§ 24303.6. Green Waste Plan – Composting and Organics - RESERVE

§ 24303.7. Disaster Debris Management – RESERVE

§ 24303.8. Zero Waste Grant Program– RESERVE

§ 24303.9. Guam Solid Waste Authority Residential Recycling Program—RESERVE"

Section 5. Notwithstanding any other provision of law, funds appropriated to the Mayors Council of Guam in Fiscal Year 2022 from the Recycling Revolving Fund shall not lapse and shall continue to be available until expended.

Section 6. Promulgation of Rules and Regulations for the *Guam Zero Waste Act*. Guam EPA shall promulgate rules and regulations for the Green Waste Plan - Composting and Organics, the Zero Waste Grant Program, and the Guam Solid Waste Authority Residential Recycling Program no later than one (1) year upon enactment of this Act.

Section 7. Effective Date. This Act shall be effective upon enactment.

Section 8. Severability. If any provision of this Act or its application to any

person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.