

ARTICLE 2
SWMF HEALTH MONITORING AND COMPENSATION.

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

§ 33201. Legislative Finding and Intent.

§ 33202. Title.

§ 33203. Additional Definitions to this Chapter.

§ 33204. Monitoring.

§ 33205. Standing to Sue; Injunction.

§ 33201. Legislative Finding and Intent.

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

10 GCA HEALTH AND SAFETY
CH. 33 SOLID WASTE

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

§ 33202. Title.

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

§ 33203. Additional Definitions to this Chapter.

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

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

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

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

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

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

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

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

§ 33204. Monitoring.

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

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

10 GCA HEALTH AND SAFETY
CH. 33 SOLID WASTE

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

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

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

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

10 GCA HEALTH AND SAFETY
CH. 33 SOLID WASTE

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

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

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

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

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

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

10 GCA HEALTH AND SAFETY
CH. 33 SOLID WASTE

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

§ 33205. Standing to Sue, Injunction.

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