CHAPTER 334A
WASTE MANAGEMENT ACT

• Act • Subsidiary Legislation •

ACT

Act No. 16 of 2001

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CHAPTER 334A
WASTE MANAGEMENT ACT

An Act to provide for the management of waste in conformity with the best environmental practices, and for related matters.

[Act No. 16 of 2001.]

[1*st January*, 2002.]

PART I

Preliminary

1. Short title

This Act may be cited as the Waste Management Act.

2. Interpretation

In this Act—

"approval" means approval of a proposal for a facility given under section 15(1);

"authorised officer" means a person appointed as such under section 42;

"Authority" means the Grenada Solid Waste Management Authority established by the Grenada Solid Waste Management Authority Act, Chapter 131A;

"biomedical waste" includes any waste containing human or animal fluids, flesh, bones or other body parts except hair;

"composting" means making the humus-like end-product of the decomposition of organic waste;

"derelict vehicle" means—

(*a*) any abandoned or discarded motor vehicle; or

(*b*) any motor vehicle left in a public place which is in such a dilapidated condition that it cannot be safely used for the purpose of transportation,

and includes any part of such motor vehicle;

"development" has the same meaning as in the Land Development Control Act, Chapter 160;

"environmental protection plan" means a plan of the kind described in section 13(1)(*i*);

"facility" means a waste management facility;

"hazardous waste" means any material that belongs to a category contained in Part A of the First Schedule and which possesses any of the characteristics contained in Part B of the First Schedule;

"incineration" means the destruction of solid waste by high temperature burning in a furnace designed for such purpose whereby solid waste is reduced to ash, carbon dioxide and water vapour;

"incinerator" means a facility for processing solid waste through incineration which is designed and constructed so as to protect human health and the environment from adverse impacts associated with the specific types of waste that are incinerated at the facility, and includes pollution control equipment associated with the facility;

"Inventory" means the National Waste Inventory produced under section 3(1);

"licence" means a waste management licence issued under section 22;

"litter" includes any abandoned or discarded article, rubbish, refuse, garbage or waste material, including, a container, package, bottle, can or part of any such item;

"Minister", unless otherwise stated, means the Minister responsible for health except that in Part III "Minister" means the Minister responsible for planning;

"permit" means a waste haulage permit issued under section 25;

"planning authority" means the Development Control Authority under the Land Development Control Act, Chapter 160;

"post-closure remediation" means the process whereby a site which has been, but is no longer, used for waste management purposes is rendered fit for other uses;

"prescribed" means prescribed by subsidiary legislation;

"processing", in relation to waste, means—

(*a*) reducing the volume of the waste;

(*b*) reducing the degree of hazard associated with the waste; or

(*c*) creating or recovering any secondary resource;

"quarantine waste" includes any waste imported into or landed in Grenada by any ship or aeroplane that comprises, or that contains, any food, vegetable, meat or dairy product, or any part of such matter;

"radioactive waste" means any waste that includes radioactive matter;

"recycling" means the process whereby a secondary resource is created from waste;

"re-use" means the use of waste in any manner that does not present a threat to human health, safety or the environment, but does not include the use of waste in any manufacturing process whereby a secondary resource is created;

"scheduled agencies" means the agencies listed in the Second Schedule;

"scrap metal" includes the following old or scrap items—

(*a*) copper, brass, iron or steel or other ferrous or non-ferrous metal;

(*b*) anything containing such material;

(*c*) wire rope or cable;

(*d*) batteries and metal debris;

(*e*) junked, dismantled or wrecked or derelict motor vehicles or white goods or parts thereof;

"secondary resource" means the material or matter which results from any process whereby waste is rendered into a form that is suitable for re-use, providing that the resulting material or matter does not present a threat to human health, safety or the environment;

"ship-generated waste" means any waste generated on a ship or other sea-going craft;

"solid waste" includes litter, garbage, refuse, organic waste, white goods, derelict vehicles, scrap metal and other solid materials but does not include solid or dissolved material in domestic sewage or other substances in water sources, such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flows or other common water pollutants;

"stakeholders" means the persons and organisations in Grenada, other than the scheduled agencies, who are considered by the Minister either to be likely to be significantly affected by waste management policy or to have special expertise or qualifications which make them competent to advise on the formation of waste management policy;

"Strategy" means the National Waste Management Strategy produced under section 4(1);

"waste" means any material, solid or liquid, discarded by the owner of the material, whether or not the material is in the same form as it was when it came to be in the possession of the owner, and includes any such material discarded from—

(*a*) residential, industrial, commercial, agricultural or government establishments or operations;

(*b*) ships, aircraft or vehicles; or

(*c*) public or community activities,

but, except in section 3, does not include foul water or sewage which comes under the responsibility of the National Water and Sewerage Authority;

"waste management facility" means any facility, including a landfill, for managing waste by storing or processing, and includes a processing facility for the creation or recovery of a secondary resource and pollution control equipment

associated with the facility, but excludes a location or facility where waste is stored for less than five days;

"waste management plan" means a plan of the kind described in section 13(1)(*j*);

"white goods" means disused and abandoned refrigerators, cookers, washing machines and other domestic appliances.

PART II

Waste Management Planning

3. National Waste Inventory

(1) Within nine months after the commencement of this Part, the Minister must produce a National Waste Inventory of the waste generated in Grenada.

(2) The Inventory must—

(*a*) identify the total tonnage of waste generated in Grenada;

(*b*) identify the proportions of waste according to specific classifications of waste;

(*c*) estimate the proportion of total waste generated by the residential sector, the tourist sector and the industrial, commercial and institutional sector other than tourism.

(3) The inventory must be revised at least every five years.

(4) In this section, "waste" includes foul water and sewage which for other purposes of this Act comes under the responsibility of the National Water and Sewerage Authority.

4. National Waste Management Strategy

(1) Within one year after the commencement of this Part the Minister must produce a National Waste Management Strategy.

(2) The Minister must ensure the broadest consultation in the preparation of the Strategy, and in particular, but without limiting the requirement, must consult with the scheduled agencies and the stakeholders to the extent that their interests are, in the opinion of the Minister, likely to be affected.

(3) In preparing the Strategy, the Minister must undertake an evaluation of the social, environmental and economic impacts of the Strategy, and the findings of such an evaluation must be contained in the Strategy that is submitted to the Cabinet for approval.

5. Contents and structure of Strategy

(1) The Strategy must include—

(*a*) a summary of the Inventory;

(*b*) an evaluation of historic, current or proposed activities that impact upon the volume or type of waste generated in Grenada;

(*c*) a review of national waste diversion and reduction options;

(*d*) an evaluation of national environmental and pollution control policies that may impact upon the nature or volume of waste generated in Grenada; and

(*e*) an implementation programme outlining mechanisms, programmes, policies, and strategies that are needed to ensure that waste management is carried out in a manner that does not adversely impact on human health or the environment.

(2) The implementation programme developed under subsection (1)(*e*) must establish—

(*a*) standards, requirements and procedures for the management of all waste, including the generation, handling, storage, treatment, transport and disposal of all types of waste;

(*b*) requirements and procedures for the issue, monitoring and enforcement of licences to operate waste management facilities;

(*c*) physical infrastructure requirements to provide waste management services;

(*d*) measures for addressing illegal dumping of waste, including litter and derelict vehicles;

(*e*) outline financing and cost recovery mechanisms to ensure the financial viability of all waste management activities; and

(*f*) outline measures for effective training of staff involved in waste management and effective public education and awareness regarding waste management.

(3) Without limiting subsection (2), the Strategy must—

(*a*) establish standards and procedures to be implemented in the reduction, recycling of, recovery, reclaiming and re-use of waste and the use of recycled substances;

(*b*) identify methods by which hazardous waste, quarantine waste, biomedical waste, ship-generated waste and other specified classes of waste are to be managed;

(*c*) identify methods by which waste is to be transported;

(*d*) establish standards and procedures for the location of waste disposal sites and plants;

(*e*) establish procedures for the safe removal, reduction and disposal of litter;

(*f*) classify, for the purpose of waste management, premises from which waste is generated;

(*g*) classify, for the purposes of disposal and treatment, different types of waste;

(*h*) establish target dates for the reduction of solid waste with a view to—

(i) reducing solid waste in Grenada by twenty per cent by January, 2010, through source reduction, recycling and composting activities,

(ii) achieving further reductions in solid waste at rates of no less than five per cent per decade after the year 2010 until a fifty per cent reduction is achieved through source reduction, recycling and composting activities;

(*i*) design waste management measures in such a manner that the costs arising from pollution are met by the polluters;

(*j*) subject to paragraph (*i*), design waste management measures in such a manner as to recover costs from those who benefit from those measures; and

(*k*) identify suitable enforcement mechanisms and appropriate mechanisms to ensure the implementation of the Strategy, including, where appropriate, the use of economic incentives.

6. Publication of Strategy

(1) The Minister must submit the draft of the Strategy for public review and comment, and for this purpose must advise the public—

(*a*) by notice in the *Gazette*;

(*b*) by a notice in two consecutive weeks in at least one newspaper published regularly in Grenada;

(*c*) by broadcast on at least three occasions, on at least one radio station whose signals are received in Grenada, as to—

(i) where copies of the draft Strategy can be obtained for review,

(ii) the address to which any comments on the draft Strategy should be submitted, and

(iii) the closing date for making any submission.

(2) The Minister must allow a period of at least thirty days but no longer than forty-five days for the submission of comments on the draft Strategy to be made under subsection (1).

(3) Once all the comments have been received from the public review undertaken under subsection (1) and any changes made which the Minister considers desirable, the Minister must submit the draft Strategy to the Cabinet for approval.

7. Approval of Strategy

(1) The Cabinet may either—

(*a*) approve the draft as the National Waste Management Strategy, with or without amendments; or

(*b*) refer the draft back to the Minister with a recommendation to correct any deficiency.

(2) If the Cabinet refers the draft back to the Minister, the Minister must recommence the process of preparing the Strategy at such stage as the Cabinet specifies.

(3) Upon approval of the draft by the Cabinet, every person or authority discharging any function under this Act must comply with the requirements of the Strategy.

8. Strategy to be consulted for new developments

The Strategy, once approved by the Cabinet, becomes the basis for the making of regulations and for evaluating—

(*a*) the licensing of waste management facilities under this Act;

(*b*) the issuing of waste haulage permits under this Act; and

(*c*) waste management options relating to all development proposals.

9. Variation of Strategy

(1) Before any component or part of the approved Strategy is varied, the Minister must publish in the *Gazette* a notice of intention to vary the Strategy specifying—

(*a*) the way in which it is intended to vary the Strategy;

(*b*) the reasons for the variation;

(*c*) that submissions on the variation may be made in writing by any person.

(2) In addition to publishing a notice as provided in subsection (1), the Minister may establish a consultative process with the scheduled agencies and the stakeholders.

10. Review of Strategy

(1) The Minister must keep the Strategy under review and, in any event, must undertake a comprehensive review of the Strategy within five years of its approval by the Cabinet to ensure that—

(*a*) it complies with the State's obligations under relevant international and regional agreements;

(*b*) it is responsive to Grenada's waste management needs;

(*c*) it is within Grenada's technical, financial and human resources;

(*d*) it contributes to a net improvement in the quality of life and of the environment in Grenada.

(2) Any review of a Strategy under this section must be undertaken in consultation with the scheduled agencies and the stakeholders, to the extent that their interests are, in the opinion of the Minister, likely to be affected, and with the public.

PART III

Environmental Impact Assessment

11. Environmental impact assessment pre-evaluation for new waste management facilities

(1) An environmental impact assessment pre-evaluation must be undertaken before any waste management facility is established, whether the facility is designed for the sole purpose of waste management or whether it will serve that purpose among other purposes.

(2) Subsection (1) does not apply to a facility which was in operation or under construction at the commencement of this Act.

12. Environmental impact assessment pre-evaluation process

(1) A person, including the Authority, who proposes to establish a facility of a kind that requires an environmental impact assessment under section 11 must notify the planning authority of the proposal in writing.

(2) Upon receiving a notification under subsection (1), the planning authority must commence the pre-evaluation process by referring the proposal to the scheduled agencies and by undertaking a preliminary screening to determine whether an environmental impact assessment is required.

(3) Within ten working days of receiving a notification under subsection (1) the planning authority must, after considering any comments from the scheduled agencies, complete the pre-evaluation by determining whether there are issues which require further information to be provided by the applicant and whether an environmental impact assessment is required.

(4) If the planning authority determines that further information is required under subsection (3), the authority must advise the applicant in writing of the further information that is required, and any response of the applicant purporting to supply that further information is to be treated as a new proposal under subsection (1).

(5) Following the completion of the pre-evaluation, the planning authority must advise the applicant that—

(*a*) an environmental impact assessment report is required; or

(*b*) no further information is required and the proposal will be recommended for approval to the Minister, subject to meeting the design standards for waste management facilities referred to in the Third Schedule.

13. Contents of environmental impact assessment report

(1) If an environmental impact assessment report is required it must include—

(*a*) an identifying name for the proposal;

(*b*) particulars of the sponsor's location and the date of preparation of the report;

(*c*) the identity of any persons or organisations other than the sponsor who contributed significantly to its preparation;

(*d*) particulars of the proposed site for the facility including ownership of the land;

(*e*) a description of the proposed facility including a description of the background and rationale for the facility;

(*f*) a description of the environmental setting, including a statement of environmental resources and conditions in the project area before the implementation of the project, and a forecast of changes to the environment that may occur as a result of the project;

(*g*) a description of any alternatives that are technically appropriate and an outline of the reasons for choosing the proposed alternative;

(*h*) a description of any social, environmental or health impact that may result from implementation of the proposal, including any impact which may occur during the construction, operation, abandonment or decommissioning of the facility;

(*i*) an environmental protection plan setting out the measures proposed to reduce or avoid adverse environmental or health consequences from implementation of the proposal;

(*j*) a waste management plan setting out the measures proposed to reduce waste during the construction, operation, abandonment or decommissioning of the facility;

(*k*) a description of proposed post closure remediation measures;

(*l*) a list of individuals or organisations who have an interest, expertise, or jurisdiction in matters relevant to the proposal and details of any consultation with them.

(2) The planning authority may require the applicant to carry out further studies or to submit additional information for the purpose of ensuring that the environmental impact assessment report is as accurate and exhaustive as possible.

14. Review of environmental impact assessment reports

(1) Upon reviewing the report submitted, the planning authority may ask the applicant to provide additional information.

(2) Having reviewed the report and any additional information provided, the planning authority must either—

(*a*) approve the report, with or without conditions or amendments;

(*b*) require the applicant to do additional work on the report to meet specific concerns of the planning authority; or

(*c*) reject the report.

(3) If so required under subsection (2)(*b*), the applicant must do additional work on the report to meet specific concerns of the planning authority and submit the additional work for review.

(4) If the planning authority approves a report on a proposal under subsection (2) or advises that no report is needed on the proposal under section 12(5)(*b*), the planning authority must make a recommendation to the Minister on whether to approve or reject the proposal.

(5) The planning authority must only recommend approval of a proposal if it is satisfied that the design of the facility is in accordance with the standards referred to in the Third Schedule.

15. Decisions on proposals for waste management facilities

(1) Upon receiving the recommendation of the planning authority, and after reviewing the report, if any, submitted under section 13, the Minister within a reasonable time must—

(*a*) approve the proposal with or without conditions; or

(*b*) reject the proposal.

(2) The planning authority must communicate the Minister's decision to the applicant as soon as practicable after it is made.

16. Monitoring and enforcement of environmental impact assessment requirements

(1) The applicant must implement any monitoring programme, protection plan or mitigation measure that is made a condition of approval under section 15(1)(*a*) and must construct the facility in accordance with the standards referred to in the Third Schedule.

(2) When granting approval under section 15(1), the Minister must designate a person or body authorised to conduct any inspection necessary to determine whether the design, development and construction of the facility are in accordance with the standards referred to in the Third Schedule and with any monitoring programme, protection plan or mitigation measure that is made a condition of the approval.

(3) If an inspection under subsection (2) reveals any deficiency, the Minister may issue to the applicant an—

(*a*) order to stop work on the construction of the facility;

(*b*) order to restore the site to its original condition with a further order for costs to be borne by the applicant;

(*c*) order to carry out any improvement or remediation work on the site with a further order for costs to be borne by the applicant.

(4) A person who—

(*a*) constructs a facility without obtaining approval under section 15(1)(*a*);

(*b*) in the construction of a facility fails to comply with any conditions imposed under section 15(1)(*a*); or

(*c*) contravenes any order made under subsection (3) or this section,

commits an offence.

Penalty: A fine of two hundred thousand dollars and imprisonment for two years.

17. Environmental impact assessment guidelines

The Minister may issue guidelines for the—

(*a*) procedures for reviewing any proposal for the establishment of a facility;

(*b*) procedures for monitoring of environmental protection plans or waste management plans in relation to facilities.

18. Development proposals generally

(1) In considering a development proposal other than for a waste management facility, the planning authority must have regard to the waste generation and waste management implications and to the requirements of the Strategy and must not grant development approval unless it is satisfied on those matters.

(2) In furtherance of subsection (1)—

(*a*) the planning authority must require the applicant in any development proposal to estimate the amount of waste likely to be generated in the construction and operation of the proposed development;

(*b*) an applicant for commercial development must identify action that will be taken to minimise waste generation, and to maximise reuse, recycling and composting, both during construction of the development and in the course of its operation when constructed;

(*c*) a specific management plan is required for any hazardous waste which may be generated during construction or operation of any development.

PART IV

Waste Management Licences and Waste Haulage Permits

19. Prohibition on unauthorised operation of a facility

(1) Except as provided in section 31, no person, including the Authority, may operate a facility without a waste management licence.

(2) A person who contravenes subsection (1) commits an offence,

Penalty—

(*a*) in the case of an individual – a fine of fifty thousand dollars and imprisonment for six months;

(*b*) in the case of a corporation – a fine of two hundred thousand dollars.

20. Licences required for all facilities

(1) The operator of any facility which was in operation at the commencement of this Act must as soon as possible apply for a waste management licence.

(2) Without affecting any other law which applies to the operators of facilities, an operator to whom subsection (1) applies is deemed to hold a waste management licence valid for one year from the commencement of this Act.

(3) The operator of any new facility must, after its construction has been approved under section 15(1)(*a*) but prior to commencing operations, obtain a waste management licence.

21. Application for a waste management licence

(1) An application for a waste management licence must be made to the Minister—

(*a*) in the prescribed manner; and

(*b*) accompanied by the prescribed fee.

(2) An application for a licence must be accompanied by—

(*a*) an environmental protection plan;

(*b*) a waste management plan; and

(*c*) a disaster preparedness response plan showing the action that the applicant will take in the event of an accident, a spill or a natural disaster.

(3) On receipt of an application for a licence, the Minister must—

(*a*) refer the application within fifteen days of receiving it to the scheduled agencies for written comments;

(*b*) publish in the *Gazette* a notice of the application and invite written comments within thirty days of the notice;

(*c*) consider any written submission or representation made about the application by any person or body;

(*d*) ensure as far as practicable that affected landowners have been consulted and that they consent to those aspects of the proposed facility which require such consent under any Act.

22. Issue of licence

(1) Subject to this section, the Minister must grant a licence within ninety days of receiving of an application under section 21 unless the Minister is satisfied that rejection of the application is necessary for the purpose of preventing—

(*a*) pollution of the environment;

(*b*) harm to human health or safety; or

(*c*) serious detriment to the amenities of the relevant locality.

(2) The Minister must not issue a licence unless the applicant has complied with the environmental impact assessment requirements of Part III and submitted a disaster preparedness response plan as required by section 21(2)(*c*).

(3) The Minister may refuse to issue a licence if the Minister considers that there are already sufficient facilities in Grenada.

(4) The Minister may refuse to issue a licence for the operation by a private person of a landfill or incinerator for the purpose of accepting or processing waste on contract if the Minister considers that such facilities ought to be reserved for operation by the Authority.

23. Conditions of licence

(1) A licence must specify the facility to which it relates, and the licensee's operation of any other facility requires a separate licence, or a variation of the licence, covering the operation of that other facility.

(2) Compliance with the operating standards for waste management facilities referred to in the Third Schedule is a condition of every licence.

(3) The Minister may specify other conditions, consistent with the Strategy, for management of wastes during the operation, abandonment or decommissioning of any facility, including conditions relating to the transportation of waste.

(4) The licensee must implement any monitoring programme, protection plan or mitigation measure that is made a condition of a licence.

(5) When issuing a licence the Minister must designate a person or body authorised to conduct any inspection in order to determine whether the facility is being operated in accordance with this Act and the conditions of the licence.

(6) A licence must identify, in respect of each of the conditions identified in it, the person or body who or which will in accordance with section 41 be responsible for monitoring the licensee's compliance with that condition.

(7) Subject to section 31, a licensee who fails to comply with any condition of a licence commits an offence.

Penalty: As specified in section 19(2) as if it were an offence under section 19.

24. Licence to be retained

A licensee who fails to retain the licence in a place where it can be inspected upon demand by the Minister or any officer authorised under section 42(1) commits an offence.

Penalty: A fine of ten thousand dollars.

25. Waste haulage permits

(1) Subject to subsection (2) and section 31, no person, including the Authority or any agent of the Authority, may operate a business involving the transportation of waste unless the person is the holder of a waste haulage permit.

(2) A person who contravenes subsection (1) commits an offence. Penalty: A fine of one hundred thousand dollars and imprisonment for twelve months.

(3) Subsection (1) does not apply to—

(*a*) transportation of waste at a facility by the holder of a licence for that facility;

(*b*) transportation of waste in a vehicle weighing less than half a ton by a person carrying on a business, if the waste is generated in the course of the other activities of the business;

(*c*) transportation of waste generated by activity in the vehicle in which the waste is being transported;

(*d*) transportation of waste in other prescribed circumstances.

(4) An application for a permit must be made to the Minister—

(*a*) in the prescribed manner; and

(*b*) accompanied by the prescribed fee.

(5) Before issuing a permit the Minister must—

(*a*) refer the application to the scheduled agencies for written comments;

(*b*) publish in the *Gazette* a notice of the application and invite written comments within thirty days of the notice; and

(*c*) consider any written submission or representation made in relation to the application received before the expiry of the thirty days.

(6) If a permit is properly applied for, the Minister must issue it within ninety days of receiving the application unless the Minister is satisfied that the application should be refused in order to avoid creating—

(*a*) pollution of the environment;

(*b*) harm to human health or safety; or

(*c*) a hazard on public highways or to traffic generally.

26. Conditions of permit

(1) A permit is valid for one year or any shorter period the Minister specifies in the permit.

(2) A permit must specify the vehicle or vehicles to which it relates and the facility or facilities to which the transportation of waste is permitted.

(3) It is a condition of every permit that waste transported in any vehicle to which the permit relates is at all times while being transported adequately covered so that it cannot blow or fall out of the vehicle or be removed before being deposited at a facility.

(4) The Minister must, in issuing a permit, specify—

(*a*) requirements relating to the maintenance of each vehicle to which it relates in good operating condition;

(*b*) requirements concerning the maintenance of insurance sufficient to provide for the cleaning up of spills or other polluting accidents that might occur during transportation;

(*c*) minimum requirements for the qualifications of drivers of the vehicles;

(*d*) minimum requirements for training of drivers in the management of accidents and disasters.

(5) The Minister may attach other conditions, consistent with the Strategy, to the issue of a permit.

(6) A permit holder who causes or permits waste which is being transported in a vehicle under a permit to be deposited otherwise than at a facility, unless expressly permitted by the conditions of the permit, commits an offence. Penalty: fifty thousand dollars and imprisonment for six months.

(7) Nothing in this Part exempts the owner or operator of a vehicle from the requirements of any other Act relating to vehicles or the transport of goods and materials.

27. Permit to be displayed

(1) The holder of a permit must ensure that a copy of the permit is kept in or on each vehicle to which it relates in a position where it can be easily seen from the exterior of the vehicle.

(2) The holder of a permit who fails to comply with subsection (1) commits an offence. Penalty: A fine of ten thousand dollars.

(3) A person who drives a vehicle for which a permit is required without a permit being displayed in accordance with subsection (1) commits an offence. Penalty: A fine of two thousand dollars.

28. Cancellation and suspension of licences and permits

(1) In this section, "off-licence period" or "off-permit period" means the period of six months after the cancellation of a licence or permit, as the case may be, or the period ending on earlier expiry of a suspension.

(2) The Minister may cancel or suspend a licence or a permit if a condition of the licence or permit, as the case may be, is contravened in a manner which poses an imminent danger of serious environmental damage.

(3) The Minister may give notice to the holder of a licence or permit requiring the holder to remedy a violation of the terms of the licence or permit, as the case may be, within a period of fifteen days, at the expiry of which period the Minister may either cancel or suspend the licence or permit.

(4) If a licence or permit is cancelled or suspended under subsection (2) or (3)—

(*a*) the holder is responsible during the off-licence period for the security of all waste, property and equipment affected by the cancellation or suspension;

(*b*) the Minister may—

(i) require the holder to allow the collection of any waste as the Minister directs,

(ii) give directions as to the facility at which any waste which is in the possession of the holder must be deposited.

(5) A holder whose licence or permit has been cancelled or suspended who fails to secure waste, property or equipment under subsection (4)(*a*), or who fails to allow the collection of waste under subsection (4)(*b*)(i) or to comply with the direction given under subsection (4)(*b*)(ii) commits an offence. Penalty: A fine of one hundred thousand dollars and imprisonment for twelve months.

29. Contingency plans

(1) The holder of a licence must by the end of March in every year review the holder's disaster preparedness response plan submitted under section 21(2).

(2) The Authority must, subject to the directions of the Minister, prepare and maintain contingency plans for—

(*a*) the restoration of waste management services following a hurricane or other natural disaster; and

(*b*) action that will be taken in the event of landfill flooding, a waste haulage vehicle accident, spillage of waste or any other disruption to normal waste management services.

(3) In preparing contingency plans, the Minister and the Authority must seek to ensure that the plans are in conformity with the National Disaster Preparedness Response Plan.

30. Liability in the event of accidents

(1) In the event of any harm to human health, safety or the environment caused through the failure of the holder of a licence or permit to exercise due diligence in the management or transportation of any waste, the holder of the licence or permit is liable at the suit of—

(*a*) any person injured, for damages;

(*b*) the Crown, for—

(i) damages for loss to Crown property, and

(ii) reimbursement of the government's expenses in mitigating any harm to human health, safety or the environment.

(2) In the event of any harm to human health, safety or the environment caused through the failure of the holder of a licence or permit to exercise special care in the management or transportation of any waste during a situation caused by an accident or in times of emergency under section 31, the holder of the licence or permit is liable as in subsection (1).

(3) The burden of proving the exercise of due diligence or special care, as the case may be, lies on the holder of the licence or permit.

(4) If waste is spilled while being transported by the holder of a permit, the permit holder must promptly have the spillage cleaned up and transported to a facility permitted to accept the waste.

(5) If the spillage of waste is a result of a breach of the condition attached to every permit by section 26(3), the permit holder commits an offence. Penalty: A fine of twenty thousand dollars and imprisonment for three months.

31. Emergency powers of Minister

(1) During a state of emergency declared under the Laws of Grenada, the Minister may require any person to take any action that the Minister considers reasonably necessary for the safe management of waste.

(2) Whether or not a state of emergency is declared, if at any time there is waste needing management or transportation and there is no holder of a licence or a permit, as the case may be, available the Minister may arrange for the management or transportation of such waste, and any person acting under the Minister's authority under this subsection is while so acting authorised to manage or transport any waste.

(3) A person acting pursuant to a requirement under subsection (1) or an authorisation under subsection (2) is entitled to recover from the Crown the expenses incurred in so acting.

PART V

Waste Management Generally

32. Illegal discarding of waste

(1) A person who generates waste may only discard it—

(*a*) in an appropriate receptacle;

(*b*) by delivering it to the holder of a permit for transportation to a facility; or

(*c*) by taking it to a facility licensed for reception of the type of waste concerned.

(2) In subsection (1), "appropriate receptacle" means a receptacle—

(*a*) provided by the Authority or its agent or by a Town Authority or District Board constituted under the Town Administration Act; or

(*b*) approved in writing by the Minister, or by a person acting on the Minister's behalf, on written application by the person generating the waste.

(3) A person who generates waste and who discards it contrary to subsection (1) commits an offence. Penalty: A fine of twenty thousand dollars and imprisonment for three months.

(4) Nothing in this section prohibits the retaining of waste on premises owned or occupied by the person generating the waste, but subject to section 38 as regards industrial, commercial and institutional operations, to section 40 as regards used oil, and to any other law.

33. Unauthorised disposal of waste

(1) A person who knowingly deposits or causes to be deposited any litter or other waste in or on any national park or protected area, territorial waters, beach, foreshore, marine waters, river or river bank without lawful authority (the proof of which lies on the person) commits an offence. Penalty: A fine of fifty thousand dollars and imprisonment for six months.

(2) A person who treats, keeps or disposes of litter or other waste in a manner likely to cause pollution of the environment or harm to human health commits an offence.

Penalty: A fine of fifty thousand dollars and imprisonment for six months.

34. Prohibition on the importation of waste

(1) No person may import into Grenada any waste other than—

(*a*) waste on board an aircraft landing in Grenada which was generated no more than 24 hours before such landing;

(*b*) waste on board a ship which was generated after it left port;

(*c*) any secondary resource which is imported under conditions prescribed by regulation for the purposes of any manufacturing process.

(2) A person who imports any waste contrary to subsection (1) commits an offence triable on indictment or summarily at the option of the Crown. Penalty—

(*a*) if the waste is hazardous waste—

(i) on indictment – a fine of one million dollars and imprisonment for ten years,

(ii) on summary trial – a fine of two hundred thousand dollars and imprisonment for six months;

(*b*) if the waste is not hazardous waste—

(i) on indictment – a fine of four hundred thousand dollars and imprisonment for four years,

(ii) on summary trial – a fine of fifty thousand dollars and imprisonment for six months.

35. Waste storage requirements

(1) The occupier of premises in which waste is at any time stored must store the waste in containers that prevent the escape of wastes, liquids or objectionable levels of odour, and that prevent infestation by pests or vermin.

(2) The occupier of premises on which waste is generated and not disposed of on the premises must comply with any prescribed requirements for making the waste available for collection for transportation to a facility.

(3) This section applies to occupiers of all premises, including domestic premises, retail outlets and roadside vendors.

(4) An occupier who contravenes subsection (1) or (2) commits an offence. Penalty: A fine of ten thousand dollars and imprisonment for one month.

36. Public events and stalls

(1) A person who holds any gathering, meeting or event which is open to the public, whether on payment or otherwise, must supply sufficient litter bins for the event and ensure that all litter left on the site, or generated by the event, is properly disposed of within twenty-four hours of the end of the event.

(2) A person who sells food or drink or any other item from a stall adjacent to and during an event of a kind referred to in subsection (1) must ensure that all litter left within 5 metres of the stall is removed within 12 hours of the end of the event.

(3) A person who sells food or drink or any other item from a stall adjacent to a public road must ensure that all litter left within 5 metres of the stall during any day is removed by the end of the day.

(4) A person who contravenes subsection (1) or (2) commits an offence. Penalty: A fine of ten thousand dollars and imprisonment for one month.

37. Liability for and ownership of waste

(1) If waste which is not in a container is moved from a place occupied by the owner of the waste to a place occupied by another person, with the consent of the owner of the waste and of that other person, ownership and possession of the waste

passes, in the absence of agreement to the contrary, to the other person at the time when the waste is moved.

(2) If waste which is in a container is moved from the container or detached and placed in or on another person's container or property, with the consent of the owner of the waste and of that other person, ownership and possession of the waste passes, in the absence of agreement to the contrary, to the other person at the time when the waste is moved.

(3) When waste is being transferred from any property or container, the person undertaking the transfer of the waste—

(*a*) must ensure that the transfer is undertaken in such a manner as to prevent the risk of harm to human health, safety or the environment; and

(*b*) is liable for any harm to human health, safety or the environment that results from the transfer of the waste.

38. Industrial, commercial and institutional waste generators

(1) A person who conducts industrial, commercial, agricultural or institutional operations on the person's own premises in the course of which waste is generated must make arrangements for management of the waste and must ensure that any waste generated does not present a risk to human health, safety or the environment.

(2) A person referred to in subsection (1) may, in addition to or instead of contracting with holders of licences or permits—

(*a*) construct and operate an on-site facility that has been approved in writing by the Minister;

(*b*) transport waste to a licensed waste management facility subject to the permit requirements of this Act.

(3) Compliance with the design and operating standards for waste management facilities referred to in the Third Schedule is a condition of the Minister's approval of an on-site facility under subsection (2).

(4) If an appropriate facility is not available in Grenada for managing hazardous waste or any other class of waste, a person who conducts industrial, commercial or institutional operations in the course of which waste is generated is responsible for the safe management of the waste on the person's premises or the export of the waste to an appropriate facility overseas.

(5) In this section, "institutional operations" means the operation of a school, hospital, prison or similar non-commercial institution.

39. Derelict vehicles, white goods and other scrap metal

(1) An authorised officer may order the removal of any derelict vehicle, white goods or scrap metal from any place to a facility if the officer reasonably considers—

(*a*) that the vehicle or other item detracts from the amenities enjoyed by any person who is not the owner of the vehicle or item;

(*b*) that the vehicle or item constitutes a nuisance in law; or

(*c*) that the vehicle or item is likely to harm human health, safety or the environment.

(2) If the owner of a derelict vehicle or other item to which subsection (1) applies cannot be identified, the authorised officer may arrange for the removal of the vehicle or item to a facility without any compensation being payable to the owner.

(3) If the owner of a derelict vehicle or other item to which subsection (1) applies can be identified, the authorised officer may issue to the owner a notice requiring the owner to remove the vehicle or item within seven days of receipt of the notice, failing which—

(*a*) subsection (2) applies as if the owner could not be identified;

(*b*) the cost of removal of the vehicle or item is a debt due to the Crown from the owner.

(5) This section does not affect the liability of an owner of a vehicle, white goods or scrap metal under any other section of this Act, the Road Traffic Act, Chapter 289A, or any other law.

40. Management of used oil

(1) Within twelve months after the commencement of this Act, the Minister must prepare a scheme, in consultation with importers and distributors of oil, for the establishment of a used oil management system that provides for the environmentally secure management of used oil generated in Grenada.

(2) A scheme prepared by the Minister under subsection (2) becomes part of the Strategy and must be published in the *Gazette*.

(3) With effect from one year after publication of a scheme by the Minister under subsection (2), the operator of any garage, any premises selling motor oil and petroleum products or any service station who fails to provide facilities and equipment for dealing with used oil which meet the requirements of the scheme commits an offence. Penalty: A fine of fifty thousand dollars and imprisonment for six months.

(4) With effect from one year after the publication of a scheme by the Minister under subsection (2), the planning authority must not grant development approval for the construction of any garage, any premises selling motor oil and petroleum products or any service station if the construction does not provide for facilities and equipment for dealing with used oil which meet the requirements of the scheme.

PART VI

Monitoring and Enforcement

41. Monitoring and audits

(1) A person or body charged with monitoring any aspect of compliance with an approval, licence or permit under this Act ("the monitor") may enter into an agreement with the applicant or with the holder of the licence or permit, as the case may be, that allows a third party, considered by the monitor to be suitably qualified, experienced and independent, to monitor such compliance on behalf of both the applicant or the holder and the authority.

(2) A third party who conducts an audit or inspection pursuant to subsection (1) must submit reports to both the applicant, or the holder of the licence or permit, and the monitor.

(3) A monitor may engage by contract any person, considered by the monitor to be suitably qualified, experienced and independent, to monitor any aspect of compliance by an applicant or the holder of a licence or permit with the conditions of an approval, licence or permit, as the case may be.

42. Appointment and powers of authorised officers

(1) The Minister may designate in writing public officers and officers of government agencies as authorised officers for the purpose of this Act.

(2) Every police officer and every environmental health officer is an authorised officer for the purposes of this Act.

(3) An authorised officer may at any time enter and inspect any waste management facility to verify compliance with this Act.

(4) If an authorised officer satisfies a magistrate that there is reasonable cause to believe that entry and inspection of specified domestic premises will find evidence of a contravention of this Act, the magistrate may issue an order authorising the entry and inspection of those premises.

(5) A police officer may, in order to verify possession of and compliance with the conditions of a permit, stop and search any vehicle reasonably believed to be transporting waste.

(6) A police officer or other authorised officer may, on the written direction of the Minister, search any ship or aircraft to—

(*a*) verify whether the ship or aircraft has waste on board; and

(*b*) take the measures necessary to ensure that any waste on board is not off-loaded contrary to this Act or any other law.

(7) An authorised officer other than a police officer in uniform must if so requested produce identification before conducting an inspection under this section.

(8) For the purpose of subsection (7), identification includes a photograph of the authorised officer, authenticated by the signature of a public officer authorised for the purpose by the Minister.

(9) A person who assaults or obstructs a police officer or other authorised officer in the discharge of functions under this Act commits an offence. Penalty: A fine of fifty thousand dollars and imprisonment for six months.

43. Due diligence defence

(1) The Minister may by order list any published compilation of waste management standards as a recognised compilation of standards for the purpose of measuring the standard of due diligence under this Act.

(2) If the holder of a licence or permit is alleged to have failed to comply with the conditions of the licence or permit, it suffices to establish due diligence for the holder to show compliance with a compilation of standards published under subsection (1).

44. Conduct of proceedings

(1) A prosecution for an offence under this Act or the regulations may be instituted by the planning authority, a member of the Police Force or any other person authorised in writing by the Minister.

(2) Unless otherwise provided, offences under this Act are summary offences.

(3) Any offence under this Act or the regulations which is a continuing offence may be charged as a separate offence for each day for which the offence continues.

PART VII

Miscellaneous

45. Financial incentives

The Minister responsible for finance may make regulations to provide for the establishment of fiscal incentives and inducements required to implement the Strategy and other provisions of this Act.

46. Regulations

(1) The Minister may make regulations for the purpose of implementing the provisions of this Act, including, but not limited to, regulations—

(*a*) respecting the development and updating of the Strategy;

(*b*) implementing any waste diversion and waste reduction policy contained in the Strategy;

(*c*) respecting waste management strategies and operations generally;

(*d*) respecting the conduct of environmental impact assessments for waste management facilities;

(*e*) as to the contents of environmental protection plans and waste management plans;

(*f*) regulating applications for licences and permits;

(*g*) respecting enforcement mechanisms for prohibitions against littering and discarding of waste;

(*h*) establishing standards and requirements for waste handling, separation and processing;

(*i*) regulating or restricting for the purposes of this Act the import of used, second-hand, refurbished or reconditioned materials or goods;

(*j*) prescribing fees for the processing of applications, for the issue of licences and permits, for inspections and for other services related to waste management;

(*k*) with regard to the training of people for the purposes of this Act;

(*l*) promoting public education in waste management and the production of secondary resources.

(2) Regulations may create offences punishable by a fine of two thousand dollars.

47. No statutory authorisation of nuisance

An approval, licence or permit given or issued under this Act does not authorise the commission of any nuisance.

48. Register of licences and permits

(1) The Minister must maintain a register of all licences and permits issued under this Act.

(2) The register must be available for public inspection on the payment of the prescribed fee.

49. Amendment of Schedules

The Minister may amend any of the Schedules by Order published in the *Gazette*.

50. Act binds the Crown

This Act binds the Crown.

51. Commencement

This Act comes into force on the 1st day of January, 2002.

First Schedule

WASTE MANAGEMENT ACT

Wastes Classified as Hazardous Wastes

[Section 2.]

PART A

Waste Streams

Y1 Clinical wastes from medical care in hospitals, medical centres and clinics.

Y2 Wastes from the production and preparation of pharmaceutical products.

Y3 Waste pharmaceuticals, drugs and medicines.

Y4 Wastes from the production, formulation and use of biocides and phyto-pharmaceuticals.

Y5 Wastes from the manufacture, formulation and use of wood preserving chemicals.

Y6 Wastes from the production, formulation and use of organic solvents.

Y7 Wastes from heat treatment and tempering operations containing cyanides.

Y8 Waste mineral oils unfit for the* originally intended use.

Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions.

Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs).

Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment.

Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish.

Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives.

Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on people and/or the environment are not known.

Y15 Wastes of an explosive nature not subject to other legislation.

Y16 Wastes from production, formulation and use of photographic chemicals and processing materials.

Y17 Wastes resulting from surface treatment of metals and plastics.

Y18 Residues arising from industrial waste disposal operations.

Wastes Having as Constituents

Y19 Metal carbonyls.

Y20 Beryllium; beryllium compounds.

Y21 Hexavelant chromium compounds.

Y22 Copper compounds.

Y23 Zinc compounds.

Y24 Arsenic; arsenic compounds.

Y25 Selenium; selenium compounds.

Y26 Cadmium; cadmium compounds.

Y27 Antimony; antimony compounds.

Y28 Tellurium; tellurium compounds.

Y29 Mercury; mercury compounds.

Y30 Thallium; thallium compounds.

Y31 Lead; lead compounds.

Y32 Inorganic fluorine compounds excluding calcium fluoride.

Y33 Inorganic cyanides.

Y34 Acidic solutions or acids in solid form.

Y35 Basic solutions or bases in solid form.

Y36 Asbestos (dust and fibres).

Y37 Organic phosphorous compounds.

Y38 Organic cyanides.

Y39 Phenols; phenol compounds including chlorophenols.

Y40 Ethers.

Y41 Halogenated organic solvents.

Y42 Organic solvents excluding halogenated solvents.

Y43 Any congener of polychlorinated dibenzo-furan.

Y44 Any congener of polychlorinated dibenzo-p-dioxin.

Y45 Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44).

Y46 Wastes collected from households.

Y47 Residues arising from the incineration of household wastes.

Other.

Radioactive Wastes.

PART B

List of Hazardous Characteristics

1 H1 Explosives

An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such speed as to cause damage to the surroundings.

3 H3 Flammable liquids

The word **"flammable"** has the same meaning as **"inflammable"**. Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give offal flammable vapour at temperatures of not more than 60.5 degrees Celsius closed cup test, or not more than 65.6 degree Celsius open-cup test. (Since the results of open-cut tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such differences would be within the spirit of this definition).

4.1 H4.1 Flammable solids

Solids or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.

4.2 H4.2 Substances or wastes liable to spontaneous combustion

Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and being then liable to catch fire.

4.3 H4.3 Substances or wastes which, in contact with water, emit flammable gases

Substances or wastes which by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.

5.1 H5.1 Oxidising

Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen, cause or contribute to the combustion of other materials.

5.2 H5.2 Organic peroxides

Organic substances or wastes which contain the bivalent O-O structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.

6.1 H6.1 Poisonous (Acute)

Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.

6.2 H6.2 Infectious substances

Substances or wastes containing viable micro organisms or their toxins which are known or suspected to cause disease in animals or humans.

7 H7 Radioactive Materials

Substances or material which spontaneously emit a significant radiation and of which the specific activity is greater than 70kBq/kg (2nCi/g).

8 He Corrosives

Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue or, in the case of leakage, will materially damage or even destroy other goods or the means of transport; they may also cause other hazards.

9 H10 Toxic gases liberated in contact with air or water

Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.

9 H11 Toxic (Delayed or chronic)

Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic harmful effects, including carcinogenicity.

9 H12 Ecotoxic

Substances or wastes which, if released, present or may present immediate or delayed adverse impacts to the environment by means of big-accumulation and/or toxic effects upon biotic systems.

9 H13

Capable, by any means, after disposal, of yielding another material e.g. leachate, which possesses any of the characteristics listed above.

(*Note*.—The code letters and numbers in this Schedule are those assigned by the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal).

Second Schedule

WASTE MANAGEMENT ACT

Agencies Concerned with Waste Management ("Scheduled Agencies")

[Section 2.]

Ministry of Health and the Environment

Grenada Solid Waste Management Authority

Grenada Ports Authority

Land Development Control Authority

Ministry of Finance

Third Schedule

WASTE MANAGEMENT ACT

Design and Operating Standards for Waste Management Facilities

[Sections 12(4), 14(5), 23(2) and 35(3).]

A. LANDFILLS

The standards set out at pages 49 to 60 of the OECS Report.

B. COMPOST FACILITIES

The standards set out at pages 62 to 72 of the OECS Report.

C. RECYCABLE MATERIALS PROCESSING FACILITIES

The standards set out at pages 73 to 78 of the OECS Report.

D. INCINERATION FACILITIES

The standards set out at pages 79 to 83 of the OECS Report.

***Note.*—The OECS report is the "Solid and Ship-Generated Waste Management Project – Model Policy, Legislation and Regulations; Final Report – Grenada, July, 1999."**

Clerk to the Senate.

CHAPTER 334A
WASTE MANAGEMENT ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation