

## Chapter 20

### SOLID AND INDUSTRIAL WASTE AND REFUSE

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**25.2001 Designation of collection areas in accessible villages.**

The solid waste official as appointed under 25.0101 shall designate collection areas for the placement of waste containers in all villages accessible by roads.

**History:** 1972, PL 12-44 § 8, 2001, PL-27-8.

**25.2002 Collection and disposal plans for inaccessible villages.**

The village council of all villages not accessible by roads shall, in consultation with the solid waste official, devise and carry out a plan for the collection and disposal of solid waste, approved by the director of health and the director of ASEPA.

**History:** 1972, PL 12-44 § 8; 2001, PL 27-8, §2.

**25.2003 Prohibited deposits and accumulations—Each day separate offense.**

(a) A person shall not deposit solid waste, industrial waste or other refuse except as permitted in 25.2004.

(b) A person shall not permit the accumulation of solid waste, industrial waste or other refuse on any property owned, leased, or possessed by him, nor shall he permit the same upon any sidewalks, alleys, curbs, roadway shoulder areas, streams and shorelines immediately adjoining such real property, except as permitted in 25.2004. In the case of property owned, leased, possessed, or occupied by the government, the responsible party for purposes of the liability of the government, shall be the solid waste official.

(c) Each day beyond the day of service of the complaint-summons set out in 25.2011 that the accumulation prohibited by this section exists, shall be deemed a separate and distinct offense.

**History:** 1972, PL 12-44 § 8, 2001, PL-27-8 §2.

#### **25.2004 Allowable deposits and accumulations.**

Deposits and accumulations of solid waste, industrial waste, and other refuse are permitted only:

(1) at collection areas in villages and along public rights of way designated by the solid waste official and in solid waste containers or collection bins provided there:

(2) in villages referred to in 25.2002, in areas designated by approved solid waste collection and disposal plans;

(3) at disposal sites designated by the director of medical services with the concurrence of the solid waste official for the disposal of solid waste, industrial waste, and other refuse, subject to the approval of the director of ASEPA.

**History:** 1972, PL 12-44 § 8; 2001, PL 27-8, §2.

#### **25.2005 Use of approved containers required— Distribution.**

(a) All deposits must be in waste containers or in bags or bundles which conform to specifications set by the solid waste official.

(b) Such waste containers shall be available for sale or lease at a place set by the solid waste official.

(c) The solid waste official shall establish and publish time schedules for the placement of containers for collection.

**History:** 1972, PL 12-44 § 8; 2001, PL 27-8 §2.

**25.2006 Use of collection bins in lieu of waste containers.**

In lieu of requiring the use of waste containers the solid waste official, with the approval of the director of health and the director of ASEPA may place collection bins in collection areas, and in such instances all solid waste shall be deposited therein.

**History:** 1972, PL 12-44 § 8; 2001, PL 27-8 §2.

**25.2007 Removal of solid waste to disposal site.**

(a) The solid waste agency shall have the responsibility for the transportation of all solid waste to a disposal site which shall be maintained and operated by the solid waste agency unless otherwise provided by the solid waste official. The solid waste agency shall formulate and abide by a collection schedule and disposal standards approved by the solid waste official and the directors of ASEPA.

(b) Transportation of industrial waste and other refuse shall be in a manner approved by the director of health and carried out by the person(s) generating or causing such waste.

**History:** 1972, PL 12-44 § 8; 2001, PL 27-8 §2.

**25.2008 Prohibition of tampering with or removing solid waste collection bins or waste containers.**

(a) A person shall not in any way tamper with or damage any solid waste collection bin or waste container so as to interfere with its designated purpose or to detrimentally affect its appearance.

(b) A person shall not remove from its place any solid waste collection bin or waste container which the person does not own or for which the person does not have responsibility.

**History:** 2001, PL 27-8, §2.

### **25.2009 Responsibility of business.**

(a) Notwithstanding any other provision of law, every owner or operator of a commercial establishment in the Territory shall be responsible for providing and maintaining sufficient and suitable solid waste collection receptacles on his business premises.

(b) It shall be the responsibility of every owner or operator of a commercial establishment in the Territory to maintain his business premises and all sidewalks, alleys, curbs, roadway shoulder areas, fence lines, and shorelines immediately adjoining such business premises so as to prevent the accumulation of solid and industrial wastes and debris.

**History:** 2001, PL 27-8; §2.

### **25.2010 Citation for offense.**

(a) When solid waste, industrial waste, or other refuse is deposited or allowed to accumulate in violation of 25.2003, or 25.2009, or where there is a violation of any provision of this title, any valid rule promulgated under this title, or any village regulation for health and sanitation adopted in accordance with this title, or where there is a refusal or neglect to comply with any lawful order issued by the Director of Health or the director of ASEPA in carrying out the provision of this title, a sanitarian or other authorized person, including members of the Department of Public Safety, authorized employees of the solid waste agency, or authorized employees of ASEPA, may issue a citation therefor.

(b) When solid waste, industrial waste, or other refuse is deposited or allowed to accumulate on communal lands in violation of 25.2003, and the person or persons responsible for such deposits or accumulations are unknown or cannot be identified, a warning citation for the violation(s) shall be issued to the Sa'o or highest ranking matai of such communal lands. If the Sa'o or highest ranking matai fails to ensure that the unlawful deposits or accumulations are completely removed within seven (7) days from the date the warning citation was given, he or she shall receive the citation therefor.

(c) If there is no matai for the land upon which an accumulation of solid waste or debris has occurred, the pulenuu for the village council of the village where the accumulation is located shall be served with the warning citation. If the unlawful deposit or accumulation of solid waste is not removed within seven (7) days, the village council shall be served with the fine citation.

(d) The director of public health may authorize other persons to issue citations under this title as necessary, provided that any person so authorized has the training and experience necessary to perform the job as determined in consultation with the Attorney General.

**History:** 1972, PL 12-44 § 8; and 1988, PL 20-85; 2001, PL 27-8 §2.

#### **25.2011 Citation—Form and contents.**

(a) The form of the citation shall be approved by the Attorney General, and copies of the form shall be stocked ordered. and paid for by each agency having authority to issue citations under this chapter.

(b) Citations shall be signed by the sanitarian or other authorized person who effects the service.

(c) No code sections need be cited if the charge and violation are specifically designated therein. It may also contain other information pertinent to the offense charged, together with such forms for appearance plea and waiver as may be necessary under 25.2030 through 25.2033.

**History:** 1972, PL 12-44 § 8; 2001, PL 27-8 §2.

#### **25.2012 Citation—Service.**

A citation must be served by personal delivery of a copy thereof to the defendant.

**History:** 1972, PL 12-44 § 8.

#### **25.2013 Citation—Answering.**

A citation may be answered in the manner provided in 25.2031 within 3 business days from the day of the service of the citation.

**History:** 1972, PL 12-44 § 8.

#### **25.2014 Citation—Appearance in court.**

If the citation is not answered by appearance, plea and waiver before the violations bureau before the close of business hours and within 7 business days from the date of the service of the summons, the defendant must appear in the district court at the time and date indicated thereon.

**History:** 1972, PL 12-44 § 8; and 1979, PL 16-53 § 49.

**Amendments:** 1979 Substituted “violations bureau” for “violations clerk”, added “before the close of business hours and within 7 business days from the date of the service of the summons”, and substituted “district court” for “public health court”.

#### **25.2015 Citation—Complaint—Contents— Motion for further information.**

A complaint signed and sworn to by the person who issued the citation must be filed with the clerk of the Court before any offense may be heard or plea taken in court. The complaint shall be substantially in the form prescribed for a citation by 25.2011. It may also contain other information pertinent to the alleged offense.

**History:** 1972, PL 12-44 § 8; and 1979, PL 16-53 § 75.

**Amendments:** 1979 Subsection (b): repealed.

#### **25.2016 Legal representation.**

Defendants in a public health action may be represented by an attorney or legal practitioner.

**History:** 1972, PL 12-44 § 8; and 1979, PL 16-53 § 50.

**Amendments:** 1979 Changed section from “Parties to a public health court action may make use of the services of an attorney or legal practitioner” to “Defendants in a public health action may be represented by an attorney or legal practitioner.”

### **25.2017 Arrest for failure to answer citation.**

A warrant may be served by a police officer for the arrest of any person who fails to answer a citation. It shall be supported by a sworn complaint as set out in 25.2015.

**History:** 1972, PL 12-44 § 8.

### **25.2018 Plea and trial.**

(a) After reading the complaint to the defendant, the court shall ask the defendant to plead. If the defendant pleads guilty, the court shall proceed with sentencing. If the defendant pleads not guilty, the person who issued the citation shall present the court with the grounds on which it was issued, adding evidence to this end. The Attorney General may assist to the extent he deems necessary.

(b) The defendant may then introduce evidence to establish the fact that he is not guilty.

(c) The Court may examine the evidence and question the parties and their witnesses at any time.

**History:** 1972, PL 1244 § 8; and 1979, PL 16-53 § 75.

**Amendments:** 1979 Subsection (d): repealed.

### **25.2019 Abstract of case.**

Upon disposition of the case, the court shall prepare an “Abstract of Court Record for Violations Bureau” in substantially the form known as a “Public Health Complaint Abstract of Court Record” and transmit it to the violations bureau. The violations bureau shall keep records to show whether a person cited is a prior offender and shall notify the district court when a person fails to pay any fine imposed under this chapter.

**History:** 1972, PL 12-44 § 8; and 1979, PL 16-53 § 51.

**Amendments:** 1979 Deleted ‘Court’ from “public Health Court Complaint Abstract of Court Record”, substituted “violations bureau” for “violations clerk”, and substituted “district court” for “public health court”.



**25.2020 Fine for offense—Payment— Disposition.**

(a) The district court may, unless otherwise specifically provided, impose a fine of :

	NO LESS THAN	NO MORE THAN
first offense	\$50	\$100
second offense	\$100	\$200
third offense	\$400	\$500
subsequent offenses	\$500	\$1,000

(b) Additionally, or in lieu of fines, any person found guilty under this chapter may be ordered to pick up and remove solid waste, trash, and debris from public places, including streams and the seashores, under the direction of the Department of Public Safety.

(c) The district court may order the imprisonment of any person guilty of a misdemeanor referred to in 25.2021.

(d) Any fine imposed under this title must be paid to the violations clerk within the time specified by the court not to exceed 14 days from the day the fine is imposed.

(e) All money collected by fines and costs under this chapter shall be paid to the Treasurer of American Samoa and placed by him into the general fund.

**History:** 1972, PL 12-44 § 8; and 1979, PL 16-53 § 52; 1988, PL 20-85; and 1992, PL 22-24; 2001, PL 27-8 §2.

**Amendments:** 1979 Subsections (a), (b): substituted references to district court for references to public health court, and in (b), deleted provision that High Court, but not lower court could order imprisonment.

**25.2021 Failure to answer citation or pay fine a misdemeanor.**

Regardless of the disposition of the charge upon which a citation is issued or fine imposed a person is guilty of a misdemeanor if he willfully fails to:

(1) answer a lawful citation; or

(2) pay a fine imposed under this title within the time required unless retrial is requested.

**History:** 1972, PL 12-44 § 8; and 1988, PL 20-85.

### **25.2030 Violations bureau—Duties.**

The violations bureau shall accept appearances waivers of trial, pleas of guilty and payments of fines for public health offenses subject to the limitations of this section and 25.2031 through 25.2033. It shall operate under the direction and control of the Clerk of the High Court.

**History:** 1972, PL 12-44 § 8; and 1979, PL 16-53 § 53.

**Amendments:** 1979 Substituted “violations bureau” for “violations clerk”, substituted “public health offenses” for “offenses over which the public health court has jurisdiction”, and substituted “Clerk of the High Court” for “Treasurer” at end.

### **25.2031 Appearance of offenders before violations bureau.**

Any person charged with a public health offense may appear before the violations bureau in person before the close of business hours and within 7 business days from the date of the service of the summons and, upon signing a plea of guilty and waiver of trial, pay the fine for the offense charged. Prior to this plea, waiver and payment, he shall be informed of his right to appear before the district court, that his signature to a plea of guilty will have the same force and effect as a judgment of that court, and that the record of conviction will be sent to the district court.

**History:** 1972, PL 12—44 § 8; and 1979, PL 16-53 § 54.

**Amendments:** 1979 Substituted “public health offense” for “offense subject to the jurisdiction of the public health court”, substituted “violations bureau” for “violations clerk”, added “before the close of business hours and within 7 business days from the date of the service of the summons”, substituted “district court” for “public health clerk”, and substituted “district court” for “Treasurer” at the end of section.

### **25.2032 Payment of Fines.**

Fines imposed by the district court for violations of this chapter shall be paid to, receipted by, and accounted for by the violations bureau during business hours.

**History:** 1972, PL 12-44 § 8; and 1979, PL 16-53 § 56; 2001, PL 27-8 §2.

**Amendments:** 1979 Substituted reference to district court for reference to Chief Justice of the High Court and substituted “violations bureau” for “violations clerk at his office”.

### **25.2033 Severability.**

If any provision of this chapter or its application to particular persons or circumstances is held invalid by a court of law, the application of such provision to other persons or circumstances shall not be affected, nor shall the remainder of the provisions of this chapter be affected thereby.

**History:** 2001, PL 27-8 §2.