GUAM ENVIRONMENTAL PROTECTION AGENCY • *AHENSIAN PRUTEKSIÓN LINA'LA' GUÅHAN*
LOURDES A. LEON GUERRERO • GOVERNOR OF GUAM | JOSHUA F. TENORIO • LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO • ADMINISTRATOR | MICHELLE C. R. LASTIMOZA • DEPUTY ADMINISTRATOR

35GL-20-1381
Speaker Tina Rose Muña Barnes

January 3, 2020

Honorable Tina Rose Muña-Barnes
Speaker
I Mina'trentai Singko na Liheslaturan Guåhan
163 Chalan Santo Papa
Hagåtña, Guam 96910

JAN 0 3 2020
Time 3:07 ( )AM ( )PM
Received By:

RE: 5 GCA 8113.1 Reporting Requirements for Board of Directors Regular Meetings – FY2019

Hafa Adai Madam Speaker,

Transmitted herewith are the minutes and other required documents from the Guam Environmental Protection Agency (Guam EPA) Board of Directors Regular Meetings for FY2019. Moving forwards, all Guam EPA Board of Directors Regular Meeting minutes and required documents will be submitted to your office in a timely manner, in accordance with 5 GCA §8113.1.

Should you have any questions or if the Agency can be of any assistance to you and your office, please feel free to contact the Agency at 300-4751.

2019 JAN -3 PM 4:17

Respectfully,

Arlene S. Acfalle
Guam EPA Board Secretary

cc: **Guam EPA Administrator**
Guam EPA Board Chair

GUAM LEGISLATURE
CENTRAL FILES
ACKNOWLEDGEMENT RECEIPT
Received by: JFS
Time: 2:25
1-3-20

GUAM
ENVIRONMENTAL PROTECTION AGENCY
AHENSIAN PRUTEKSION LINA'LA GUAHAN

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GOVERNOR OF GUAM

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BLDG. #17-3304 MARINER AVENUE, BARRIGADA, GUAM 96913

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Guam Environmental Protection Agency
Board of Directors Meeting
Thursday, November 15, 2018 @ 4:00 pm
Main Office Conference Room

Agenda

I. Call to Order

II. Approval of Agenda

III. Approval of September 20, 2018 Minutes

IV. Administrator's Report

V. New Business
- Brief from CH2M/Jacobs Re Current Projects
- Bill No. 292-34
- Bill No. 350-34

VI. Old Business
- Navy NOV - Notice of Intent to Appeal Status
- Tsang Brothers Corporation – Settlement Agreement Status
- Safe Drinking Water NOV – Guam Waterworks Authority Status
- Nova Group, Inc. – Settlement Agreement Status
- RRF Rules and Regulations Draft Update

VII. Miscellaneous

VIII. Next Meeting Date/Adjournment

Todo Y Nilala Y Tano Man Uno - All Living Things of the Earth Are One

Guam Environmental Protection Agency
Board of Director's Meeting,
November 15, 2018 @ 4:00 p.m.
Main Office Conference Room

MINUTES

I. **Call to Order**: Chairman Robert Perron called the Board of Director's meeting to order at 4:05 p.m.

Present were: Board Members: Robert Perron, Chairman, Terrence Brooks, Vice-Chairman, Victor Zhou, Steve Hollister, Ann Roth and Steven Carrara. (Florida Sanchez, not present).

Guam EPA Staff: Kristan Finney, Michelle Lastimoza, Brian Bearden, Conchita Taitano, Laura Kanai, Sabrina Cruz-Sablan, Roland Gutierrez, Connie Acfalle, Jesse Cruz, Nicholas Lee, Glenn San Nicolas and Vilma Balajadia. Guests: USEPA-Harry Allen, Carl Goldstein and Travis Bock. Janalynn Damian and Charissa Manibusan.

II. **Approval of Agenda**: Director Roth made a motion to approve the agenda, seconded by the Chairman. All voted in favor and the motion passed. The Chairman recommended that the Old Business be moved in front of New Business due to an RRF update that will lead into one of the New Business items. Director Carrara made a motion to move the Old Business in front of the New Business, seconded by Director Roth. All voted in favor and the motion passed.

III. **Approval of Minutes**: Changes made on Roman Numeral IV. 5th sentence, change the word Price to Proposal and Roman Numeral VI. Under Old Business, 4th paragraph, last sentence, change the word told to tolled. Director Roth made a motion to approve the minutes, seconded by the Director Carrara. All voted in favor and the motion passed.

IV. **Administrator's Report**: The Administrator introduces Mr. Brian Bearden, Guam EPA's new Chief Engineer, Mr. Carl Goldstein, Guam EPA's new Program Manager, Mr. Harry Allen, USEPA's Agent Orange Specialist and Mr. Travis Bock, USEPA. The Administrator added that Mr. Goldstein was instrumental in getting the agency off the high risk category with USEPA. The Administrator stated that Mr. Allen came to Guam with his contractor's to do the sampling which was done yesterday and today (11/14-15/18). The Administrator stated that Mr. Allen will be discussing the Agent Orange sampling procedure and that Guam EPA's Green Parcel/DSMOA Division and EMAS Division accompanied and assisted Mr. Allen. The Administrator stated that Mr. Travis Bock works for Innovate and is our contractor through USEPA to handle the agency's W.A.L.T.E.R.S. development. The Administrator also added that the agency is assembling a team to assist Mr. Bock to ensure that all the divisions and all the programs are represented and taken cared of as far as implementation into the W.A.L.T.E.R.S. program.

The Administrator stated that he would let Mr. Harry Allen discuss the Agent Orange later on in the meeting. The Administrator talked about some of the things that were done -to include the abandoned derelict vessels with Mr. Jesse Cruz and the EMAS group. Mr. Allen took some of the paint chips from the vessels and that in the near future they may remove the derelict vessels to ensure that there are no hazardous materials within the paint. The Administrator also stated that Mr. Allen is doing quite a bit for the agency, as well as their contractor. They are also taking a look at the Dededo Transfer Station –which is the assessment that the court has required Guam EPA to fix. The Administrator discusses more details.

The Administrator stated that the agency's "work plan" was submitted to the Navy last week, and was notified of the sampling event. The Administrator further stated that as of yesterday morning, the Navy did not provide us a response as far as allowing us into their control areas, which is basically a couple of gates. Requesting Base access is necessary to sample on Navy land. Requests for access have been denied with Navy Personnel requesting for a two-week time frame to respond to the request for Base access. Due to the delay, we had to amend our work plan to sample on locations that we thought were as appropriate as our first designated locations and Mr. Allen and Mr. Cruz can discuss that in more detail.

The Administrator stated that the public hearing for the reconfirmation of the Chairman and Director Sanchez went really well and stated that the agency will be more engaged in the future as far as making sure that the senators know the importance of the Board Members to this agency.

The Administrator stated that Mrs. Conchita Taitano attended the end of the year Association of State and Territorial Solid Waste Management Officials (ASTSWMO) meeting and she was voted in as the Vice-President of the Nationwide Organization for the Solid Waste. The Administrator further stated that it is an organization that helps Guam EPA. The agency pays a membership fee that exceeds the reimbursements they do for our travels to go attend the trainings and conferences that they have for numerous programs that we run and oversee on Guam. The Chairman added that Mrs. Taitano will be the Vice-President and then will be the following President for ASTSWMO.

Agent Orange – Mr. Harry Allen, USEPA On-scene Coordinator and Team Leader for Los Angeles Office, Region 9. On the topic of Agent Orange on island, Mr. Allen shared his review of last year's Navy Sampling Plan (on-Base sampling): "I made some concessions with them to get the project going for Area 1, 2, and 3, but in general, we felt like they had a good approach looking for the two (2) Agent Orange constituents (2, 4-D and 2, 4, 5-T = Chemical Names). Originally, Agent Orange was mixed 50/50 and it was distributed that way but also those products were used individually (2, 4-D) is a pretty common product it is found in some versions of Round Up. (2, 4, 5-T is called Fenoxaprop-P-ethyl) in its original trade name and was banned in the 1970's. So the real threat of Agent Orange spraying or residuals is the dioxin component (2,4, 5-T) –actually the interaction of the two also generates the dioxin –that's the main health driver of dioxin, the most toxic, carcinogenic of all the regulated substances that we would work with –its also naturally occurring so its kind of a strange thing, but to investigate potential use of Agent Orange for any kind of activity, we like to look for (2, 4-D) and (2, 4, 5-T). So USEPA happens to have a method for that so, when I worked with the Navy on the Base they suggested we use that method and look for those two (2) constituents..."

Mr. Allen further explained in detail Navy's methodology and processes from small samples of Area 1, 2 and 3, and the fact that USEPA was mailed a split sample to analyze in which USEPA found in one of their samples both of the ingredients (2, 4-D and 2, 4, 5-T). Based on these sample results, everyone agreed to retest the sample area, with Mr. Allen suggesting sampling "outside of the fence." While the Navy argued with Mr. Allen on USEPA's results, there was some discussion of positive bias like cross-contamination of samples, with the best explanation being the variability in the samples.

Mr. Allen stated the fact that "people used herbicides in history, on-Base and everywhere else, makes it pretty likely, you are going to see it in the soil" contrary to what chemist may say. Mr. Allen addressed a letter from Congresswoman Bordallo in September of this year in response to a letter from the Agent Orange Veterans of Guam group saying USEPA can go out and sample and take the guys from Agent Orange Veterans of Guam along, however USEPA agreed to seeking consultation with the group and deferred the lead to Guam EPA's team. Mr. Allen reviewed the information collected from various sources. (Referring to the map on his presentation slide) Mr. Allen stated the junction location and sampling sites: Pott's Junction (5 samples); Tiyan (one-sample and one up a little bit further at this junction location); Mongmong-Toto-Maite (sample taken, amount not provided); Piti (sample taken, amount not provided); Sasa Bay (two-samples where a place Mr. Moyer told us in the interview he sprayed around a family's home right by the Tenjo Road Fuel Pump –right outside the Navy Gate); and at Mr. Moyer's residence (three-samples). A total of thirteen (13) samples of five (5) subsamples were taken. Each one (1) sample represents five (5) sub-samples for a total number of sixty-five (65) samples represented. Mr. Allen further stated that, "The line of evidence to suggest that our work be done to figure out really what happened with the use of Agent Orange, its not proof, but I think you'll see when GAO comes out with their report –we cant really prove

anything about the use of Agent Orange –I think the closest I could come to that is if I had high concentrations that were similar to what I've seen in Vietnam and maybe I could go back and sample those again –if we had perhaps a way to sample even to a higher degree of technological innovation...we would go more places if we had them listed, if the Navy let us in the Gate we would go in there. It's not that big of a deal for us to sample and get these analyses done. One thing that we did do this time, which we didn't do last time with the Navy, was they're going to go back and re-sample. They [Navy] said when they go back they want to use the more sensitive chemical analysis method..." So, Mr. Allen agreed to run all these samples with the more sensitive method and conduct a handful with the other method just for comparison including all the other constituents associated with industrial activity and others to get a sense of wide enough of evidence. Mr. Allen further references the map on the presentation slide on the investigate areas. Areas include: the bottom there by Sasa Bay; the back gate to the fuel farm near Sumay Grill.

Director Carrara asked about the location of "high readings" and the location of deployment or storage. Mr. Allen responded with, "I don't have any reason to believe that the levels would be high where it was deployed, but my logic is saying you are pulling up in a truck you got the drum and the stuff on the back you know you are filling your tank and you may be going on a hike like Mr. Moyer said –and when you do this you are going to spill it and for whatever reason that stuff stays you know in my experience wherever it was stored or kept temporarily it stays and you can still find it later –so that's the kind of evidence that was used..."

The Vice-Chairman inquired if the report is going to be based on the prior sampling. Mr. Allen responded to the vice-chairman that the GAO report only speaks to the sampling but does not provide any data. The GAO report is just records and information, interviews, records review, its not inclusive at all. The Vice-Chairman further inquired clarification on the constituent findings and its possibilities. Mr. Allen responded with, "well, I've seen (2, 4-D) alone and I've seen both (2, 4-D) and (2, 4, 5-T) in the environment years and years later. I've seen at Agent Orange sites and at other sites like this where we don't expect to see Agent Orange, so, those chemicals were often used alone. (2, 4, 5-T) could mean Fenoxprop alone and was used in the 60's because it was banned in the 70's..." Mr. Allen further stated that the Navy doesn't want to toss the use of (2, 4-D) claiming they [Navy] have no records and the "typhoon ate our homework and stuff...so there are some records out there I think that we can get to shed some more light on it..."

The Administrator stated that not only did the Navy say they did not use that [previously stated chemicals], they said Agent Orange never came to Guam. "This is all a deterrent approach to continue the investigation if we come up with hits of the constituents we are sampling for as well as quite possibly any signs of former fuel leaks that may still exist; and I don't know why the Navy denied us access. Maybe it's because they are worried what we might find," stated the Administrator.

Mr. Allen clarified that if (2, 4, 5-T) alone or both are found, it's not proof but it's a reason to further investigate, which the Navy agreed to further investigate in their "sampling plan." If you see (2, 4-D) that's great information because we know that people use Round Up and other herbicides and it might mean there is a danger but we could investigate that in a separate way. If you find (2, 4, 5-T) or (2, 4-D) alone or (2, 4, 5-T) which is a combination of (2, 4-D), then more work will be needed.

The Chairman asked if Mr. Moyer has any information on what he was applying on the Pesticide or what material he was laying down? Mr. Jesse Cruz responded with the fact that not all his documents were read due to the vague explanation. Mr. Moyer was just a marine at the time and they said he would grab his pack and spray and he just knows that it smelled funny and that everything that he sprayed died.

Mr. Allen stated he would provide Guam EPA with an analysis of information gathered and further expressed the strong support of USEPA. Mr. Allen confirmed that any additional constituent findings, other than the two (2) constituents that could be part of Agent Orange would be, instead of an end all, would only be the beginning. Chairman Perron inquired about the Lonfit Area, however, Mr. Allen stated that his team did not look in that area or at the Ordot dumpsite. The Administrator clarified that some of the problems of getting sampling from the Ordot dumpsite is due to the site closure; and the fact that the leachate goes through their leachate system that gets collected and funnels towards GWA. So, samples may be collected by these means but not by going out and grabbing soil samples. It would be looking at the leachate and possibly maybe some of the ground water, market wells, or something slightly different.

Director Hollister asked about the sheen on top of the water, to which Mr. Allen responded with "if it was in High concentration for sure –you can inspect behind there –I mean, I don't know if that's natural or it could be any oil or a natural oil..." Director Hollister further asked about Polaris Point, known to people as the "drum lot." The Administrator clarified that there are buried drums at the site that the agency is currently addressing right now but have not sampled the soil. Mr. Allen stated that future analysis of the site in question could be easily done. Director Hollister and Mr. Allen further discussed the levels of dioxin in the soil and examples of what may or may not trigger an EPA risk assessment. A tiered approach is used so that if any positive hits on any of the constituent samples, this would be justification to continue the investigation in the area for Agent Orange or for other herbicides or fuel spills. (Mr. Allen further reviewed his slide presentation).

V. Old Business:

- *Navy NOV – Notice to Appeal*

The Administrator stated that he spoke with Captain Turner and his Environmental Director, Mr. Ed Moon and they have had a discussion –that this Notice of Violation (NOV) is a follow-up with the NOV to NOVA. The Administrator further stated that we are working on a settlement with NOVA. The intent for the NOV to the Navy was to put them on notice –we were not looking to double the fine. The Navy understands this and that is the reason they are not seeking a hearing. The Navy wants to ensure that the agency comes up with the proper verbiage. It is a matter of the Administrator, Ms. Kristan Finney, the Judge Advocate General (JAG) and the Air & Land Division to figure out the proper verbiage. Director Roth asked if the Navy was fined. The Administrator stated that the Navy was not fined –the contractor was fined and that it is in the final stages of negotiation. The Administrator, Vice-Chairman and Director Roth discuss more details.

- *Tsang Brothers Corporation Tentative Settlement Agreement.*

Mr. Roland Gutierrez stated that the settlement was done and that we have the check for the Environmental Education which we are going to present next week to Juan M. Guerrero Elementary School and that the rest of the money went into the General Fund. The Administrator stated that prior to the settlement there was a step to educate the students on clean air and they wrote a check to purchase approved materials that the agency reviewed and approved. The Administrator invited the board to attend the presentation and will be notified once the date and time is confirmed.

- *Safe Drinking Water NOV/ Guam Waterworks Authority (GWA).*

The Administrator stated that he is working with GWA's General Manager and that they reconsidered the entire southern distribution line contaminated at one point and upon investigation it was just a spigot that a mud dauber decided to take residence in and that caused the high hit for that sample location. The Administrator further stated that the upgraded and downgraded locations were clean and based on that we had discussions. The Administrator stated that it was not consistent and that on our settlement we need to remove that portion out –the portion that will remain is the lack of notification. When they have a positive hit they are supposed to notify Guam EPA within 24 hours –it took them a couple of weeks. The Administrator discusses more details.

- *Nova Group, Inc. – Settlement Agreement Status.*

The Administrator stated that they have exchanged comments on the Settlement Agreement and that NOVA has reached out to him to see if he would be amiable to changing some of the verbiage that we have submitted and that we are currently going to set up a conference call with them to rectify and inform them on our decision on what the request is at this point. The Administrator stated that because this is a settlement agreement he is trying not to disclose too much until they come up with a settlement. The Administrator, Director Roth and the Chairman discuss more details.

- *RRF Rules and Regulations Draft – Update*

Mrs. Sabrina Sablan stated that the day after our last board meeting on September 21, 2018, we received a memo from the Bureau of Budget and Management Research (BBMR) recommending that we work with the Chief Economist from either Bureau of Statistics & Plans (BSP), Guam Economic Development Authority (GEDA), or Department of Labor (DOL) to assist us in preparing an Economic Impact Statement (EIS). Mrs. Sablan further stated that since October 2018 they have been working with BSP and that BSP sent a memo to the Administrator concurring with us, that we did not require an EIS because we were not changing any fees or imposing any fees and we just received that today and we want to go ahead and start moving forward with the public hearing and the whole process. The Administrator and Mrs. Sablan discuss more details.

Mrs. Conchita Taitano talks about the list of items contained in the RRF and stated as follows: The *Bottle bill*; *Stimulus* –which will be put on hold because Jacobs is working on the sliding scale; *Disaster debris* –which we are looking at doing nineteen (19) green stations at each jurisdiction; *Mayors' Council of Guam Island-wide Environmental Cleanup Program (IECP)*; *Zero Waste Grant Program* –which Jacobs is helping the agency address; Subsidizing the *Recycling/Tipping Fees for Low Income Household*; and the *Green Waste Plan* –about establishing a regional composting facility. The Chairman, Administrator, Mrs. Taitano, and Mrs. Connie Aflleje discuss more details.

VI. New Business:

Brief from CH2M/Jacobs Re Current Projects – To be discussed by next month.

Bill No. 292-34 (Public Law 34-133)

The Chairman stated the intent of Bill 292-34, which was signed by the Governor on October 17, 2018, as Public Law 34-133, is for the purpose of video conferencing at Board and Commission meetings, to include the use of live streaming. However, Mr. Nic Lee clarified that the proposed measure live-streaming Board meetings was more of an option rather than a mandate. Mr. Lee further stated that the primary intent of Bill 292-34 is an attempt to provide Boards or Commissions an alternative to meeting quorum. Mr. Lee provided the following example: "If one of the board members is unable to be physically present at the board meeting, they now have the ability to teleconference in and participate in the board meeting in that manner..." The Vice-Chairman inquired if the agency had the equipment to execute the proposed measure. Mr. Lee responded with a more practical approach using more mainstream aps such as Skype over a telecommunication device. Ms. Kristan Finney recommended that rules first be established, and Mr. Lee followed with recommending policy also be established. The Vice-Chairman requested that Ms. Finney draft rules and policies to ensure that Board meetings and Board actions remain official and valid when using the option provided in Public Law 34-133.

Bill No. 350-34

The Vice-Chairman excused himself from the discussion of Bill 350-34. The Vice-Chairman's partner's name is Bello. As stated by the Chairman, Bill 350-34 seeks to appropriate approximately $600,000.00 a year from the Revolving Recycling Fund (RRF) for a total of ten (10) years to fund a prior year obligation to Mr. Benny Bello. Mr. Bello did some work for the Department of Land Management (DLM) and the Chamorro Land Trust Commission (CLTC). The Chairman cited the original contract written for the purpose of processing scrap metal to offset Mr. Bello's rent for the Chamorro Land Trust Property. The amount of metal that he processed was in excess of what they anticipated and so it would take Two-Hundred (200) years of rent offset to be able to get fully paid. The sponsors of Bill 350-34 are saying that the only way that Mr. Bello can get paid is from a funding source, and the funding source identified was the RRF. The chairman opened the discussion on Bill 350-34 to the Board members.

Director Hollister questioned the intent, execution and authorization of the original contract. The Chairman stated that Mr. Bello is only billing the agencies for 25,000 Metric Tons, which implies that Mr. Bello provided services beyond the original contract. The Administrator stated that he could avow as far as Guam EPA, that this was an agreement that was made with the DLM, Guam Ancestral Land Commission (GALC). The Administrator raised concerns over the drafting of the agency's Rules and Regulations coupled with the authority of the members of the Guam Legislature. Director Hollister questioned the use of the Revolving Recycling Fund (RRF) as a funding source considering the RRF was established in 2003 and the activity from the original contract occurred in 2001. The Administrator provided clarity on the use of the RRF resulting from the collection of junk cars and metallic debris.

Director Roth questioned the determination used to annually allocate $590,000.00 from the RRF. The Board members requested the Administrator look into past statements and/or discussions made by the agency indicating an agreement for the scope of work. (i.e. disposal of junk cars and metal scraps and/or the use of the RRF as a funding source.) The Chairman stated that DLM and GALC both agree that this is a government obligation and are simply seeking a funding source. Ms. Kristan Finney commented on Bill 350-34, stating two things—first, that the Attorney General's testimony pointed to the fact that Bill 350 attempts to dictate the terms of the original contract and amend it through legislation; and then, the funding source cited.

The Chairman asked the Board members if the body would like to "go on record" in support of or against the proposed measure. Some Board members brought up concerns with cost and the impact of the proposed annualized payments. The Administrator stated that due to the lack of rules and regulations, the agency has not spent any money from the RRF, except for what is mandated by law—which is the contract to manage the Zero Waste Program and Public Outreach and the Position that's being held for our Recycling individual. When the agency rules and regulations are adopted and if it passes without any amendments, then there will be a mechanism in place to use the RRF. The Board should also factor in all the possible methods to spending the RRF such as the Mayors' Office or incentives for the typhoon debris, facilities and all of the other items listed in statute. As of today, the Administrator confirmed that the RRF was current.

The Chairman stated that the issue may be a moot point because the AG testified that it is inorganic for the legislature to direct the Executive Branch on how to construct the contract and dictate all the terms of the contract; and the 2nd point that the current legislature could not bind future legislatures by actions of the current legislature. The Administrator clarified that the RRF was not funding for Guam EPA's use of "organizational income" but it's for everything else outside of it. As administrators of the Fund, the agency can't use the funding for enhancement purposes or for its employees, outside of what is already written in statute. So whether the RRF is used for Mr. Bello's annual payments or for other purposes, the use of the RRF will not impact the agency's operations. However, it will impact our ability to do some of the projects for the island of Guam. (i.e. recycling programs, community outreach, etc.) The Chairman deferred to the position of the Attorney General and her legal expertise on the measure. He further stated that during his confirmation hearing, he was asked his position on the proposed measure to which he replied, "if you owe the money, you should pay him one way or the other, but we have uses for that money within Guam EPA. We have different components at the Revolving Recycling Fund that we are going to be needing to do and needing to pay for..." Director Carrara stated that he didn't think the agency should comment on how the legislature or any agency chooses to handle the problem outside of Guam EPA. He further stated that the agency should participate in any discussions and provide testimony on how any proposed action would affect the mission of the agency and its operations. The Chairman recommended and then requested the Administrator to "impress upon" the legislators the affect the proposed measure would have on the agency's plans with the RRF and other programs that we are seeking to implement.

VII. Miscellaneous:

America Recycles Day: Mrs. Sablan announced that today is "America Recycles Day" and so this year we've had an increase of over 6%, our new recycling rate for 2017, is 39.16%, and climbing. The Chairman inquired what caused the big increase and Mrs. Sablan replied that the big increase was from a lot of green waste.

Food Waste Assessment: Mrs. Conchita Taitano stated that our contractor Jacobs did a survey on sixteen (16) establishments and that they have discovered that nine hundred (900) tons of waste food is generated. It exceeds the total amount of the weight of plastics and mixed paper. All the food goes to the piggery.

The Administrator stated that Mrs. Taitano had to leave the meeting for personal reasons. The Administrator also stated that Mrs. Taitano wanted to do a full-blown discussion on what her contractors were doing –which included the Pacific Islands Environmental Conference (PIEC). The Administrator stated that one of the reasons that he did not want Mrs. Taitano to do the PIEC presentation –was that he wanted to make sure that Mr. Carl Goldstein and Mr. John McCarroll had the chance to review what we were doing. The Administrator discusses more details. The Administrator announced that the agency is having a Team Building Cleanup in Tiyan and a Thanksgiving Lunch on Wednesday, November 21, 2018, and invited the board members.

(A copy of reports that were issued is available with the Board Secretary upon appointment).

VIII. Next Meeting Date/Adjournment: The Chairman stated that the next regular board meeting date and time will be on Thursday, the 20th of December 2018 at 4:00 pm. (The Chairman stated that the board meeting is tentatively scheduled and is subject to change).

Director Roth made a motion to adjourn the meeting, seconded by Director Hollister. The meeting was adjourned at 5:32 p.m.

Vilma Bhajadia

I MINA' TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2018 (SECOND) Regular Session

Bill No. 292-34 (COR)

Introduced by: **Dennis G. Rodriguez, Jr.** DR

AN ACT TO *ADD* NEW §§ 43121 AND 43122 TO ARTICLE 1, CHAPTER 43, TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO ALLOWING THE USE OF VIDEO TELECONFERENCING APPLICATIONS AT MEETINGS OF GOVERNMENT BOARDS AND COMMISSIONS TO GUARANTEE QUORUM, FOR CONVENIENCE, AND TO EXPAND ELIGIBILITY OF MEMBERSHIP TO THOSE COMMUNITY MEMBERS THAT MAY BE HOMEBOUND; AND RELATIVE TO THE USE OF VIDEO LIVE STREAMING AT MEETINGS IN ORDER TO INCREASE TRANSPARENCY IN GOVERNMENT.

2018 MAY 30 AM 8:44

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that a great deal of government inefficiency is due to the lack of quorum at several, if not all, board and commission meetings. Without a quorum, actions are delayed and pushed back to the next meeting. Meetings are many times conducted monthly, thus these delays cause for a very inefficient methodology. In addition to the concerns about having enough members present to move actions forward, the requirement for physical presence at

meetings excludes a great many in our community from participating in the government service. Often time, lack of transportation, physical disability, care-taking responsibilities and a myriad of other personal life concerns prevent members from attending board and commission meetings. In our present day technology affords an answer. The rapid advance in teleconferencing applications and the improvements in internet access and speed now allow for the use of these applications in our government. Applications such as Face Time, ZOOM, GotoMeeting and Skype are used extensively in the private sector and used for personal convenience. These applications are now capable of more than just seeing someone's face on a telephone call. These applications now have options to record proceedings, project slides and video to the group, screen sharing, and automatically generate transcripts. One great advantage is these applications are free or at a minimal monthly fee currently around $15.00 per month and can be used across various platforms.

Using these applications will allow members to participate from home, when traveling, and even while parked along the road using their phone.

I Liheslaturan Guåhan further finds that the use of video live streaming, currently used in legislative proceedings, is an effective way of engaging with the community and increases transparency of government operations.

I Liheslaturan Guåhan finds that the time is right to take further advantage of this technology to reduce government inefficiency and to allow greater access to our people to participate in the government service.

I Liheslaturan Guåhan therefore intends to allow and encourage each government board and commission to use video teleconferencing and to develop rules and processes within their bylaws and according to existing statutes, depending on the uniqueness of their missions and functions. There

is currently no timeframe for implementation of this process and it is dependent on each board or commission's process and consideration.

Section 2. Use of Video Teleconferencing at Board and Commission Meetings. A new § 43121 is *added* to Article 1, Chapter 43, Title 5 of the Guam Code Annotated, to read:

"**§ 43121. Use of video teleconferencing at meetings.**

(a) Board and Commission members may participate in regular and special meetings via video teleconferencing.

(b) Participation via video teleconferencing shall meet the requirements for quorum.

(c) Boards and commissions shall develop policy, procedures and education on the use of video teleconferencing for their members in accordance with their individual missions and functions and in accordance with existing statute, specifically the Open Government Law, contained in Chapter 8, Title 5, Guam Code Annotated."

Section 3. Use of Live Streaming at Board and Commission Meetings. A new § 43122 is *added* to Article 1, Chapter 43, Title 5 of the Guam Code Annotated, to read:

"**§ 43122. Use of video live streaming at meetings.**

(a) Boards and Commissions may elect to broadcast regular and special meetings via video live streaming applications.

(b) Boards and commissions shall develop policy, procedures and education on the use of video live streaming for their members in accordance with their individual missions and functions and in accordance with existing statute, specifically the Open Government Law, contained in Chapter 8, Title 5, Guam Code Annotated.

(c) Boards and Commissions shall provide instructions on how the public can access these live streams on their meeting notices."

Section 4. Effective Date. This Act *shall* become immediately effective upon enactment.

GUAM ENVIRONMENTAL PROTECTION AGENCY

BOARD OF DIRECTORS MEETING

November 15, 2018

ADMINISTRATOR'S REPORT

I. **FISCAL YEAR 2019 FINANCIAL REPORT (as of 11/15/2018)**

GUAM EPA REVENUES:

A. Federal Grant Funds -	$1,257,973.62
B. Special Funds (Budget Law Allotted) -	$914,106.10
TOTAL GUAM EPA REVENUES:	**$2,172,080.10**

GUAM EPA OPERATING EXPENSES & O/S ENCUMBRANCES (as of 11/15/2018):

C. Federal Grant Funds -	$309,588.27
D. Special Funds (Budget Law) -	$179,264.76
TOTAL GUAM EPA EXPENDITURES & ENCUMBRANCES:	**$488,853.03**

GUAM EPA BALANCE/(DEFICIT):

E. Federal Grant Funds -	$948,385.35
F. Special Funds (Budget Law) -	$734,841.72
TOTAL GUAM EPA BALANCE/(DEFICIT):	**$1,683,227.07**

TOTAL GUAM EPA FEDERAL GRANT REIMBURSEMENTS

Total Payment Requests for Reimbursement –	$ 0.00
Pending Approval of Reimbursements -	**$ 0.00**

GUAM ENVIRONMENTAL PROTECTION AGENCY

BOARD OF DIRECTORS MEETING

November 15, 2018

ADMINISTRATOR'S REPORT

II. RECYCLING REVOLVING FUND ACCOUNT (as of 11/15/2018)

REVENUES

Recycling Revolving Funds - $ 2,895,965.00

GUAM EPA OPERATING EXPENSES & O/S ENCUMBRANCES FOR THE RECYCLING FUND (as of 11/15/2018):

A.	Personnel -	$4,554.10
B.	Contractual -	$0.00
C.	Equipment, Materials, Supplies, Utilities, etc -	$0.00
D.	Travel -	$0.00

TOTAL GUAM EPA EXPENDITURES & ENCUMBRANCES: $4,554.10

TOTAL GUAM EPA BALANCE/(DEFICIT): $2,891,410.90

Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

BUREAU OF
STATISTICS & PLANS
SAGAN PLANU SIHA YAN EMIOTMASION
Government of Guam
P.O. Box 2950 Hagåtña, Guam 96932
Tel: (671) 472-4201/3
Fax: (671) 477-1812

Carl V. Dominguez
Director
Manuel Q. Cruz
Deputy Director

November 15, 2018

RECEIVED
NOV 15 2018
Guam Environmental Protection Agency

MEMORANDUM

To: Administrator, Guam EPA

From: Director, Bureau of Statistics and Plans

Subject: Proposed Rules and Regulations: Assistance with Economic Impact Statement

Thank you for requesting our assistance in completing an assessment as to whether or not GEPA is required to perform an Economic Impact Statement pursuant to 9 GCA Chapter 9 §9301(i), as it proceeds to formally adopt its rules and regulations for its Recycling Revolving Fund through the Administrative Adjudication Act. As this proposed change is administrative in nature and does not affect existing fees we find no significant economic costs imposed unto the general public or relevant participants of the Recycling Revolving Fund

We agree that GEPA is exempt from the EIS requirement and I am submitting to you findings and justifications collaboratively developed by your staff and the Bureau's Chief Economist for your official use. As GEPA is the lead agency, we recommend incorporating language in the attached Preliminary Cost Impact Assessment re-titled as justification to be exempt from producing the EIS for public record and discussion.

If you have any questions or concerns, please feel free to contact me at 472-4201.

CARL V. DOMINGUEZ

Attachment: Preliminary Cost Impact Assessment

PRELIMINARY COST IMPACT STATEMENT
FOR THE RECYCLING REVOLVING FUND
PROPOSED RULES AND REGULATIONS
AS DETERMINED BY THE
GUAM ENVIRONMENTAL PROTECTION AGENCY*

Guam EPA is required by law to adopt proposed rules and regulations for the Recycling Revolving Fund (RRF) pursuant to 10 GCA Chapter 51 §51307(c). Furthermore, the adoption of said rules and regulations will not affect nor impact statutory fees, currently sufficient for such purposes. Therefore, GEPA will not seek to raise or adjust existing fees pursuant to 10 GCA Chapter 51 §51308.

The recycling initiatives delineated in proposed rules and regulations are: Mayor's Council of Guam Island-Wide Environmental Cleanup Program (II-CP). Recycling Industry Economic Stimulus Program Applicability and Eligibility. Economic Stimulus and Sustainability Recycling Adjustment Plan, Guam Beverage Container Recycling. Integrated Solid Waste Management Plan. Green Waste Plan, Disaster Debris Management. Zero Waste Grant Program and a Subsidization of the Recycling Tipping Fees for Low Income Household.

Appropriations into the RRF are set forth in 10 GCA Chapter 51 §51305 and §51306, as enacted by Guam Public Law No. 28-58. where authorization is given to the Department of Revenue and Taxation (DRT) to levy recycling fees on annual motor vehicle registration renewals. The Recycling Fee is imposed on payers of vehicle registrations. the funds collected of which are deposited as a continuing appropriation into the RRF account separate and apart for this purpose. The proposed rules and regulations do not affect nor impact vehicle registration renewal fees as levied by the Department of Revenue and Taxation.

In FY2016 and FY2017, recycling fees levied by DRT were $2.801,597.77 and $2,859.696.33. respectively. Funds disbursed in this program in FY2016 and FY2017 were $329.390.78 and $1.004,911.25, respectively. Thus far there are sufficient revenues generated. and GEPA expects that there will be sufficient revenues in FY2018 and FY2019 to fulfill the objectives of this program.

5 Guam Code Annotated, Chapter 9 Administrative Adjudication Law, Article 3 Rule Making Procedures, §9301(i): Exemptions. Any proposed rule, change, change of rule, regulation or request to impose or raise fees or rates shall be exempted from the economic impact statement requirements of Subsection (d),(e),(f),(g) and (h)of this Section if the annual economic impact to the general public is Five hundred Thousand Dollars ($500,000) or less as determined by a preliminary cost impact assessment performed by the Bureau of Budget Management Research, or by the department, agency, autonomous agency, office or instrumentality proposing the rule, change of rule, regulation or request to impose or raise fee. The preliminary cost impact assessment must be completed and made available to the public prior to any required hearings on the proposed rules and regulations, and must be transmitted to *I Liheslatura* (the Legislature) as part of the Agency Record.

Therefore, Guam Environmental Protection Agency has determined that the requirement of §9301(d),(e), (f), (g) and (h) is not applicable to the proposed Recycling Revolving Fund Rules and

Regulations as there are no newly proposed fees or fee increases and will not have a measurable economic impact to the general public of Five Hundred Thousand Dollars ($500,000) or less.

The preliminary Economic Cost Statement will address the following:

1. The purpose and the need for the rule or regulation; an assessment of the risk and the cost of the imposed rule or regulation. In addition, government agencies proposing a new rule or regulation must include with the assessment, the justification for the new rule or regulation.

The enabling statute, 10 GCA Chapter 51 §51303 authorizes the agency to fund the Recycling Industry Economic Stimulus Program, one (1) full time employee to administer the fund and implement Article 3 of 10 GCA Chapter 51, contractual services for recycling outreach and contractual services to implement the 2013 Guam Zero Waste Plan. Funding for all other expenditures outside of those referenced above are prohibited until the agency promulgates rules and regulations for the RRF. Additionally, a report issued by the Guam Office of the Public Auditor in 2015 questioned expenditures funded by the RRF and subsequently made a recommendation to place a moratorium on funding for items outside of those listed in 10 GCA Chapter 51 §51303(1-4). The proposed rules and regulations, as adopted, will address and resolve issues noted by the Office of the Public Auditor and allow GEPA to hire the program Administrator.

2. The financial impact of the proposed rule or regulation upon those persons or corporate entities directly affected by the proposed rule or regulation, and upon the people and the economy of Guam.

The RRF revenues are collected from vehicle registration renewal fees by the Department of Revenue and Taxation pursuant to 10 GCA Chapter 51 §51305 and §51306. The RRF have consistently averaged $2.8 million over the past two years and have proven to be a stable source of revenues. Due to enforcement activities and the mandatory liability insurance law, compliance with Guam's vehicle registration program remains a success.

The proposed rules and regulations are administrative in nature and will have no additional financial burden to payers of this fee nor the general public. The GEPA has reviewed the fee and has elected not to adjust the fee at this time. Fees collected are adequate to fulfill program objectives at this time.

Upon adoption of the rules and regulations GEPA expects expenditures made for this program to increase as participating recycling facilities join the Recycling Industry Economic Stimulus Program.

3. Any potential increase or decrease in the cost of living on Guam, or any specific increase or decrease in the price or availability of any good or service on Guam directly or indirectly attributable to the proposed rule or regulation.

The agency does not anticipate any increase or decrease in the cost of living, nor does it anticipate any specific increase or decrease in the price or availability of any good or service on Guam, as a result of the proposed rules and regulations for the RRF. The vehicle registration renewal fee has been imposed several years ago, is negligible relative to the total cost of vehicle ownership and is required by law. Consumers are accustomed to it and budget accordingly.

4. Any direct or indirect impact upon employment on Guam or any increase or decrease in the availability of a particular job or jobs, or jobs in general, attributable to the proposed rule or regulation.

The agency does not anticipate any negative impact upon employment on Guam, nor does it anticipate any decrease in a particular job or jobs, or jobs in general, as a result of the proposed rules and regulations for the RRF. While there may be an increase in participating recyclers it is expected employment within the industry to remain constant in the short term. Waste and recycling efforts respond to shifts in net migration which are typically modest over time.

5 Any increase or decrease in the cost of doing business as an enterprise or industry on Guam or any increase or decrease in doing business in general which is attributable to the proposed rule or regulation.

The agency does not anticipate any increase or decrease in the cost of doing business as an enterprise or industry, nor does it anticipate any increase or decrease in general, as a result of the proposed rules and regulations for the RRF. It is expected that the adoption will lead to programmatic and administrative efficiencies, nevertheless.

6 Any adverse or beneficial economic impact which is attributable to the proposed rule or regulation

Upon enactment of this 10 GCA Chapter 51 as described above, expenditures to stimulate and or encourage recycling companies to "export" local reusable solid waste abroad serves a positive social and economic means to an end that preserves real estate values, frees up land otherwise destined as a solid waste landfill and improves our quality of life in the years to come. This program results in a net economic benefit to the residents of Guam.

Given the preliminary findings discussed above, the agency does not anticipate any adverse economic impact as a result of the proposed rules and regulations for the RRF.

*Assistance provided by the Bureau of Statistics and Plans

GUAM'S RECYCLING REVOLVING FUND

RULES AND REGULATIONS

Title 22, Division 4, Chapter 24, Article 3

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GUAM'S RECYCLING REVOLVING FUND

RULES AND REGULATIONS

Title 22, Division 4, Chapter 24, Article 3

SECTION 24301.GENERAL PROVISIONS

§24301.1 Purpose and Applicability

(a) The purpose of this Chapter is to clarify existing statute, provide a uniform competitive business environment to all, establish the minimum standards to properly implement and administer Guam's Recycling Revolving Fund in accordance with Title 10 of the Guam Code Annotated (GCA), Chapter 51, Article 3, under the authority granted by 10 GCA §51307(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) **"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.

Doc. No. 35GL-20-1381.

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

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

(d) **"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.

(e) **"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.

(f) **"Electronic Waste"** or **"E-Waste"** shall mean electrical and electronic equipment that is dependent on electric currents or electromagnetic fields in order to function (including all components, subassemblies and consumables, which are part of the original equipment at the time of discarding). For example e-waste may include consumer/entertainment electronics such as televisions, DVD players and tuners; Devices of office, information and communications technology such as computers, circuit boards, telephones and mobile phones.

(g) **"Import"** shall mean to bring in, or accept delivery of recyclable materials from any source outside of Guam.

(h) **"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.

Doc. No. 35GL-20-1381.

(i) **"Priority Materials"** shall mean all those materials to be targeted by the Fund, in the order specified in section 24302.1(b) of this Article.

(j) **"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.

(k) **"Recycling Industry Economic Stimulus Program"** shall mean Public Law 33-136, which is codified under Title 10 of the Guam Code Annotated, Article 3, Chapter 51, §51309.

(l) **"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.

(m) **"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.

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

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

(p) **"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, reuse and composting.

Doc. No. 35GL-20-1381.

SECTION 24302. RECYCLING REVOLVING FUND

§24302.1 Administration of Recycling Revolving Fund

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

(b) The Administrator shall administer the Fund in accordance with this Chapter to cause the following material/waste to be recycled according to the following priority:

1. First Priority: junk vehicles, tires, batteries, waste oil, white goods/appliances;
2. Second Priority: paper, cardboard, plastic and glass; and
3. Third Priority: other recyclables as determined by the Administrator

(c) The Administrator shall administer no more than ten percent (10%) of Fund towards a portion of the salaries, benefits, and supplies and training directly related to recycling for employees from the Agency who implement any of the initiatives described under §24303 in these Regulations and Guam's Zero Waste Plan; Engage in recycling outreach and education activities; and conduct permitting, compliance and enforcement on recycling facilities.

(d) The Administrator may use the *Fund* for the recycling initiatives described under §24303 in these Regulations.

Doc. No. 35GL-20-1381.

(e) The Administrator shall determine the funding for each of the initiatives and submit to the Guam EPA Board of Directors for approval by January 31st of the current fiscal year. The approved funding will be effective on the following fiscal year.

SECTION 24303. RECYCLING INITIATIVES

§24303.1 Mayor's Council of Guam (MCOG) Island-wide Environmental Cleanup Program (IECP)

The Administrator may approve contracts between the MCOG and recycling companies for the collection, recycling, 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 24301.B to implement an IECP with the following conditions:

1. All applicable procurement laws must be followed;
2. Contracts must be conditioned upon proof of all valid permits, inclusive, but not limited to solid waste facility permits, solid waste collection permits, certifications, or other licenses required to collect, remove, recycle or dispose of solid waste and compliance with all solid waste rules and regulations; and
3. Contracts must require the recycling company to report all recyclables collected by village under this program to Guam EPA upon submittal of invoices to MCOG for payment.

(b) Prior to any collection, processing or storage of recyclable materials under contract pursuant to this section, a comprehensive *Operation Plan* for the current fiscal year must be submitted by the MCOG for the contractual work described in §24303.1(a) to Guam EPA for the implementation of the IECP must receive approval from the

Doc. No. 35GL-20-1381.

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 initiatives 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 Facility Participants must establish eligibility by meeting all of the following Criteria:

1. Possess a valid Guam business license issued by the Department of Revenue and Taxation.
2. Possess a valid solid waste management facility permit for processing and/or storage issued by the Guam Environmental Protection Agency.
3. Maintain records of Bills of Lading, and any other documentation required by the Agency, which may include, but is not limited to, the types, quantities, and names of the Destination Companies of eligible Program materials.
4. Maintain records of Stimulus Certification Forms approved by the Agency.
5. Remain in compliance with all solid waste rules and regulations.

Doc. No. 35GL-20-1381.

(b) This Program applies to recyclable materials solely generated on Guam. Recyclable materials imported into Guam for purposes such as, but not limited to, transit or consolidation shall not qualify under this Program.

§24105.3. Recycling Industry Economic Stimulus Program Payment Calculation

(a) Recycling facilities which meet all the eligibility requirements specified in Section 24303.2 will receive an economic stimulus payment for each ton of recyclable material transported off Guam to a recycling facility. Based on the availability of funds and funding priorities, some eligible submittals may receive no or partial stimulus payments.

(b) No later than December 31st of the current fiscal year the Administrator may select the eligible recycling commodities which will be participating in the Economic Stimulus based on global market trends in the previous fiscal year and submit a written recommendations to the Guam EPA Board of Directors for their approval. If there are no recyclables selected the Economic Stimulus will not be in effect for the fiscal year.

(c) The Administrator may determine the dollar amount of the stimulus to be disbursed to the eligible recycling facilities based on §24105.2(b).

(d) The Agency shall develop a reasonable and practical Sustainable Recycling Adjustment Plan that shall be evaluated biannually by the Administrator and which may consider such factors as the prioritization of materials, market conditions, economic analyses, and facility operational and processing costs in its assessment.

Doc. No. 35GL-20-1381.

§24303.4 Guam Beverage Container Recycling

(a) Upon promulgation of the Rules and Regulations pursuant to 10 GCA Chapter 44, to *Guam Beverage Container Recycling Act* (*GBCRA*) funds may be expended to initiate, assist and encourage redemption of recyclable beverage containers in the following activities:

1. Funding of administrative, audit, redemption and compliance activities associated with collection and payment of the deposits of the GBCRA;
2. Conducting of recycling outreach education, capacity building and demonstration projects; and
3. Promotion and marketing of recycling-related activities.

(b) Funds may only be expended under this section for the first two years following the date that rules and regulations promulgated pursuant to the GBCRA first become effective.

§24303.5 Integrated Solid Waste Management Plan

§24303.5.1 Applicability

Funds may be expended by the Administrator for any *best available technology* recognized by USEPA, for programs to encourage recycling, composting and waste reduction opportunities in support of the most current Integrated Solid Waste Management Plan, adopted by the Guam EPA Board

§24303.6.2 Green Waste Plan- Composting and Organics RESERVE

§24303.7 Disaster Debris Management

Doc. No. 35GL-20-1381.

§24303.7.1 Applicability

1. Funds may be used for activities that directly support, promotes, and encourages recycling and removal of disaster debris, including citing of transition sites.
2. All transition sites must be permitted by Guam EPA; and
3. Only individuals, entities or companies licensed to do business on Guam are eligible to receive funds.

§24303.8 Zero Waste Grant Program- RESERVE

§24303.9 Subsidize the Recycling/Tipping Fees for Low Income Households

The Administrator may use the funds to subsidize all residential households with priority to low income households to encourage the use of trash collection and recycling services by Guam Solid Waste Authority.

Doc. No. 35GL-20-1381.

GUAM
ENVIRONMENTAL PROTECTION AGENCY
AHENSIAN PRUTEKSION LINA'LA GUAHAN

EDDIE BAZA CALVO
GOVERNOR OF GUAM

RAY TENORIO
LT. GOVERNOR OF GUAM

BLDG. #17-3304 MARINER AVENUE, BARRIGADA, GUAM 96913

EPA.GUAM.GOV

Guam Environmental Protection Agency
Board of Directors Meeting
Tuesday, December 11, 2018 @ 4:00 pm
Main Office Conference Room

Agenda

I. Call to Order

II. Approval of Agenda

III. Approval of November 15, 2018 Minutes

IV. Administrator's Report

V. Old Business
- Navy NOV – Status
- Tsang Brothers Corp. – Settlement Agreement Status
- Safe Drinking Water NOV – GWA Status
- Nova Group, Inc. – Settlement Agreement Status
- RRF Rules and Regulations Draft Update

VI. New Business
- CH2M/JACOBS Update (PIEC)

VII. Miscellaneous

VIII. Next Meeting Date/Adjournment

Doc. No. 35GL-20-1381.

GUAM ENVIRONMENTAL PROTECTION AGENCY

BOARD OF DIRECTORS MEETING

December 11, 2018

ADMINISTRATOR'S REPORT

I. FISCAL YEAR 2019 FINANCIAL REPORT (as of 12/11/2018)

GUAM EPA REVENUES:

A. Federal Grant Funds -	$1,257,973.62
B. Special Funds (Budget Law Allotted) -	$1,038,583.48
TOTAL GUAM EPA REVENUES:	**$2,296,557.10**

GUAM EPA OPERATING EXPENSES & O/S ENCUMBRANCES (as of 12/11/2018):

C. Federal Grant Funds -	$529,896.21
D. Special Funds (Budget Law) -	$277,830.35
TOTAL GUAM EPA EXPENDITURES & ENCUMBRANCES:	**$807,726.56**

GUAM EPA BALANCE/(DEFICIT):

E. Federal Grant Funds -	$728,077.41
F. Special Funds (Budget Law) -	$760,753.13
TOTAL GUAM EPA BALANCE/(DEFICIT):	**$1,488,830.54**

TOTAL GUAM EPA FEDERAL GRANT REIMBURSEMENTS

Total Payment Requests for Reimbursement –	$ 307,137.58
Pending Approval of Reimbursements -	**$ 0.00**

GUAM ENVIRONMENTAL PROTECTION AGENCY

BOARD OF DIRECTORS MEETING

December 11, 2018

ADMINISTRATOR'S REPORT

II. **RECYCLING REVOLVING FUND ACCOUNT (as of 12/11/2018)**

REVENUES

Recycling Revolving Funds - $ 2,895,965.00

GUAM EPA OPERATING EXPENSES & O/S ENCUMBRANCES FOR THE RECYCLING FUND (as of 12/11/2018):

A.	Personnel -	$9,108.20
B.	Contractual -	$0.00
C.	Equipment, Materials, Supplies, Utilities, etc -	$0.00
D.	Travel -	$0.00

TOTAL GUAM EPA EXPENDITURES & ENCUMBRANCES: $9,108.20

TOTAL GUAM EPA BALANCE/(DEFICIT): $2,886,856.80

MINUTES

I. **Call to Order**: Chairman Robert Perron called the Board of Director's meeting to order at 4:05 p.m. Present were: Board Members: Robert Perron, Chairman, Terrence Brooks, Vice-Chairman, Steve Hollister, Ann Roth and Steven Carrara. (Florida Sanchez, not present).
Guam EPA Staff: Kristan Finney, Margaret Aguilar, Michelle Lastimoza, Connie Aflleje, Brian Bearden, Glenn San Nicolas, Roland Gutierrez, Jesse Cruz and Vilma Balajadia. Guests: Mr. Mike Stoker, Administrator, USEPA Region 9; Mr. Charles Munoz, Senior Advisor, USEPA Region 9; Mr. John McCarroll, Manager, Pacific Islands Office, USEPA Region 9; and Mr. Carl Goldstein, Program Manager, USEPA Region 9.

II. **Approval of Agenda**: Director Roth made a motion to approve the agenda, seconded by the Chairman. All voted in favor and the motion passed.

III. **Approval of Minutes**: Vice Chairman made a motion to approve the minutes, seconded by the Director Carrara. All voted in favor and the motion passed.

IV. **Administrator's Report**: The Administrator introduces the following guests: Mr. Mike Stoker, Administrator, USEPA Region 9; Mr. Charles Munoz, Senior Advisor, USEPA Region 9; Mr. John McCarroll, Manager, USEPA Region 9 Pacific Islands Office; and Mr. Carl Goldstein, Program Manager, USEPA Region 9.

Mr. Mike Stoker stated his top personal priorities: "the Borders; and dealing with the sewage issue with U.S. and Mexico." Among his top priorities in Region 9 is his commitment to the 148 Tribes (tribal reservations) and the Pacific Islands – acknowledging the collaborative efforts made towards the realization of a Public Health Officer and further acknowledged the "good work" of Mr. Brian Bearden, Guam EPA's Chief Engineer. Mr. Stoker provided some insight into USEPA's performance review and "focus of Region 9", specifically, the self-narrative question about "What have they done in over the last year in regards to Borders, the Tribes and the Pacific Islands." Mr. Stoker restated his personal priorities and underscored the success of the "working relationship" due to the leadership from the Board and Mr. Walter Leon Guerrero, Guam EPA Administrator, and the overall staff. Mr. Stoker confirmed his attendance to the Pacific Islands Environmental Conference (PIEC) hosted by Guam EPA from June 24 thru June 27, 2019. Mr. Stoker informed Guam EPA would be receiving an invitation to the Tribal conference held October of next year, possibly held in the Palm Springs area. Mr. Stoker discusses more details.

The Administrator confirmed Mr. Mike Stoker's commitment to building "our home" by "trying to get us whatever he needs to do to get us our land and our building up so that we don't have to have this building and the other building and we can all stay under one roof that doesn't leak." Mr. Stoker shared one of his philosophies: "my office is on the road and that's how I learn about everything." Mr. Stoker reconfirmed the Administrator's previous statement of a new building facility– "I'm going to do everything I can – that's kind of thing you learn when you go out to where the issues are and the people are and the stakeholders are –you deserve better and I am going to do everything I can. I am convinced if I am here 6 years, I will be here at groundbreaking ceremony at a brand new building that we are going to compete with American Samoa." Mr. John McCarroll clarified that America Samoa was the "first building in the entire Pacific to get the elite platinum and the 17th building in the world to get net zero for energy."

Mr. Stoker further stated the use of modern technology. Mr. Stoker expressed his appreciation by thanking everyone for the "great collaborative team working with Region 9."

The Administrator received a memo from the incoming Administration regarding Boards and their request that nobody resign. The Administrator stated the incoming Administration "will work in due diligence to address each Board," noting a legal opinion from the current Administration stating that current Board members, "confirmed by the legislature", "do not have to turn in a courtesy resignation" – even if they ask you to resign. Resigning from the Board would be "discretionary."

The Administrator stated that, "unfortunately, Bob (Chairman) and Florida (Board Member), they had their confirmation hearing and I've been told by Senator Tom Ada that he does not want to have the confirmation vote for them; and he is going to let it lapse and we are going to have to try and do it again next year..." The Administrator pleaded with those present to reach out and speak with Senator Tom Ada so that the Board would maintain their number above quorum. The Administrator further clarified, "the message I got basically was the 90 days, plus 3 legislative days, equals to about 6 months; so, that we shouldn't be in jeopardy... one of the big issues of not having a quorum for this Board is that if we wrote a Notice of Violation (NOV) and someone wanted to fight that NOV without a board, we would basically lose the fight." The Administrator committed to pursuing the confirmation of Board members next year.

The Administrator issues the draft version of "video conferencing" which is something that the AG's office put together. Ms. Kristan Finney, stated that the Office of the Attorney General explained the "basic draft" which was circulated "around the office" and "modified" by herself. Ms. Finney requested for comments on the draft version so that the "process" can begin. The Administrator further clarified that Ms. Finney, Mr. Rupley and himself met prior to the Board meeting to discuss the draft version of video conferencing. Ms. Finney stated that she put this verbiage together for the Board to review it and approve it. Ms. Finney asked if "the Board is covered by any by-laws?" The Administrator did not have an "answer" stating that Board members may have adopted by-laws, however needed clarification. The Chairman asked Vice-Chairman Brooks if the Board adopted a "Modified Robert's Rules"? In response, the Vice-Chairman said, "I think we did like the modified Robert's Rules and it was simplified but I don't recall ever [adopting]." Director Ann Roth asked if the Board "changed it to allow the change in the number of board members?" The Chairman didn't think the law established the by-laws. The Vice-Chairman said, "We did discuss what constitutes a quorum and things like that but I don't think that we've formally adopted any by-laws."

Ms. Finney asked if there was a "set of Rules and Regulations that govern the operation of the board?" The Vice-Chairman said, "No." The Chairman said, "I think we were passing around some samples of some other Boards' by-laws really early on in our term under Governor Calvo. I'll see if we got anything in the computer. I remember we were discussing something –options and we may have not consummated." The Vice-Chairman stated that the Board by-laws "would've have to have gone through a public hearing and submitted to the legislature." Ms. Finney agreed, further confirming the need for the draft version of "video conferencing" to follow the same process. The Administrator responded, "Okay, so I'll leave it with the Board on how to proceed with the by-laws or however way it goes."

The Administrator wanted to comment on Bill No 372-34, which is a measure sponsored by Senator Terlaje relative to the timely publication of all Notices of Defense, Voluntary Compliance Agreements and referrals to the Office of the Attorney General for prosecution by the GEPA and requiring that all Voluntary Compliance Agreements be subject to the final review, approval and amendment by the GEPA Board of Directors.

The Administrator stated that "anything" that has to go through the Agency in this regard has to be approved by the Board. The Administrator wanted to provide comments on some of the verbiage used in the proposed measure further acknowledging the intent of the measure "to prevent favoritism or direct beneficial use" to current or future Administrators of the Agency.

Ms. Finney clarifred the two-parts of the Bill– the 1st part would require all Notice of Violations, and possibly all Orders, Notice of Defense, Settlements, and anything to be posted on the Website. This "1st

part" broadens it a little bit and gives it the force of the law. The 2nd part of the measure would need to be addressed due to the verbiage used (i.e. Voluntary Compliance Agreements) to mandate Board approval. Ms. Finney stated that the intention of the 2nd part of the Bill was so that the Board approves Settlement Agreements.

The Administrator clarified to the Board that the Administrator can negotiate Settlement Agreements and is the "final negotiator for costs." The Administrator further explained, "What I've done is use the Matrix provided by the program that is issuing the Notice of Violation, which is by law, following certain conditions and stipulations. For instance: first offence; severity of the violation; and just a couple other factors that you have to or issues that you have to factor in and that in itself could be the cause of the decrease of the fine, and even at that I've been advised I can still lower it which is where work in government can create a 'talking with the inspector general' officers from EPA." The administrator shared his experience with an investigation on Guam EPA for similar violations and how following the Matrix, and to not "deter from the Matrix by more than 10 percent," which is policy the administrator has followed in practice.

Ms. Finney responded, "of course there is lots of reasons why you might want to settle or whatever but it wouldn't be inappropriate for a settlement agreement to go to the Board for approval if that's what how they wanted to do that – put that into the statute – as far as the VCA (Voluntary Compliance Agreements), there is only one program that actually has that in its law and that's Pesticides; and if Voluntary Compliance Agreement sort of comes in without the respondent filing any kind of response or anything – so I'm not sure if that was what was intended to go before you guys (Board) – but as far as the settlement agreement it doesn't seem like that would be an inappropriate thing to require to come to the Board for approval it just not that way now."

The Administrator agreed and acknowledged the Board's decision-making Authority over the Agency. The Administrator suggested, then "recommended" the Board provide comments on the proposed measure (Bill 372-34) addressing the verbiage changes. The Administrator restated that the Agency, including himself, had no problems having the Board review and provide a "stamp of approval on settlement agreements." The Administrator stated that he would need a response from the Board so that he can have his team prepare his testimony. Ms. Finney confirmed her attendance at the public hearing for the proposed measure.

V. Old Business:

- *Navy NOV – Notice to Appeal*

Ms. Kristan Finney stated that the files are with her to get the final documents.

Director Roth inquired about the "Navy Settlement." The Administrator clarified that the Notice of Violation (NOV) issued to the Navy is "basically the same" NOV that was issued to Nova Group, Inc. (NOVA). In response to Director Roth's inquiry, the Administrator said, "the idea behind giving the Navy the NOV as the owners and the oversight for the contractors is that we weren't looking to get double the fine for this same issue. Ours was just to tell the Navy your contractor messed up the previous violations even though the amount of contamination and pollution that hit the ground was relatively minor– 150 gallons of jet fuel sounds like a lot but they actually did about a million dollars' worth of cleanup which way exceeds the 150 gallons what the contractor did."

The Administrator expanded on the Navy's organizational chart having the following: construction managers; construction inspectors; and other measures that are put in place to ensure that contractors do not "get away" with any violations in a six months span such is the case with the "Pipeline" and NOVA. The Administrator stated that the NOV issued is "telling the Navy" that "we are watching now" and that "future NOV's" will be accompanied with Fines to the Navy and the contractor.

The Vice-Chairman asked if both NOV's should be combined. In response, the Administrator agreed to working on and talking about combining both NOV's, however reassured the Board that the parties involved have been informed. In response to making "changes", the Administrator said, "we are not

changing it and they have acknowledge it so all it is we are going to respond to them in a letter saying: we agree to your agreement on our NOV and we will move forward..." The Administrator briefly discussed a passing conversation with the Admiral's legal counsel, Captain Turner, who asked the Administrator "what liability does the Navy have if the contractor is the one at fault?" In response, the Administrator said, "the way we do it on Guam EPA is you have total oversight of your contractor, but what your contractor's faults are what the Navy's faults are and he somewhat disagrees with that... so that's where we are at with this."

- *Tsang Brothers Corporation Tentative Settlement Agreement.*

Mr. Roland Gutierrez stated that the settlement was done and all they are trying to do is set up a photo op. Director Roth asked that the Tsang Brothers be removed from Old Business. The Administrator stated yes –everything is settled and it could be removed.

- *Safe Drinking Water NOV/ Guam Waterworks Authority (GWA).*

The Chairman stated that the Safe Drinking Water NOV is pretty much put to bed as well. Ms. Kristan Finney stated that the file is with her to get the final documents. Ms. Finney as she stated earlier –she is trying to just get that finalized. The Administrator stated to finalize the letter agreed to what we've already discussed with GWA.

- *Nova Group, Inc. – Settlement Agreement Status.*

The Chairman stated that NOVA was already discussed.

- *RRF Rules and Regulations Draft – Update*

Mr. Roland Gutierrez stated that there is a Public Hearing next week Wednesday, December 19, 2018 at 5:00 p.m. here at the conference as part of the Triple A process and once that is done I guess they will put out the answers to the comments and then from then on I believe I don't know what process if you guys approved it already –The Administrator: No, after the public comment period -Roland: then it will go to you (board) and if its approved by you and by the legal counsel then the next step I believe is the legislature.

VI. New Business:

Brief from CH2M/Jacobs Re Current Projects – The Administrator stated that unfortunately Mrs. Conchita Taitano is off-island and that it should have been removed from the agenda in the beginning and apologized. Mr. Roland Gutierrez stated that Mrs. Taitano was going to do the presentation on Thursday, December 13, 2018, however the meeting was moved up.

VII. Miscellaneous: *Triennial Review of Water Quality Standards*

Mrs. Margaret Aguilar stated that she provided copies of the Public Notice that she recently put in circulation with the Guam Daily Post –beginning early November 2018. This is a very important mandate by the Clean Water Act as far as getting public involvement to bring the process called a "Triennial Review and Water Quality Standards." Mrs. Aguilar further stated, "The Water Quality Standards Act was enacted back in 2015 when there was a change in the recreational water requirement... and here we are needing to [go] back and really take a look at the Water Quality Standards which is the foundation for the Water Pollution Program that's mandated by the Clean Water Act..." The standards provide criteria for the different categories of water identified for Guam, which is: the ground water; the marine water; and the surface water, which is the rivers and streams. There are criteria in our water quality standards that say this is the threshold for the water to "be the pollution." Anything beyond this threshold causes a problem for the aquatic life.

Mrs. Aguilar is asking the public to take a look at this –especially our technical partners that is the Navy and some of our other partners who really have an investment in making sure that they follow the water quality standards. In addition to the criteria, there is a criteria as far as what to do when there is discharges to the water – we have permits so they have to follow those particular criteria for discharges.

Mrs. Aguilar stated that a meeting is scheduled as noted in that Public Notice for a public meeting in January 15, 2019, so, anyone who wants to turn in any comments will have up until the end of December 20, 2018, to turn in those comments/recommendations or anything. Mrs. Aguilar said that USEPA's standpoint is that "every so often when the Triennial Review is undertaken, we have to take a look at your (Boards) recommendations; the public's recommendations with regards to pollutants and ask us to take a look at and adopt those criteria's..." for Guam.

Mr. Jesse Cruz stated that basic Water Quality Standards "is just a book of numbers that are threshold numbers for different contaminants; constituents; chemicals and anytime we collect water samples we can pair it against those numbers. So if the numbers are above it, then it is a violation and if it is below it they're not – discharges have to meet those numbers if they want to be like GWA that's one of the main regulators for us -if they wanted to do the outfall for nitrate they have to follow our nitrate standards..."

Mr. Jesse Cruz stated that the Water Quality Standards hasn't been updated in a while it should be updated every three-years, with the last approval in 2001. The recreational beach standard, which was recently approved and passed by the legislature, reinforces the fact that public involvement is critical. Mr. Cruz and others are working towards a draft Water Quality Standards revised and will come before the Board for approval on any revisions. Mr. Cruz reconfirmed the January 2019 public meeting inviting everyone to "come in and share with us what they think". Mr. Cruz mentioned the two metals –Copper and Nickel –stating that "GWA and the Navy did a coast study for their NPDES permit renewal a year or two ago and they found out that the number which we promulgated from USEPA was too low for Guam and it was hard for them to meet because of our volcanic soils and so they did this whole study to verify that numbers are too low. So they have created and generated a Guam specific number for that and so it's going to be adopted on Guam, a specific one that is more appropriate to our discharges here.

The Administrator stated, "I do want to add, since we are talking about standards and regulations –I was just handed this week our Safe Drinking Water Statutes which we have been working on..." The Administrator stated that once he finishes reading it and signs it –he plans to hand the Safe Drinking Water Statutes to Mr. John McCarroll for review. Once completed, the Administrator stated that he will present it to the Board or through the process and submit it to the AG's office, legislature and the Governor's office. Ms. Finney chimed in stating that the Safe Drinking Water Statutes only has to go to the Legislature.

The Administrator further stated, "This will be the first time that we amended our Drinking Water statutes... Ms. Finney, Mr. Bearden and the Safe Drinking Water Staff and about four or five other programs that have their statutes within that Safe Drinking Water Statutes. It's rather important because it's not just one program that's being affected, you are going to have four or five different programs affected by this upgrade and I'm ecstatic about it." Mr. Jesse Cruz stated that it is going to give the Agency the authority to start charging fees and updating its fee schedule. This authorization will help the Agency generate fees and hopefully down the line the Agency will be self-sufficient – charging appropriate fees and not just random fees.

Notice of Violations (NOV's)

Director Roth "Can I ask a question? I remember a while ago Mr. Nic Lee said that they were going to put all the NOV's on the website and I haven't checked. I know Senator Terlaje. I saw her on T.V. last week and she was going on about it. Is it now posted on –the settlements and the status? Administrator: "No, not yet." Director Roth: "Nic said it would be done by October." Ms. Finney stated that there haven't been NOV's issued as far as she knows that have not appeared on the website. It's not like this agency is issuing out all these NOV's and not posting them. The Administrator stated that "if you recommend and want to put it on, we can easily do that –I mean the media has it already so it's not like we are hiding anything –we've had multiple media outlets requesting for all our NOV's and we've provided that. The Administrator stated that "we will put all the current ongoing NOV's up." The Administrator and Director Roth discusses more details.

(A copy of reports that were issued is available with the Board Secretary upon appointment).

VIII. Next Meeting Date/Adjournment

The Chairman stated that the next regular board meeting date and time will be on Thursday, the 17th of January 2019 at 4:00 pm.

Director Roth made a motion to adjourn the meeting, seconded by Vice Chairman. The meeting was adjourned at 5:05 p.m.

Vilma Balajadia

GUAM ENVIRONMENTAL PROTECTION AGENCY

AHENSIAN PRUTEKSION LINA'LA GUAHAN

REQUEST FOR PUBLIC INVOLVEMENT

TRIENNIAL REVIEW OF GUAM WATER QUALITY STANDARDS

The Guam Environmental Protection Agency (Guam EPA) is requesting public involvement from the local community and other interested parties during the upcoming **triennial review** of Guam's Water Quality Standards (WQS) regulation in accordance with Clean Water Act (CWA) Section 303(c).

Section 303(c)(1) of the CWA and the EPA's implementing regulations at 40CFR 131.20 require that Guam, from time to time, *but at least once every three years*, hold public hearings to review applicable WQS and, as appropriate, modify and adopt WQS. In each WQS triennial review cycle, states and tribes, with input from the public, review their existing WQS to identify additions and/or revisions that are necessary or appropriate to ensure that their WQS meet the requirements of the CWA and the needs of the state or tribe.

Guam EPA intends to revise the island's WQS in a variety of ways including additions of and revisions to water quality criteria, adopted implementation procedures, or other general policies. The public is highly encouraged to read the ***Water Quality Standards Regulatory Revisions Final Rule*** published in 2015 which addresses 6 key program areas. Here is a link to the revision: https://www.epa.gov/wqs-tech/final-rulemaking-update-national-water-quality-standards-regulation. The Guam WQS, Guam EPA's general list of triennial review topics, and other pertinent review cycle references, can be accessed at www.EPA.guam.gov.

WHERE TO SUBMIT RECOMMENDATIONS

Mail or Hand Delivery:	**Triennial Review Recommendations** Attn: Guam EPA EMAS Administrator 3304 Mariner Avenue, Building 17 Tiyan, Barrigada, Guam 96913	**E-mail:** cc:	jesse.cruz@epa.guam.gov margaret.aguilar@epa.guam.gov
Deadline:	Postmarked by December 28, 2018	**Subject:** **Deadline:**	*2019 GWQS Triennial Review* COB, December 28, 2018

PUBLIC MEETING SCHEDULE

DATE:	**TUESDAY, JANUARY 15, 2019**
TIME:	**5:30 - 6:30 P.M.**
PLACE:	**GUAM EPA MAIN OFFICE CONFERENCE ROOM**

Email inquiries to margaret.aguilar@epa.guam.gov or call telephone number 300-4787.

Supplemental Information for
Water Quality Standards Regulatory Revisions Final Rule

New or Updated CWA Section 304(a) Criteria Recommendations
Published since May 30, 2000

NOTE: The EPA's final rule revision at § 131.20(a) requires that if states and authorized tribes choose not to adopt new or revised criteria during their triennial review for any parameters for which EPA has published new or updated criteria recommendations under CWA section 304(a), they must explain their decision when reporting the results of their triennial review to EPA under CWA section 303(c)(1) and 40 CFR 131.20(c).

When states and authorized tribes conduct their next triennial review, they must provide an explanation for why they did not adopt new or revised criteria for parameters for which EPA has published new or updated CWA section 304(a) criteria recommendations since May 30, 2000. During the triennial reviews that follow, states and authorized tribes must do the same for criteria for parameters for which EPA has published CWA section 304(a) criteria recommendations since the states' or authorized tribes' most recent triennial review.

This document provides a list of the new or updated CWA section 304(a) criteria recommendations that have been published since May 30, 2000. This document does not represent the entirety of CWA section 304(a) criteria recommendations. For a complete list, see: http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm.

Aquatic Life Criteria Table

			Freshwater		Saltwater		
Pollutant	CAS Number	P/NP*	CMC ** (acute) (µg/L)	CCC ** (chronic) (µg/L)	CMC ** (acute) (µg/L)	CCC ** (chronic) (µg/L)	Publication Year
Acrolein	107028	P	3	3			2009
Ammonia	7664417	NP	Freshwater Ammonia Criteria are pH, Temperature and Life-stage Dependent				2013
Carbaryl	63252	NP	2.1	2.1	1.6		2012
Cadmium	7440439	P	2.0 A, B	0.25 A, B	40 A	8.8 A	2001
Copper	7440508	P	Freshwater criteria calculated using the Biotic Ligand Model		4.8 A, C	3.1 A, C	2007
Diazinon	333415	NP	0.17	0.17	0.82	0.82	2005
Nonylphenol	84852153	NP	28	6.6	7	1.7	2005

Nutrients	—	NP	See EPA's Ecoregional criteria for Total Phosphorus, Total Nitrogen, Chlorophyll *a* and Water Clarity (Secchi depth for lakes; turbidity for streams and rivers) (& Level III Ecoregional criteria)				2003
Tributyltin (TBT)	—	NP	0.46	0.072	0.42	0.0074	2004

*P/NP - Indicates either a Priority Pollutant (P) or a Non Priority Pollutant (NP).

**Criteria Maximum Concentration and Criterion Continuous Concentration
The Criteria Maximum Concentration (CMC) is an estimate of the highest concentration of a material in surface water to which an aquatic community can be exposed briefly without resulting in an unacceptable effect. The Criterion Continuous Concentration (CCC) is an estimate of the highest concentration of a material in surface water to which an aquatic community can be exposed indefinitely without resulting in an unacceptable effect. The CMC and CCC are just two of the six parts of an aquatic life criterion; the other four parts are the acute averaging period, chronic averaging period, acute frequency of allowed exceedence, and chronic frequency of allowed exceedence. Because CWA section 304(a) aquatic life criteria are national guidance, they are intended to be protective of the vast majority of the aquatic communities in the United States.

A Freshwater and saltwater criteria for metals are expressed in terms of the dissolved metal in the water column. See "Office of Water Policy and Technical Guidance on Interpretation and Implementation of Aquatic Life Metals Criteria (PDF)," (49 pp, 3MB) October 1, 1993, by Martha G. Prothro, Acting Assistant Administrator for Water, available on NSCEP's web site and 40 CFR 131.36(b)(1). Conversion Factors applied in the table can be found in Appendix A to the Preamble-Conversion Factors for Dissolved Metals.

B The freshwater criterion for this metal is expressed as a function of hardness (mg/L) in the water column. The value given here corresponds to a hardness of 100 mg/L. Criteria values for other hardness may be calculated per the equation presented in the criteria document.

C For the saltwater copper criteria, when the concentration of dissolved organic carbon is elevated, copper is substantially less toxic and use of Water-Effect Ratios might be appropriate.

Doc. No. 35GL-20-1381.

Human Health Criteria Table

			Human Health for the consumption of		
Pollutant	**CAS Number**	**P/NP***	**Water + Organism (µg/L)**	**Organism Only (µg/L)**	**Publication Year**
Acenaphthene	83329	P	70 A	90 A	2015
Acrolein	107028	P	3	400	2015
Acrylonitrile	107131	P	0.061 C	7.0 C	2015
Aldrin	309002	P	0.00000077 C	0.00000077 C	2015
alpha-Hexachlorocyclohexane (HCH)	319846	P	0.00036 C	0.00039 C	2015
alpha-Endosulfan	959988	P	20	30	2015
Anthracene	120127	P	300	400	2015
Antimony	7440360	P	5.6 B, D	640 B, D	2002
Benzene	71432	P	0.58-2.1 C, D	16-58 C, D	2015
Benzidine	92875	P	0.00014 C	0.011 C	2015
Benzo(a)anthracene	56553	P	0.0012 C	0.0013 C	2015
Benzo(a)pyrene	50328	P	0.00012 C, D	0.00013 C, D	2015
Benzo(b)fluoranthene	205992	P	0.0012 C	0.0013 C	2015
Benzo(k)fluoranthene	207089	P	0.012 C	0.013 C	2015

Doc. No. 35GL-20-1381.

beta-Hexachlorocyclohexane (HCH)	319857	P	0.0080 C	0.014 C	2015
beta-Endosulfan	33213659	P	20	40	2015
Bis(2-Chloro-1-methylethyl) Ether	108601	P	200	4,000	2015
Bis(2-Chloroethyl) Ether	111444	P	0.030 C	2.2 C	2015
Bis(2-Ethylhexyl) Phthalate	117817	P	0.32 C, D	0.37 C, D	2015
Bis(Chloromethyl) Ether	542881	NP	0.00015 C	0.017 C	2015
Bromoform	75252	P	7.0 C, D	120 C, D	2015
Butylbenzyl Phthalate	85687	P	0.10 C	0.10 C	2015
Carbon Tetrachloride	56235	P	0.4 C, D	5 C, D	2015
Chlordane	57749	P	0.00031 C, D	0.00032 C, D	2015
Chlorobenzene	108907	P	100 A, D	800 A, D	2015
Chlorodibromomethane	124481	P	0.80 C, D	21 C, D	2015
Chloroform	67663	P	60 D	2,000 D	2015
Chlorophenoxy Herbicide (2,4-D)	94757	NP	1,300 D	12,000 D	2015
Chlorophenoxy Herbicide (2,4,5-TP) [Silvex]	93721	NP	100 D	400 D	2015
Chrysene	218019	P	0.12 C, D	0.13 C, D	2015
Cyanide	57125	P	4 D	400 D	2015
Dibenzo(a,h)anthracene	53703	P	0.00012 C	0.00013 C	2015
Dichlorobromomethane	75274	P	0.95 C, D	27 C, D	2015

Dieldrin	60571	P	0.0000012 C	0.0000012 C	2015
Diethyl Phthalate	84662	P	600	600	2015
Dimethyl Phthalate	131113	P	2,000	2,000	2015
Di-n-Butyl Phthalate	84742	P	20	30	2015
Dinitrophenols	25550587	NP	10	1,000	2015
Endosulfan Sulfate	1031078	P	20	40	2015
Endrin	72208	P	0.03 D	0.03 D	2015
Endrin Aldehyde	7421934	P	1	1	2015
Ethylbenzene	100414	P	68 D	130 D	2015
Fluoranthene	206440	P	20	20	2015
Fluorene	86737	P	50	70	2015
gamma-Hexachlorocyclohexane (HCH) [Lindane]	58899	P	4.2 D	4.4 D	2015
Heptachlor	76448	P	0.0000059 C, D	0.0000059 C, D	2015
Heptachlor Epoxide	1024573	P	0.000032 C, D	0.000032 C, D	2015
Hexachlorobenzene	118741	P	0.000079 C, D	0.000079 C, D	2015
Hexachlorobutadiene	87683	P	0.01 C, D	0.01 C, D	2015
Hexachlorocyclohexane (HCH) - Technical	608731	NP	0.0066 C	0.010 C	2015
Hexachlorocyclopentadiene	77474	P	4 A, D	4 A, D	2015
Hexachloroethane	67721	P	0.1 C	0.1 C	2015
Indeno(1,2,3-cd)pyrene	193395	P	0.0012 C	0.0013 C	2015
Isophorone	78591	P	34 C	1,800 C	2015

Methylmercury	22967926	P		0.3 mg/kg E	2001
Methoxychlor	72435	NP	0.02 D	0.02 D	2015
Methyl Bromide	74839	P	100	10,000	2015
Methylene Chloride	75092	P	20 C, D	1,000 C, D	2015
Nitrobenzene	98953	P	10 A	600 A	2015
Nitrosodibutylamine, N	924163	NP	0.0063 C	0.22 C	2002
Nitrosodiethylamine, N	55185	NP	0.0008 C	1.24 C	2002
Nitrosopyrrolidine, N	930552	NP	0.016 C	34 C	2002
N-Nitrosodimethylamine	62759	P	0.00069 C	3.0 C	2002
N-Nitrosodi-n-Propylamine	621647	P	0.0050 C	0.51 C	2002
N-Nitrosodiphenylamine	86306	P	3.3 C	6.0 C	2002
Pathogen and Pathogen Indicators	—		See EPA's 2012 Recreational Water Quality Criteria		2012
Pentachlorobenzene	608935	NP	0.1	0.1	2015
Pentachlorophenol	87865	P	0.03 A, C, D	0.04 A, C, D	2015
Phenol	108952	P	4,000 A	300,000 A	2015
Polychlorinated Biphenyls (PCBs)		P	0.000064 C, D, F	0.000064 C, D, F	2002
Pyrene	129000	P	20	30	2015
Selenium	7782492	P	170 D	4200 D	2002
Tetrachloroethylene	127184	P	10 C, D	29 C, D	2015
Thallium	7440280	P	0.24 D	0.47 D	2003
Toluene	108883	P	57 D	520 D	2015

Toxaphene	8001352	P	0.00070 C, D	0.00071 C, D	2015
Trichloroethylene	79016	P	0.6 C, D	7 C, D	2015
Vinyl Chloride	75014	P	0.022 C, D	1.6 C, D	2015
Zinc	7440666	P	7,400 A	26,000 A	2002
1,1,1-Trichloroethane	71556	P	10,000 D	200,000 D	2015
1,1,2,2-Tetrachloroethane	79345	P	0.2 C	3 C	2015
1,1,2-Trichloroethane	79005	P	0.55 C, D	8.9 C, D	2015
1,1-Dichloroethylene	75354	P	300 D	20,000 D	2015
1,2,4,5-Tetrachlorobenzene	95943	NP	0.03	0.03	2015
1,2,4-Trichlorobenzene	120821	P	0.071 D	0.076 D	2015
1,2-Dichlorobenzene	95501	P	1,000 D	3,000 D	2015
1,2-Dichloroethane	107062	P	9.9 C, D	650 C, D	2015
1,2-Dichloropropane	78875	P	0.90 C, D	31 C, D	2015
1,2-Diphenylhydrazine	122667	P	0.03 C	0.2 C	2015
Trans-1,2-Dichloroethylene	156605	P	100 D	4,000 D	2015
1,3-Dichlorobenzene	541731	P	7	10	2015
1,3-Dichloropropene	542756	P	0.27 C	12 C	2015
1,4-Dichlorobenzene	106467	P	300 D	900 D	2015
2,3,7,8-TCDD (Dioxin)	1746016	P	5.0E-9 C, D	5.1E-9 C, D	2002
2,4,5-Trichlorophenol	95954	NP	300 A	600 A	2015
2,4,6-Trichlorophenol	88062	P	1.5 A, C	2.8 A, C	2015
2,4-Dichlorophenol	120832	P	10 A	60 A	2015

2,4-Dimethylphenol	105679	P	100 A	3,000 A	2015
2,4-Dinitrophenol	51285	P	10	300	2015
2,4-Dinitrotoluene	121142	P	0.049 C	1.7 C	2015
2-Chloronaphthalene	91587	P	800	1,000	2015
2-Chlorophenol	95578	P	30 A	800 A	2015
2-Methyl-4,6-Dinitrophenol	534521	P	2	30	2015
3,3'-Dichlorobenzidine	91941	P	0.049 C	0.15 C	2015
3-Methyl-4-Chlorophenol	59507	P	500 A	2,000 A	2015
p,p'-Dichlorodiphenyldichloroethane (DDD)	72548	P	0.00012 C	0.00012 C	2015
p,p'-Dichlorodiphenyldichloroethylene (DDE)	72559	P	0.000018 C	0.000018 C	2015
p,p'-Dichlorodiphenyltrichloroethane (DDT)	50293	P	0.000030 C	0.000030 C	2015

*P/NP - Indicates either a Priority Pollutant (P) or a Non Priority Pollutant (NP).

A This chemical has a criterion for organoleptic (taste and order) effects. In some cases, the organoleptic criterion may be more stringent.

B This criterion was revised to reflect EPA's q1* or RfD as contained in the Integrated Risk Information System (IRIS) as of May 17, 2002. The fish tissue bioconcentration factor (BCF) is from the 1980 Ambient Water Quality Criteria document.

C This criterion is based on carcinogenicity of 10^{-6} risk.

D EPA has issued a Maximum Contaminant Level (MCL) for this chemical under the Safe Drinking Water Act. In some cases, the MCL may be more stringent. For more information see EPA's National Primary Drinking Water Regulations.

Doc. No. 35GL-20-1381.

E This fish tissue residue criterion for methylmercury is based on a total fish consumption rate of 0.0175 kg/day.

F This criterion applies to total PCBs (e.g., the sum of all congener or all isomer or homolog or Aroclor analyses).

Doc. No. 35GL-20-1381.

References

United States Environmental Protection Agency. 2009. Ambient Aquatic Life Water Quality Criteria for Acrolein. EPA-822-F-09-004. National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.
http://water.epa.gov/scitech/swguidance/standards/criteria/aqlife/acrolein/aq-final.cfm

United States Environmental Protection Agency. 2013. Aquatic Life Ambient Water Quality Criteria for Ammonia—Freshwater. EPA-822-R-13-001. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/aqlife/ammonia/upload/AQUATIC-LIFE-AMBIENT-WATER-QUALITY-CRITERIA-FOR-AMMONIA-FRESHWATER-2013.pdf.

United States Environmental Protection Agency. 2012. Aquatic Life Ambient Water Quality Criteria for Carbaryl—2012. EPA-820-R-12-007. Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/aqlife/upload/carbaryl2012.pdf

United States Environmental Protection Agency. 2001. 2001 Update of Ambient Water Quality Criteria for Cadmium. EPA-822-R-01-001. National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.
http://water.epa.gov/scitech/swguidance/standards/criteria/aqlife/cadmium/upload/2001_04_13_criteria_cadmium_cad2001upd.pdf

United States Environmental Protection Agency. 2007. Aquatic Life Ambient Freshwater Quality Criteria—Copper. EPA-822-R-07-001. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/2009_04_27_criteria_copper_2007_criteria-full.pdf

United States Environmental Protection Agency. 2005. Aquatic Life Ambient Water Quality Criteria—Diazinon. EPA-822-R-05-006. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/upload/2006_02_16_criteria_diazinon_final-doc.pdf

United States Environmental Protection Agency. 2005. Aquatic Life Ambient Water Quality Criteria—Nonylphenol. EPA-822-R-05-005. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/upload/2006_05_18_criteria_nonylphenol_final-doc.pdf

United States Environmental Protection Agency. 2003. Ecoregional Criteria Documents. Office of Water, Office of Science and Technology, Washington, DC. http://www2.epa.gov/nutrient-policy-data/ecoregional-criteria-documents

United States Environmental Protection Agency. 2003. Ambient Aquatic Life Water Quality Criteria for Tributyltin (TBT). National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.
http://water.epa.gov/scitech/swguidance/standards/criteria/aqlife/tributyltin/upload/2004_01_05_criteria_tributyltin_tbt-final.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Acenaphthene. EPA 820-R-15-002. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/final-acenaphthene.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Acrolein. EPA 820-R-15-003. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717491

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Acrylonitrile. EPA 820-R-15-004. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717492

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Aldrin. EPA 820-R-15-005. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717493

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: alpha-Hexachlorocyclohexane (HCH). EPA 820-R-15-006. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717494

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: alpha-Endosulfan. EPA 820-R-15-007. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717495

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Anthracene. EPA 820-R-15-008. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717496

United States Environmental Protection Agency. 2002. National Recommended Water Quality Criteria: 2002—Human Health Criteria Calculation Matrix. EPA-822-R-02-012. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/upload/2002_12_30_criteria_wqctable_hh_calc_matrix.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Benzene. EPA 820-R-15-009. Office of Water, Office of Science and Technology, Washington, DC.

http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-Benzene.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Benzidine. EPA 820-R-15-010. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-Benzidine.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Benzo(a)anthracene. EPA 820-R-15-011. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717545

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Benzo(a)pyrene. EPA 820-R-15-012. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717546

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Benzo(b)fluoranthene. EPA 820-R-15-013. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717544

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Benzo(k)fluoranthene. EPA 820-R-15-014. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717547

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: beta-Hexachlorocyclohexane (HCH). EPA 820-R-15-015. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717550

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: beta-Endosulfan. EPA 820-R-15-016. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717549

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Bis(2-Chloro-1-methylethyl) Ether. EPA 820-R-15-019. Office of Water, Office of Science and Technology, Washington, DC.

http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-Bis-2-chloro-1-methylethyl-Ether.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Bis(2-Chloroethyl) Ether. EPA 820-R-15-018. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-Bis-2-chloroethyl-Ether.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Bis(2-ethylhexyl) Phthalate. EPA 820-R-15-020. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-Bis-2-ethylhexyl-Phthalate.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Bis(chloromethyl) Ether. EPA 820-R-15-017. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-Bis-chloromethyl-Ether.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Bromoform. EPA 820-R-15-021. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/final-bromoform.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Butylbenzyl Phthalate. EPA 820-R-15-022. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-Butylbenzyl-Phthalate.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Carbon Tetrachloride. EPA 820-R-15-023. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717524

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Chlordane. EPA 820-R-15-024. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717497

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Chlorobenzene. EPA 820-R-15-025. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717504

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Chlorodibromomethane. EPA 820-R-15-026. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717526

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Chloroform. EPA 820-R-15-027. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717525

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Chlorophenoxy Herbicide (2,4-D). EPA 820-R-15-028. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717528

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Chlorophenoxy Herbicide (2,4,5-TP). EPA 820-R-15-029. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717527

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Chrysene. EPA 820-R-15-030. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/final-chrysene.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Cyanide. EPA 820-R-15-031. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717499

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Dibenzo(a,h)anthracene. EPA 820-R-15-032. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-Dibenzo-a-h-anthracene.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Dichlorobromomethane. EPA 820-R-15-033. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-Dichlorobromomethane.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Dieldrin. EPA 820-R-15-034. Office of Water, Office of Science and Technology, Washington, DC.

http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717505

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Diethyl Phthalate. EPA 820-R-15-035. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-Diethyl-Phthalate.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Dimethyl Phthalate. EPA 820-R-15-036. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-Dimethyl-Phthalate.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Di-n-butyl Phthalate. EPA 820-R-15-037. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-Di-n-butyl-Phthalate.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Dinitrophenols. EPA 820-R-15-038. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-Dinitrophenols.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Endosulfan Sulfate. EPA 820-R-15-039. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717513

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Endrin. EPA 820-R-15-040. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717506

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Endrin Aldehyde. EPA 820-R-15-041. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717507

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Ethylbenzene. EPA 820-R-15-042. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717511

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Fluoroanthene. EPA 820-R-15-043. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717510

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Fluorene. EPA 820-R-15-044. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717508

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: gamma-Hexachlorocyclohexane (HCH). EPA 820-R-15-045. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717548

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Heptachlor. EPA 820-R-15-046. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717538

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Heptachlor Epoxide. EPA 820-R-15-047. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717536

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Hexachlorobenzene. EPA 820-R-15-048. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717539

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Hexachlorobutadiene. EPA 820-R-15-049. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717540

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Hexachlorocyclohexane (HCH)-Technical. EPA 820-R-15-050. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717537

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Hexachlorocyclopentadiene. EPA 820-R-15-051. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/final-hexachlorocyclopentadiene.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Hexachloroethane. EPA 820-R-15-052. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717541

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Indeno(1,2,3-cd)pyrene. EPA 820-R-15-053. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717514

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Isophorone. EPA 820-R-15-054. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717512

United States Environmental Protection Agency. 2001. Water Quality Criterion for the Protection of Human Health: Methylmercury. EPA-823-R-01-001. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/health/upload/2009_01_15_criteria_methylmercury_mercury-criterion.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Methoxychlor. EPA 820-R-15-055. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717516

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Methyl Bromide. EPA 820-R-15-056. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717515

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Methylene Chloride. EPA 820-R-15-057. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717517

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Nitrobenzene. EPA 820-R-15-058. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717521

United States Environmental Protection Agency. 2002. National Recommended Water Quality Criteria: 2002—Human Health Criteria Calculation Matrix. EPA-822-R-02-012. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/upload/2002_12_30_criteria_wqctable_hh_calc_matrix.pdf

United States Environmental Protection Agency. 2002. National Recommended Water Quality Criteria: 2002—Human Health Criteria Calculation Matrix. EPA-822-R-02-012. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/upload/2002_12_30_criteria_wqctable_hh_calc_matrix.pdf

United States Environmental Protection Agency. 2002. National Recommended Water Quality Criteria: 2002—Human Health Criteria Calculation Matrix. EPA-822-R-02-012. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/upload/2002_12_30_criteria_wqctable_hh_calc_matrix.pdf

United States Environmental Protection Agency. 2002. National Recommended Water Quality Criteria: 2002—Human Health Criteria Calculation Matrix. EPA-822-R-02-012. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/upload/2002_12_30_criteria_wqctable_hh_calc_matrix.pdf

United States Environmental Protection Agency. 2002. National Recommended Water Quality Criteria: 2002—Human Health Criteria Calculation Matrix. EPA-822-R-02-012. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/upload/2002_12_30_criteria_wqctable_hh_calc_matrix.pdf

United States Environmental Protection Agency. 2002. National Recommended Water Quality Criteria: 2002—Human Health Criteria Calculation Matrix. EPA-822-R-02-012. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/upload/2002_12_30_criteria_wqctable_hh_calc_matrix.pdf

United States Environmental Protection Agency. 2002. Recreational Water Quality Criteria. EPA-820-F-12-058. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/health/recreation/upload/RWQC2012.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Pentachlorobenzene. EPA 820-R-15-059. Office of Water, Office of Science and Technology, Washington, DC.

http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-Pentachlorobenzene.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Pentachlorophenol. EPA 820-R-15-060. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-Pentachlorophenol.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Phenol. EPA 820-R-15-061. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717520

United States Environmental Protection Agency. 2002. National Recommended Water Quality Criteria: 2002—Human Health Criteria Calculation Matrix. EPA-822-R-02-012. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/upload/2002_12_30_criteria_wqctable_hh_calc_matrix.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Pyrene EPA 820-R-15-062. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717523

United States Environmental Protection Agency. 2002. National Recommended Water Quality Criteria: 2002—Human Health Criteria Calculation Matrix. EPA-822-R-02-012. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/upload/2002_12_30_criteria_wqctable_hh_calc_matrix.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Tetrachloroethylene (Perchloroethylene). EPA 820-R-15-063. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717532

National Recommended Water Quality Criteria for the Protection of Human Health. 2003. Federal Register. 68: 250. pp. 75507–75515. http://www.gpo.gov/fdsys/pkg/FR-2003-12-31/html/03-32211.htm

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Toluene. EPA 820-R-15-064. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717531

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Toxaphene. EPA 820-R-15-065. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717533

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Trichloroethylene (TCE). EPA 820-R-15-066. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717529

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: Vinyl Chloride. EPA 820-R-15-067. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717534

United States Environmental Protection Agency. 2002. National Recommended Water Quality Criteria: 2002—Human Health Criteria Calculation Matrix. EPA-822-R-02-012. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/upload/2002_12_30_criteria_wqctable_hh_calc_matrix.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 1,1,1-Trichloroethane. EPA 820-R-15-068. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-1-1-1-Trichloroethane.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 1,1,2,2-Tetrachloroethane. EPA 820-R-15-069. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-1-1-2-2-Tetrachloroethane.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 1,1,2-Trichloroethane. EPA 820-R-15-070. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-1-1-2-Trichloroethane.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 1,1-Dichloroethylene. EPA 820-R-15-071. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-1-1-Dichloroethylene.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 1,2,4,5-Tetrachlorobenzene. EPA 820-R-15-073. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-1-2-4-5-Tetrachlorobenzene.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 1,2,4-Trichlorobenzene. EPA 820-R-15-072. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-1-2-4-Trichlorobenzene.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 1,2-Dichlorobenzene. EPA 820-R-15-074. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-1-2-Dichlorobenzene.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 1,2-Dichloroethane. EPA 820-R-15-075. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-1-2-Dichloroethane.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 1,2-Dichloropropane. EPA 820-R-15-076. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-1-2-Dichloropropane.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 1,2-Diphenylhydrazine. EPA 820-R-15-077. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-1-2-Diphenylhydrazine.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: trans-1,2-Dichloroethylene (DCE). EPA 820-R-15-078. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-trans-1-2-Dichloroethylene-DCE.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 1,3-Dichlorobenzene. EPA 820-R-15-079. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-1-3-Dichlorobenzene.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 1,3-Dichloropropene. EPA 820-R-15-080. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-1-3-Dichloropropene.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 1,4-Dichlorobenzene. EPA 820-R-15-081. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-1-4-Dichlorobenzene.pdf

United States Environmental Protection Agency. 2002. National Recommended Water Quality Criteria: 2002—Human Health Criteria Calculation Matrix. EPA-822-R-02-012. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/upload/2002_12_30_criteria_wqctable_hh_calc_matrix.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 2,4,5-Trichlorophenol. EPA 820-R-15-082. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-2-4-5-Trichlorophenol.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 2,4,6-Trichlorophenol. EPA 820-R-15-083. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-2-4-6-Trichlorophenol.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 2,4-Dichlorophenol. EPA 820-R-15-084. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-2-4-Dichlorophenol.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 2,4-Dimethylphenol. EPA 820-R-15-085. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-2-4-Dimethylphenol.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 2,4-Dinitrophenol. EPA 820-R-15-086. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-2-4-Dinitrophenol.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 2,4-Dinitrotoluene. EPA 820-R-15-087. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-2-4-Dinitrotoluene.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 2-Chloronaphthalene. EPA 820-R-15-088. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-2-Chloronaphthalene.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 2-Chlorophenol. EPA 820-R-15-089. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-2-Chlorophenol.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 2-Methyl-4,6-dinitrophenol. EPA 820-R-15-090. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-2-Methyl-4-6-dinitrophenol.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 3,3'-Dichlorobenzidine. EPA 820-R-15-091. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-3-3-Dichlorobenzidine.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: 3-Methyl-4-chlorophenol. EPA 820-R-15-092. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-3-Methyl-4-chlorophenol.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: p,p'-Dichlorodiphenyldichloroethane (DDD). EPA 820-R-15-093. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717501

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: p,p'-Dichlorodiphenyldichloroethylene (DDE). EPA 820-R-15-094. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/upload/Update-of-Human-Health-Ambient-Water-Quality-Criteria-p-p-Dichlorodiphenyldichloroethylene-DDE.pdf

United States Environmental Protection Agency. 2015. Update of Human Health Ambient Water Quality Criteria: p,p'-Dichlorodiphenyltrichloroethane (DDT). EPA 820-R-15-095. Office of Water, Office of Science and Technology, Washington, DC.
http://water.epa.gov/scitech/swguidance/standards/criteria/current/loader.cfm?csModule=security/getfile&PageID=717502

ELECTRONIC MEETINGS AND COMMUNICATIONS

§ _____. MEETING ATTENDANCE BY VIDEOCONFERENCE.

a. The Board recognizes the responsibility of board members to make every effort to attend meetings in person, but from time to time events may prohibit personal attendance. Under exceptional circumstances, a board member may participate in a meeting of the Board by videoconference *provided* that all persons participating in the meeting are able to hear one another other and the provisions of the Open Government Law concerning public access to the meeting are observed. Participation in a board meeting by video conferencing constitutes presence in person at the meeting.

b. Meetings may not be chaired by videoconference.

c. Executive sessions and due process hearings shall not be conducted via videoconference.

d. A board member who wishes to participate in a Board meeting by means of video conferencing shall submit a written request by electronic email to the Chair at least 48 hours in advance of the meeting, and a copy of the request shall be attached to the minutes of the meeting. The board member's location and means of attendance shall be noted on the agenda and recorded in the minutes.

e. Voting at a meeting where at least one board member is participating by video conferencing shall be by roll call only.

f. New board members must attend at least two board meetings in person before attending a meeting via videoconference.

g. The Chair may cause or direct the temporary disconnection or muting of a member's connection if it is causing undue interference with the meeting, and the Chair's decision to do so shall be recorded in the minutes. In the event it is determined by the Chair that either the absent board member or the board members in attendance cannot be heard by one another, the video conference shall be terminated, and the absent board member shall not be permitted to vote, nor continue to be counted toward a quorum.

AHENSIAN PRUTEKSION LINA'LA GUÅHAN
LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

Guam Environmental Protection Agency
Board of Directors Meeting
Thursday, March 14, 2019 @ 4:00 pm
Main Office Conference Room

Agenda

I. Call to Order

II. Approval of Agenda

III. Approval of December 11, 2018 Minutes

IV. Administrator's Report

V. Old Business
- Navy NOV Status
- Nova Group, Inc. Settlement Agreement Status
- Safe Drinking Water NOV – GWA Status
- RRF Rules and Regulations Draft Update
- Guam Water Quality Standards Triennial Review

VI. New Business
- CH2M/JACOBS Update (PIEC)
- Walter S. Leon Guerrero – Appointment as Administrator, Guam EPA
- Air Force Re Stipulated Request for Continuance-NOV #2019-001

VII. Miscellaneous

VIII. Next Meeting Date/Adjournment

Doc. No. 35GL-20-1381.

AHENSIAN PRUTEKSION LINA'LA GUÅHAN

LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

THE GUAM ENVIRONMENTAL PROTECTION AGENCY
BOARD OF DIRECTORS

Effective January 7, 2019, the Guam Environmental Protection Agency (Guam EPA) Board of Directors appoints and confirms Mr. Walter S. Leon Guerrero as the Administrator for the Guam EPA, to administer all activities of the Agency, pursuant to Title 10 of the Guam Code Annotated, Chapter 45 §45104.

Further, the Guam EPA Board of Directors moves to approve a pay amendment for the Administrator, in accordance with 2014 Government of Guam Competitive Wage Act Executive Pay Plan, from ES1 to ES5, effective to January 9, 2019, as reflected in the official release of the executive staffing pattern.

Confirmed this day: March 14, 2019

Mr. Robert Perron,
Guam EPA Board Chairman

As witnesses this day by:

Ms. Vilma M. Balajadia
Guam EPA Board Secretary

AHENSIAN PRUTEKSION LINA'LA GUÅHAN
LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

Guam Environmental Protection Agency
Board of Director's Meeting
Thursday, March 14, 2019 @ 4:00 p.m.
Main Office Conference Room

MINUTES

I. **Call to Order**: Chairman Robert Perron called the Board of Director's meeting to order at 4:08 p.m. The following individuals were present at the board meeting:
Board Members: Robert Perron, Chairman, Terrence Brooks, Vice Chairman, Steve Hollister, Ann Roth and Florida Sanchez. (Steven Carrara, not present).
Guam EPA Staff: Walter S. Leon Guerrero, Administrator; Kristan Finney; Brian Bearden; Conchita SN Taitano; Sabrina Cruz-Sablan; Jesse T. Cruz; Magdalena Castro; Nicolas Rupley Lee; Margaret P. Aguilar; Glenn San Nicolas; and Vilma Balajadia. Guests: Larry Gast, General Manager, GSWA; Arlene Acfalle; and Cyrus Luhr, Representative from Senator Perez's office.

II. **Approval of Agenda**: The Vice Chairman made a motion to approve the agenda, seconded by Director Hollister. All voted in favor and the motion passed.

III. **Approval of Minutes**: The Vice Chairman made a motion to approve the minutes, seconded by Director Roth. All voted in favor and the motion passed.

IV. **Administrator's Report**: The Administrator provided a status of the Board of Directors pending confirmations for the following: *Flori Sanchez*'s confirmation packet has been forwarded to the Legislature per legal council at the governor's office (Rec'd on March 12, 2019 by the Legislature); The Administrator stated that "there is also an additional gentleman who is an engineer that they sent down –I just spoke to him today."; and that Bob Perron's packet is still in the works "as well as anybody else, which is Bill Nault, and so if we get that then we'll be close to our ten." The Administrator stressed to the governor's office "all our Notice of Violations (NOVs) can be shot down if we don't have a quorum." The Administrator was adamant to the governor's office stating that every seat on the Guam EPA Board must be filled to prevent any issues that may arise from not having a quorum.

Administrator: We've had two bills (Bill 25-35 and Bill 27-35) that came up this past week that Nic spoke on behalf of me –one was Senator Therese Terlaje's Bill 27-35 relative to the timely publication of all NOVs, Orders of Compliance, Notices of Defense, Voluntary Compliance Agreements, Settlement Agreements, and Referrals to the Office of the Attorney General for Prosecution [publish all aforementioned issued to any agency or persons in violation of any of the acts on our website *no later than* fifteen (15) days from service] by GEPA; and to require that all of the above be reported to the GEPA Board of Directors [at the next scheduled regular board meeting]. (Bill 27-45 passed unanimously on March 21, 2019 by the Legislature). The Administrator stated this measure was about being transparent and that the agency is in full support of the measure. The Agency has decided to start posting on the website the information required in the proposed measure beginning "this calendar year." The Administrator stated that the Agency currently has one (1) NOV that has been processed; and pending an appeal by an unnamed couple and/or the outcome of the appeal, then, "we'll upload the others into our website just like we promised we would." Director Roth: She was asking for more than NOV's wasn't she? She was asking for settlements?

Mr. Lee provided a brief history of how Bill 27-35 became a measure beginning in the 34th Guam Legislature with Bill 372-34. Mr. Lee explained, "There was some concern from one of the senators at the hearing that the senator compared this measure to the police blotter –you see people getting arrested on these charges but the media never really covers what happens to them if they are found innocent or guilty or whatever –so this senator's concern was that he didn't want somebody's name being dragged through the mud because we didn't report on the finality of the case –so we did two things –we agreed to do that so she's looking at settlement agreements and voluntary compliance agreements and the disposition of the case but we did mention to the senator that we can't control what Joe or Jane Cruz will do with that information once they get it from us and we can't control what the media is going to do with that information as well because the law being what it is –we just have to furnish the information –so this is more of an ease of access."

Mr. Lee expressed his concerns with the proposed measure (Bill 27-35) and how the Agency would be responding to Freedom of Information Act (FOIA) inquiries. Mr. Lee referred to the current GEPA website. He wanted to discuss website formatting and reporting and its compliance to Bill 27-35. Vice Chairman Brooks requested of Mr. Lee to "prepare for us a sample form that you would like for us to review." Mr. Lee accepted and committed to presenting to the Board "on the next meeting." The Administrator stated that he wants GEPA to be "fully engaged in doing this".

Administrator: "So the other bill is Senator Telo's bill (Bill 25-35) on used oil low sulfur and that bill, though the intent is good, it's not really applicable for right now because…if that bill were to come into law we would have tons of used oil and nowhere to go and except for maybe selling it off island which would cost triple or I don't even know what the economic numbers are?" Chairman Perron asked, "Your talking $10 a gallon?" The Administrator stated that the proposed measure is "unfeasible"; and while the Agency supported the idea, it did "not" support "the bill itself". The Administrator "will work with her (Senator Telo) to try to amend it to where it is beneficial for Guam versus quite the contrary to the way it is written now." The Administrator stated that, "GPA, Us, PUC all had similar stance," and expressed the need to dispose of "used oil" in an "economically feasible fashion that's also good for us and the environment."

The Administrator transitioned to one of his immediate goals: *"to get Guam EPA a building and a permanent home that is ours."* –The Administrator stated he is working with *Jesse* (Cruz), *Brian* (Bearden), *Conchita* (Taitano), *Nick* (Lee) and *Connie* (Aflleje) and all the other division heads to start up our building committee again –to start throwing around ideas.

The Administrator appointed Brian Bearden as the head of the Building Committee. He further stated that he has engaged USDA and GHURA to assist in finding "financial opportunities either through grants or other money" to build the Building. The Administrator proposed to the front office to also "engaged Department of Interior." The Administrator stated that USEPA "is in total support" and will allow us to "use our budget" but "if we could find additional money that will help us keep our overhead and our operations intact and not have us to skinny down some of the things that we do." The Administrator is trying to work with *Joe Borja* at Department of Land Management to get the property so that we can move forward. He also stated that "USDA has provided money for other government agencies and I've directly engaged with *Joe Diego* who is the head of USDA here and we are going to have some meetings set up…" The Administrator requested any help from those in attendance to find other avenues to assist in achieving our goals. He said, "we are looking for a three (3) to five (5) acre parcel that will house not only enough for the staff but our lab as well as our vehicles which includes our two (2) boats so we do need a lot of space.

The Administrator transitioned to the Agency Budget.

Administrator: "If you look at our financial statement we are in the hole as far as our consolidated grant goes and that's to be expected –we had budgeted for four (4) months into this fiscal year –which would put us in January and we never got our 2019 budget. Now, U.S. Congress did pass the budget (and) money is slowly coming in from headquarters to the region...we are expecting a Three Million Dollar ($3M) Grant Award this is year—one (1) of our five (5) year fiscal cycles. So that being said, any money that we *do not expend* this year *does not* go back to the federal government; it rolls over for our five (5) year fiscal cycle, which would put us in a good position. We won't have to spend all Three Million Dollars ($3M) off the bat which is a really, really good thing because by the time we get it we might only have like five (5) months to six (6) months to actually spend it…"

"If we were to get the money at the end of this month, we'll probably be about Six-Hundred Thousand ($600K) in the hole, but with the Three Million Dollars ($3M), we could immediately pay that back and then start running in the black like we should be. So technically, we are in the hole; and it's because we didn't get our grant award yet. Any Questions?" Chairman Perron: "The General Fund is advancing the money?" Administrator: "We are actually borrowing from our special accounts and our other federal and local accounts at this point so we have not had to borrow from the General Fund and it doesn't look like we will need to...any other questions on the budget?" Director Hollister: "If we don't use the left over money, will it go against us?" Administrator: "No." Director Hollister: "In the future?" Administrator: "No, because we are in a five (5) year fiscal cycle. We can roll it each year you know no pause –we can use it –it's at the end of the 5th year fiscal cycle that if we don't use it (then) there's the likelihood that we have to give it back its theirs and then that's where we would get punished more for. I know what your asking if they allocated it for the year and if we didn't use it –they kind of understand the situation and again for this fiscal cycle we are in March...we have not received our grant award, so if they expect us to spend the Three Million dollars ($3M) in six (6) months so that we don't get punished –its kind of a – they have enough understanding to know that's not something that they would go after us on and *Carl* (Goldstein) would fight for us on that."

The Administrator stated that he has met with three (3) senators separately including the Speaker. The Administrator invited the Board members to attend meetings with the senators and offered the schedule. Chairman Perron asked if the Speaker talked about the bottle bill and the Administrator stated that she briefly did but he bottle bill discussion is "going to be our next meeting." Director Roth requested the Administrator send out the schedule of meetings with senators to the Board of Directors.

The Administrator transitioned to discussions on National Oceanic and Atmospheric Administration (NOAA) having ten (10) GEPA members at a NOAA sponsored Science Oil Spills and Scat Training. Jesse Cruz: Mr. Cruz stated that the training, which is a first in the past twelve (12) years, is going really well with participants from the Coast Guard, GEPA, Port Authority of Guam, Bureau of Statistics and Planning.

V. Old Business:

- *Navy NOV – Notice to Appeal*

Kristan Finney: "That one actually –I've been in touch with their legal counsel we are still working some stuff out but we have been in touch and so we should have something."

- *Nova Group, Inc. – Settlement Agreement Status.*

Chairman: "The settlement has that been fully accomplished?" Ms. Finney: "yeah, except for the SEP portion – that's still pending –They are either going to have to propose something pretty soon here or that will convert to cash." Chairman: "They've already paid the cash portion though?" (Administrator and Ms. Finney both replied, "Yes.") Administrator: "So we got the checks, for what is it? Mrs. Conchita Taitano: "$90,000?... Yes, $70,000 and $10,000...$80,000." Administrator: "$70,000 going to Hazardous Waste and $10,000 going to Solid Waste; and then the SEP would be just something related to Solid and Hazardous Waste...otherwise, like Kristan said, it would get converted and we'll split it up between the Hazardous and Solid Waste Program."

- *Safe Drinking Water NOV/ Guam Waterworks Authority (GWA).*

Administrator: "We rectified most of the issues on that NOV as being –things that administratively we've met with them myself and *Brian* (Bearden - Chief Engineer) and part of his team met with *Miguel Bordallo*, GWA General Manager, *Mr. Paul Kemp*, Asst. General Manager and other members of their team and made it quite clear that this is very simple administrative guidelines that they need to meet and follow; and if they do, than there is no penalty, no issues about it –they need to provide us some SOP's. Brian Bearden: "They need an SOP that they need to turn into us so they can formalize the process they take when they suspect that it's a dirty faucet at a house. Because that's what it turned out to be –a dirty faucet. They just need to set this up. We've talked to them about this before an SOP for how they handle those situations in the future; so, that they don't have a violation which they had this time by failing to take a required number of samples." Administrator: "Not wanting to detract from GWA and their ultimate mission, because it's their distribution line that this sampling is for. Some of the issues that have come living in an island: you've got bugs, and bugs like to find little damp holes, and so some of the faucet's sample locations –mud daubers crawl in there (and) build their home like any other holed concrete wall hole or anything and those would give false positive for the system because you'll have mud coming out.

So, we're trying to get GWA to come up with the SOP that this isn't a red flag for them in the future for their distribution." Brian Bearden: "and also making sure that we are not missing a real violations –we take these very serious –in this case it was just a contaminated faucet or sampling." Chairman Perron: "*Ann (Roth)* did you have any questions? I know you had some concerns about the NOVs and where they were standing." Director Roth: "Until they're settled, I'd say keep them on there –that's all I'm saying until we know that they are actually settled then it has to be addressed."

- *RRF Rules and Regulations Draft – Update*

Sabrina Sablan: "Yesterday I sent you (the Board) a copy of the final draft –well our version of the final draft –I just wanted to see if you had any questions on that –we did have the public hearing in December 2018 and this is the first board meeting that we've had since then –during the public hearing we only had one person that came as the public which was our Board Chairman who came in as the Recycler and he did have one question during the public hearing and that was about the stimulus portion of how we arrived at the figure for the shipping cost and I did talk to the contractor and it is addressed in the rules as we mentioned during the public hearing they were using the world freight rates and so there is an option and that goes in and gives you the local port and then the destinations –the Asian destinations and that's how they arrived at that figure –so that was basically the only question that we had during the public hearing –it was properly noticed –no one came to pick up any documents or no other comments were made during that period."

Mrs. Conchita Taitano requested that the Board approve the recommendations in the final draft version. Director Roth questioned the prioritization of use of funds. Mrs. Taitano responded with, "No, it gives the Administrator the authority to prioritize. We have things listed there but that doesn't mean that that's the order that he or she may choose." Director Roth suggested changes to the wording because "when you say first priority it implies that that's the most important." Mrs, Sabrina Sablan clarified that "the reason why we list it as that is because that's what it says in the law –we are just copying the law – we are just repeating what the law says. Mrs. Taitano further clarified, "Chapter 51 Article 3 –so when in Article 3 –the law specifies there is a first, second and third priority and the third one says the administrator will decide what to prioritize and I'm sorry –I misunderstood your question –so that's right –so all they did was cite what was in the statute."

Director Roth asked, "does the law imply that the first priority is the most important and you must take care of all of this…before Funds are allocated?" Mrs. Taitano replied, "That's Correct. Yes that is, it is very specific –first priority is listed." Director Roth expressed concerns that funding for recycling may never be realized "until you get rid of all the junk vehicles, batteries, waste oil, white goods and appliances, cardboard." Mrs. Taitano stated, "If we are generating close to between 2.7 and 2.9 million annually (from the collection of fees which is part of the $25 vehicle registration fee)…there is quite a bit that is not used in its entirety –which everyone has alluded to which everyone wants to raid."

Director Roth expressed her concerns about funding for the "third priority—recycling." Vice Chairman Brooks provided input stating, "if they do have the money they can use it; if they don't have the money, then they won't." Director Roth stated that "the Administrator has to focus on the first priority." Mrs. Taitano acknowledged "room for amendments" and her continuing discussions with Senator Perez's office, but strongly expressed the need to get the regulations in place.

Director Roth made a "move to approve the regulations." However, Chairman Perron wanted to discuss "the tires and the abandoned vehicles." He talked about a need for tire and vehicle identification of the owners because some tire shops say the Revolving Recycling Fund (RRF) "is supposed to take care of all the waste tires so we should be giving these to the government because the RRF is taking care of waste tires according to the law in the priority –but really it's only tires that are non-point specific that you don't know who owned that tire –it's in the jungle or it's not identifiable as to who's tire it is…if you know who's tire it is than they got to take care of it, not the RRF, at least that's the way I see it." Mrs. Taitano recommended that the issues with collection of disposal fees and the purpose of the RRF be addressed in the statute.

However, Attorney Finney said that "this is where you would pursue" any prohibitions –in Regulations. Mrs. Taitano agreed. The Administrator recommended that "if you guys want to add verbiage which would require us to amend some things –I would request that you guys have –I don't know how we could do this even if we have a special meeting between now and next month." Vice Chairman Brooks asked, "how about we could put this in

place now and then we could have another public hearing and lets get everything that needs to be amended put together?" Cyrus Luhr from Senator Perez's office confirmed that Senator Perez would be willing to hold a public hearing.

Chairman Perron said, "We need to be able to obligate these funds –if we know it's going to continue to be robbed by everybody as a need so I agree with Terry (the Vice Chairman). Attorney Finney provided comments to the draft final version, "it's specifically for these later sections starting with 24303.4 and then .5 and .7 and .9 haven't been incorporated into this draft yet –so I just wanted to say that and the other thing I guess I didn't realize you guys were going to be voting on these today because you don't have a complete record I mean like –I don't know if like when you guys provided your rules like in the past when you voted on –if you have everything like with the transcript..." Mrs. Sablan stated that if the Board decides to move forward and approves the final draft, "a whole complete record of everything the statute requires, everything from transcripts to electronic copies on a c.d. however many you want its available –its just up to you if you want to move forward with this now."

Director Roth asked, "What does 'reserve' mean? Under the zero waste and green waste?" Vice Chairman Brooks responded, "Its like a section that was there previously or they took it out –they are reserving it for future changes. Mrs. Sablan added, "It's a section that we still want to move forward with." Director Roth asked, "So you just want approval 'as is'?" Vice Chairman responded, "...we can't approve something that's not in front of us." Mrs. Taitano concluded with, "you know Ann, we've been working on this for over 2 years. We are trying to beat OPA from writing to us again and asking for the fourth time maybe."

Approval of the Rules and Regulations for the Recycling and Revolving Fund: Director Roth made a motion to approve the Rules and Regulations for the Recycling and Revolving Fund, seconded by the Vice Chairman. All voted in favor and the motion passed.

Director Roth: "I just want to discuss that she (Kristan Finney) said that she had some concerns on the RRF that she wants to have them incorporated and that she's met with *Conchita*." Attorney Finney responded, "well actually no, I've talked to *Sabrina*." Director Roth asked if Attorney Finney was "okay with her integrating them?" *Mrs. Sabrina Sablan* interjected, "well the AG is going to be able to have another opportunity because we are going to have to send this to them they will be able to provide their comments." Attorney Finney stated that her comments which was previously submitted to *Sabrina*, are "not incorporated" into the draft Regulations; and that "these sections are going to need to comply with your statutory authority –cause that's one of the things that the AG has to approve on is the statutory authority." *Cyrus Luhr* chimed in and stated, "If the concern is conflicts with current GCA statutes, we can essentially. Our aim is to change GCA statutes itself when we adopt the Rules & Regs." Attorney Finney responded, "Right, but that won't be, like it won't get to the legislature without, well from this step–the next step is the Governor's approval as to policy and the next step after that is AG approval. We thought about skipping Triple A. If that were the case, then all of this you don't need any approvals."

- *Guam Water Quality Standards Triennial Review – Update*

Margaret Aguilar: Mrs. Aguilar provided a brief update on the Water Quality Standards including the Triennial Review Process, which is mandated by the Clean Water Act; and the two items that are a priority for us. Number one (1): USEPA has recommended a certain criteria that Guam EPA adopt in its water quality standards; and "if they aren't any, than we are not going to adopt we have to provide rational for doing that". Mrs. Aguilar stated that the Agency is adopting the criteria that they are recommending with the exception of maybe three (3) items – three (3) criteria which is: nickel; copper; and maybe aluminum. Because in the previous process for mixing zone, there was Guam's specific criteria would develop with a scientific report by the Navy and GWA. So we are going to submit those to USEPA to so take a look at it– whether or not that will meet the criteria for us not going with their recommended requirements. We are pretty close to identifying all those criteria and communicating that to USEPA and the 2nd set of revisions is our revisions that we want to make locally for the benefit of Guam.

Mrs. Aguilar further stated that some of the criteria for our water requires public involvement, so we held a meeting in January (2019) with seven (7) individuals participants (two of which were from the Agency), including representatives from the Navy, GWA, and senatorial staffers. Mrs. Aguilar re-stated that "we're pretty close to finishing our Triennial Review putting our list together of provisions that we want to focus on as far as a change in our Water Quality Standards so we'll turn in that report to USEPA as far as our Triennial Review and then in the Summer hopefully...we'll finish our draft of the proposed standards and then we'll public notice that and get

public comment again and then we'll have to come back to the Board and show our work for the presentation for approval." *Jesse Cruz* added, "Then, it goes through the whole Triple A process like *Kristan* was saying, it has to be adopted by the Guam Legislature. We are collaborating very closely with USEPA because otherwise working separately there might be a misunderstanding of what we're doing. It's best just to make sure that we understand the language that we are incorporating of course we are working very closely with *Kristan* on this also."

- *Walter S. Leon Guerrero - Appointment as Administrator, Guam EPA* –

Approval of the Appointment of Walter S. Leon Guerrero as Administrator: The Vice Chairman made a motion to approve the "re-appointment" of Walter S. Leon Guerrero as GEPA Administrator, and "asked" that "his pay be increased from $70,873.00 to $82,240.00", seconded by Director Sanchez. All voted in favor and the motion passed.

- *Air Force Re Stipulated Request for Continuance–NOV #2019-001* –

Approval of the Andersen Air Force Base Stipulated Request for Continuance: The Vice Chairman made a motion to approve "to continue" the Air Force Stipulated Request for Continuance, seconded by Director Sanchez. All voted in favor and the motion passed.

At approximately 5:06 p.m. the Vice Chairman had to leave the meeting –leaving us with only the four (4) remaining board members.

VI. New Business:

- *CH2M/Jacobs Re PIEC* –

Mrs. Conchita Taitano stated that "For the Jacobs contract we are just focusing on the PIEC because there is a lot of moving parts a lot of projects going on –PIEC 23rd which is on a Sunday –23rd through 28th –ok so let's take a look at the schedule –this is our 30th Pacific Islands Environmental Conference (PIEC). The theme is "*Greening Growth in the Pacific.*" Please make sure you register. There is supposed to be 300 slots…we are below 200 right now slots left, so it's filling up and we haven't even launched the advertisements" (*Mrs. Taitano* begins a website presentation of the 30th PIEC)

"So Saturday we put in there because we will start registration that evening –why –because on Sunday we have pre-conference workshops. We have the three (3) Solid Waste Association of North America (SWANA) certification workshops: one would be on composting; the other one is on Zero Waste; and the third one is on Integrated Solid Waste Management. These are three (3) day courses, so its not like when you –there is a fee and when you register –you'll register on this –there is a SWANA link and the fee will be there –we really got it at a reduced rate –what was it was it $500? and Bob (the Chairman) you've attended many of those certification trainings and that normally with the ticket…We've started loading up Speakers –you'll know all about Risa Weinberger, P.E. Risa Weinberger & Assoc., Inc."

"Let's go back to Monday because you'll see the same courses –one thing that is included is a couple of things besides the SWANA certification classes. You'll see a Radon Measurement Courses Certification that's going to be conducted by Roland Gutierrez –Jesse (Cruz) has a by invitation only meeting for the Regional Environmental Laboratory Managers and Connie (Aflleje) asked for an Environmental Grant Officers meeting so that again is by invitation only…so Coral Reef Symposium Workshop kicks off on a Tuesday the day before the official opening of the Conference and we really have some fabulous speakers…we also have environmental education –some of you folks remember Froilan Grate, Executive Director, GIAA Asia Pacific, for the Zero Waste Conference –so he's coming back and he'll be doing training on environmental education for teachers. We have a letter out to Jon Fernandez, Superintendent, GDOE letting him know that this is available that's number one; number two, we are also asking them if they could send students to attend if they would consider that as service learning hours…so I have that draft letter ready to go."

Mrs. Taitano and her team secured the attendance of *Mr. Ved Chirayath*, Director, Lab for Advanced Sensing, NASA. In addition to the Governor speaking on Wednesday, Mrs. Taitano listed a number of notable attendees, including the Honorable *John W. Henderson*, Assistant Secretary, Air Force for the Installations, Environment and Energy. She added, "By the way, when you register it will tell you to download Whoova which is an App into your phone and you'll get real time changes so if we have to change rooms it'll get right on to your phone and notify you."

Mrs. Taitano continued, "So, Thursday it will be the same except for the Coral Reef Symposium –Coral Reef is Tuesday and Wednesday thru Thursday. We'll be back to the 3 tracks –which is your Zero Waste Track just as it applies everything dealing with Recycling Waste conversion –you have the Green Infrastructure that's really everything dealing with Water; and then there is Innovation and Collaboration that's all on Partnerships."

Friday events will be half-day and filled with field trips, including but not limited to, the following: Food Waste Assessment field trip at the Hyatt Hotel; Mural Art Project (Artists from Hawaii), which we will partner with Bureau of Statistics & Planning office (BSP); and limited reserve slots to visit the Cocos Island Water System. The Administrator and *Conchita* said to anticipate some changes to the itinerary. Mrs. Taitano continued with the details of activities to include a closing dinner at the museum with a movie screening –it's a food waste film that was done by the late *Anthony Bordain*. Mrs. Taitano stated that the administrator has expressed an interest in having an awards ceremony as part of the welcoming event of up to 500 persons, but only allocated up to 300 persons. Guam EPA personnel encourage to participate.

Mrs. Taitano continued, "we do have merchandise, so that's another thing and I think this is going to work out great –we are doing some fund raising through the SWANA Pacific Basin Chapter. Our Chairman has been the lead for that with *Margaret* (Aguilar). *Margaret* has been helping out and I think we're funding for those items that cannot be paid by federal or local funds..." For example, the shirts and the welcome dinner event are prohibited expenses from the Federal funds or local funds. "This is what our fundraising is for" and the Chairman reported "over $50,000 so far in sponsorship" with a final fundraising goal of $80K to $100K.

The Administrator asked details of the following: award ceremony; outreach mechanisms in Elementary, Middle School & High school on Anti-Litter and some of the monies raised by donation; and SWANA Chapter prizes for winners. The Administrator requested any "ideas" to incorporate with the festivities. (i.e. song, slogan or saying of Anti-Litter, etc.)

Mrs. Taitano continued, "you'll start seeing the advertisements roll out before the end of this month and I've met with our contractor and I know we're going to start seeing stuff on that media vision –you know that rolling marque." Focus will include speaker's interviews, advertisements, etc. Mrs. Taitano said, "we could talk later about some of the other projects that Jacobs is working...from Greening Roadways...Food Waste Assessment guidance document and...Bio-Solids...Waste Characterization study in conjunction with a partnership with BSP...I know they are also on task to help you with the bottle bill and taking a look at the plastic bag ban rule...Thank you very much!"

- *Walter S. Leon Guerrero - Appointment as Administrator, Guam EPA – (This was covered earlier.)*
- *Air Force Re Stipulated Request for Continuance–NOV #2019-001 – (This was covered earlier.)*

VII. Miscellaneous:
Chairman Perron: "Before we go into the Administrator's Report, I'd like to introduce *Mr. Larry Gast*. He is the new General Manager of GSWA and so like welcome to the island."

Mr. Gast: "I'm delighted to be here on Guam. I'll give you a bit of history about myself: I started out in solid waste in Kennedy Space Center in Cape Canaveral...I was hired originally as the entomologist for the Space Center and pesticides were one of the first things that they went into to make certifications; then, they went to solid waste;...asbestos abatement;...storm water; and I even got the licenses to paint the anti-tiling paint on the bottoms of the solid rocket booster recovery ships...so, that's what got me into the environmental field. I ended up retiring from the Space Center as the environmental manager. Then, I went to work at Orange County Florida for a landfill that was doing about Two Million tons a year. It was the largest municipally owned solid waste facility in the Southeastern United States. After that, I left and went to Putnam County and that's where I left from and came here. So I've been fifteen (15) years in the local government section and twenty (20) years in the federal government section."

Director Roth inquired about the status of the Memorandum of Understanding (MOU) with the Mayors and the use of Recycling Funds for cleaning efforts. The Administrator addressed the status of the "rollover" money and the pending paperwork and process. The Administrator clarified, "so we got most of the paperwork done. BBMR needed to approve of it; so, DOA can set up the account and once they set up the account then the Mayors office can start tapping into it. It's pretty much out of our hands at this point...BBMR give the thumbs up...it's a matter of DOA just sitting in the account (referring to the rollover money)."

Director Roth further inquired about the Public Notice on Underground Storage Tanks (USTs), which the Administrator confirmed it was completed. Attorney Finney provided details on what was coming up next month and explained that "the compiler of laws sent a letter this week to the Administrator regarding the UST rules and regulations and outlining why they still have to go through the process. It didn't make it all the way through the Triple A process. So there are some things that have to be corrected..." The Administrator stated that the "statutes are still valid, the law is still there, and so it is still a requirement." Some of the specifics and some of the upgraded regulations must complete the Triple A process.

Director Hollister asked Mr. Gast if Orange County, Florida residents "have a choice of whether or not the city collected their garbage?" Mr. Gast responded, "We had licensed zones that commercial entities did the collection but it was all a non-ad valorem assessment against the property owners and that was collected straight out of their taxes and everybody was mandatory garbage collection." Mr. Gast continued, "that gets rid of illegal dumping; that gets rid of litter; that gets rid of everything and we had a requirement for commercial entities to either have a commercial contract or an account at the landfill so that they had something that they could get rid of if they did not have a commercial account and we notice that they weren't using the landfill...In Orange County, we had seven (7) compliance officers, which were codes enforcement trained individuals that could write citations... they'd basically went out– commercial was picking up in neighborhoods too early in the morning and waking people up banging trash cans– they were written a citation. If people were mixing the wrong materials in the garbage, they got a citation and it was an easy thing cause it was in-house doing that but in Putnum County we didn't do that...everything went in codes and enforcement and of course with codes enforcement – its not a high priority on their list."

Mr. Glenn San Nicolas stated that, "with GSWA, they provide a 95 Gallon trash bin for trash and a 95 Gallon for Recyclables. If that is implemented...illegal dumping should go down dramatically and then the increase recycling measurement data should increase dramatically at the same time reducing a lot of that required enforcement for illegal dumping...three (3) to five (5) years ago, it was construction demolition debris –so we implement disposal plan on occupancy inspections that require them to submit disposal receipts that –so that went down but at the same time household waste –illegal dumping just went up dramatically."

The Administrator provided information on illegal dumping by KUAM's *Nestor Licanto,* which should air within days.

(A copy of reports that were issued is available with the Board Secretary upon appointment).

VIII. Next Meeting Date/Adjournment

The Chairman stated that the next regular board meeting date and time will be on Thursday, the 18th of April, 2019 at 4:00 pm. The meeting was adjourned at 5:28 p.m.

Vilma Banajudia

GUAM ENVIRONMENTAL PROTECTION AGENCY

BOARD OF DIRECTORS MEETING

March 14, 2019

ADMINISTRATOR'S REPORT

I. **FISCAL YEAR 2019 FINANCIAL REPORT (as of 03/12/2019)**

GUAM EPA REVENUES:

A. Federal Grant Funds -	$1,257,973.62
B. Special Funds (Budget Law Allotted) -	$1,196,713.48
TOTAL GUAM EPA REVENUES:	**$2,454,687.10**

GUAM EPA OPERATING EXPENSES & O/S ENCUMBRANCES (as of 03/12/2019):

C. Federal Grant Funds -	$1,288,753.30
D. Special Funds (Budget Law) -	$444,878.98
TOTAL GUAM EPA EXPENDITURES & ENCUMBRANCES:	**$1,733,632.28**

GUAM EPA BALANCE/(DEFICIT):

E. Federal Grant Funds -	$-30,779.68
F. Special Funds (Budget Law) -	$751,834.50
TOTAL GUAM EPA BALANCE/(DEFICIT):	**$721,054.82**

TOTAL GUAM EPA FEDERAL GRANT REIMBURSEMENTS

Total Payment Requests for Reimbursement –	$ 748,813.53
Pending Approval of Reimbursements -	**$ 0.00**

GUAM ENVIRONMENTAL PROTECTION AGENCY

BOARD OF DIRECTORS MEETING

March 14, 2019

ADMINISTRATOR'S REPORT

II. **RECYCLING REVOLVING FUND ACCOUNT (as of 03/12/2019)**

REVENUES

Recycling Revolving Funds - $ 2,895,965.00

GUAM EPA OPERATING EXPENSES & O/S ENCUMBRANCES FOR THE RECYCLING FUND (as of 03/12/2019):

A.	Personnel -	$22,770.50
B.	Contractual -	$0.00
C.	Equipment, Materials, Supplies, Utilities, etc -	$0.00
D.	Travel -	$0.00

TOTAL GUAM EPA EXPENDITURES & ENCUMBRANCES: **$0.00**

TOTAL GUAM EPA BALANCE/(DEFICIT): **$2,873,194.50**

GUAM'S RECYCLING REVOLVING FUND
RULES AND REGULATIONS
Title 22, Division 4, Chapter 24, Article 3

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GUAM'S RECYCLING REVOLVING FUND
RULES AND REGULATIONS
Title 22, Division 4, Chapter 24, Article 3

SECTION 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 of the Guam Code Annotated (GCA), Chapter 51, Article 3, under the authority granted by 10 GCA §51307(c).

DRAFT

§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) **"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.

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

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

(d) **"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.

(e) **"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.

(f) **"Electronic Waste"** or **"E-Waste"** shall mean electrical and electronic equipment that is dependent on electric currents or electromagnetic fields in order to function (including all components, subassemblies and consumables, which are part of the original equipment at the time of discarding). For example e-waste may include consumer/entertainment electronics such as televisions, DVD players and tuners; Devices of office, information and communications technology such as computers, circuit boards, telephones and mobile phones.

(g) **"Import"** shall mean to bring in, or accept delivery of recyclable materials from any source outside of Guam.

(h) **"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.

(i) **"Priority Materials"** shall mean all those materials identified by the Fund, in the order specified in section 24302.1(b) of this Article.

(j) **"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.

(k) **"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.

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

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

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

(o) **"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, reuse and composting.

Doc. No. 35GL-20-1381.

SECTION 24302. ADMINISTRATION OF RECYCLING REVOLVING FUND

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

(b) The Administrator may use the *Fund* for the recycling initiatives described under §24303 in these Regulations with the following priorities:

First Priority: junk vehicles, tires, batteries, waste oil, white goods/appliances;
Second Priority: paper, cardboard, plastic and glass; and
Third Priority: other recyclables as determined by the Administrator

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

DRAFT

SECTION 24303. RECYCLING INITIATIVES

§24303.1 Mayor's Council of Guam (MCOG) Island-wide Environmental Cleanup Program (IECP)

(a) The Administrator may approve contracts between the MCOG and recycling companies for the collection, recycling, 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 24301.B to implement an IECP with the following conditions:

1. All applicable procurement laws must be followed;
2. Contracts must be conditioned upon proof of all valid permits, inclusive, but not limited to solid waste facility permits, solid waste collection permits, certifications, or other licenses required to collect, remove, recycle or dispose of solid waste and compliance with all solid waste rules and regulations; and
3. Contracts must require the recycling company to report all recyclables collected by village under this program to Guam EPA upon submittal of invoices to MCOG for payment.

(b) Prior to any collection, processing or storage of recyclable materials under contract pursuant to this section, a comprehensive *Operation Plan* for the current fiscal year must be submitted by the MCOG for the contractual work described in §24303.1(a) to Guam

EPA for the implementation of the IECP and receive approval from the Administrator. The Administrator shall only approve the *Operation Plan* if it 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 initiatives 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 Program Participants must establish eligibility by meeting all of the following criteria:

1. Recycling facilities must be licensed by the Department of Revenue and Taxation to conduct business on Guam
2. Possess a valid solid waste management facility permit for processing and storage issued by Guam EPA.
3. Provide a Bill of Lading or similar documentation detailing the types of recyclable materials, quantity in tons and name of receiving facility.
4. Completion and submittal of the Stimulus Certification Forms provided by Guam EPA.
5. Remain in compliance with all solid waste rules and regulations.

(b) This Program applies to recyclable materials solely generated on Guam. Recyclable materials imported into Guam for purposes such as, but not limited to, transit or consolidation shall not qualify under this Program.

§24303.3. Recycling Industry Economic Stimulus Program Payment Calculation

(a) Program participants which meet the eligibility requirements specified in Section 24303.2 may receive an economic stimulus payment for each ton of recyclable material transported off Guam to a recycling facility. Based on the availability of funds and funding priorities, some eligible submittals may receive no or partial stimulus payments.

(b) The Administrator may select the eligible recycling commodities which will be participating for the next Program term based on global market trends, and submit a

Doc. No. 35GL-20-1381.

written recommendation to the Agency's Board of Directors for their approval by March 31st of the current fiscal year.

(c) The Administrator may determine the dollar amount of the stimulus to be disbursed to the eligible recycling facilities based on §24303.3. (e).

(d) A Program Payment Calculation may be evaluated annually by the Administrator, and may consider such factors as the prioritization of materials, market conditions, economic analyses, and operational, transportation, and processing costs in its assessment.

(e) The stimulus payment per recyclable material shall be calculated as:

1. Stimulus Payment [dollars per ton] = Shipping Cost - Market Price;
2. Where 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); and
3. Where a stimulus payment percent to be paid may be determined by the Administrator based on the availability of funds and funding priorities; and
4. Where the 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 U.S. EPA Office of Resource Conservation and Recovery Volume-to-Weight Conversion Factors; and
5. Where the 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 Program term.

(f) For the Program term beginning October 1, 2019, the Administrator may select the eligible materials and applicable stimulus payments.

§24303.4 Guam Beverage Container Recycling

(a) Upon promulgation of the Rules and Regulations pursuant to 10 GCA Chapter 44, *Guam Beverage Container Recycling Act* (*GBCRA*) funds may be expended to initiate, assist and encourage redemption of recyclable beverage containers in the following activities:

1. Funding of administrative, audit, redemption and compliance activities associated with collection and payment of the deposits of the GBCRA;
2. Conducting of recycling outreach education, capacity building and demonstration projects; and
3. Promotion and marketing of recycling-related activities.

(b) Funds may only be expended under this section for the first two years following the date that rules and regulations promulgated pursuant to the GBCRA first become effective.

Doc. No. 35GL-20-1381.

§24303.5 Integrated Solid Waste Management Plan

Applicability

Funds may be expended by the Administrator for any *best available technology* recognized by USEPA, for programs to encourage recycling, composting and waste reduction opportunities in support of the most current Integrated Solid Waste Management Plan, adopted by the Guam EPA Board.

§24303.6 Green Waste Plan- Composting and Organics RESERVE

§24303.7 Disaster Debris Management

Applicability

(a) Funds may be used for activities that directly support, promotes, and encourages recycling and removal of disaster debris, including citing of transition sites.

(b) All transition sites must be permitted by Guam EPA; and

(c) Only individuals, entities or companies licensed to do business on Guam are eligible to receive funds.

DRAFT

§24303.8 Zero Waste Grant Program - RESERVE

§24303.9 Subsidize the Recycling/Tipping Fees for Low Income Households

The Administrator may use the funds to subsidize all residential households with priority to low income households to encourage the use of trash collection and recycling services by Guam Solid Waste Authority.

19-007

RECEIVED

MAR 13 2019 1:36pm

Guam Environmental Protection Agency

Guam Environmental Protection Agency Board of Directors
Building 17-3304 Mariner Avenue
Tiyan Barrigada, Guam 96913

SUBJECT: Second Stipulated Request for Continuance re: Notice of Violation #2019-001

Honorable Members of the Board:

By a stipulated request for continuance dated February 15, 2019 (attached hereto for reference), Andersen Air Force Base, Guam ("we" or "our") requested that the Board of Directors (the "Board" or "you") postpone setting a hearing date for the above-referenced matter while the parties worked toward a resolution. The Board granted our request. However, we are still actively working to resolve this matter and respectfully request that the Board further postpone setting a hearing date until the May board meeting.

We thank you for your kind consideration. Our point of contact is 1st Lt James Hammons, whom you may reach by phone at (671) 366-2523 or by email at james.hammons.3@us.af.mil.

Sincerely,

JONATHAN OSTIL, GS-14, P.E., PMP
Deputy Director
36th Civil Engineer Squadron

So stipulated:

KRISTAN FINNEY
GEPA Legal Counsel

17-0700

RECEIVED

Guam Environmental Protection Agency

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 36TH WING (PACAF)
ANDERSEN AIR FORCE BASE GUAM

February 15, 2019

Guam Environmental Protection Agency Board of Directors
Building 17-3304 Mariner Avenue
Tiyan, Barrigada, Guam 96913

SUBJECT: Stipulated Request for Continuance re: Notice of Violation #2019-001

Honorable Members of the Board:

Andersen Air Force Base, Guam ("AAFB," "we," or "our") is in receipt of Guam Environmental Protection Agency's ("GEPA") January 3, 2019 Notice of Violation #2019-001 ("NOV"). We recently met with GEPA, on Thursday, February 7, 2019, concerning the subject NOV.

GEPA informed us that its Board of Directors (the "Board") intends to set a hearing date regarding the NOV and our Notice of Intent to Appeal/Notice of Defense at the upcoming February board meeting. We respectfully request the Board postpone scheduling this matter, until the following March board meeting, as we continue discussion with GEPA to resolve this matter.

We thank you for your kind consideration. You may contact 1Lt James Hammons, should you have any questions and or concerns at 671-366-2523 or james.hammons.3@us.af.mil.

OSTIL.JONATHAN.C.1187888596 Digitally signed by OSTIL.JONATHAN.C.1187888596 Date: 2019.02.15 11:26:15 +10'00'

JONATHAN C. OSTIL, GS-14, DoN
Deputy Director, 36th Civil Engineer Squadron

So stipulated:

KRISTAN FINNEY
Legal Counsel, GEPA

GUAM
ENVIRONMENTAL PROTECTION AGENCY
AHENSIAN PROTEKSION LINA'LA GUAHAN

EDDIE BAZA CALVO
GOVERNOR OF GUAM
RAY TENORIO
LT GOVERNOR OF GUAM

17-3304 MAPUNPUN AVENUE TIYAN, BARRIGADA GUAM 96913-1617 EMAIL US ONLINE AT EPA.GUAM.GOV

DATE: JANUARY 03, 2019

Lt. Col. Todd Inouye
Base Civil Engineer
Building 18001 Arc Light Blvd
Andersen Air Force Base
Yigo, GU 96929

NAME: Denmark Musngi
SIGN:
DATE: 2 Jan 2019
TIME: 4:22 PM

Subject: Andersen Air Force Base Water System PWS ID. No. GU0000009
Chlorination of 0.5MG Water Reservoir at Northwest Field Water System
NOV#2019-001

Hafa Adai Lt. Col. Inouye,

I. BACKGROUND

The Andersen Air Force Base Water System has a permit to operate the Northwest Field Water System to supply domestic drinking water and fire suppression demand to Northwest Field facility. The System is an extension of the USAF water system, drawing water from USAF production wells AF-5 and AF-6, with a transmission, distribution, storage tank, and chlorination system. Guam EPA approved onsite generated liquid chlorine (MIOX system) for chlorinating the water system to conform to the Guam.Safe Drinking Water Act.

On December 28, 2018, Mr. Angel Marquez and Ms. Juliana Mendoza of the Guam EPA Safe Drinking Water Program conducted a routine Sanitary Survey for compliance with the Agency's mandates under the Total Coliform and Ground Water Rules. During the survey, Guam EPA staff inspected the disinfection system located at the 0.5 Million Gallon Water Storage Tank at the Northwest Field service area. The approved disinfection method "onsite generated" known as MIOX went out of service at some time after the last sanitary survey, according to the operator, Mr. Zachary dela Cruz, Operator 36 CE/WFMS, but he was unable to specify exactly when this happened.

During the inspection, Mr. Angel Marquez and Ms. Juliana Mendoza of the Guam EPA Safe Drinking Water Program observed that a different form of disinfection had been installed utilizing a commercial pool sanitizer with the label "Pool Time Chlorination Tabs (3-in-1 Formula)", which according to the packaging contains Trichloro-S-Triazinetrione , CAS No. 87-90-1 (99% weight) and boric acid CAS No. 10043-35-3 (0.5-1%). According to Mr. dela Cruz and supported by the observations of the Guam EPA inspectors, this product was being used to disinfect the water supply at

Doc. No. 35GL-20-1381.

the water storage tanks. Mr. dela Cruz was not sure how long the US Air Force Water system has been using this chemical to treat water in the tank.

All Public Water Supply Systems (PWSS) are required to obtain a permit from Guam EPA prior to any changes in the water system pursuant to the Guam Primary Drinking Water Regulations, 22 GAR §6141.5(c). The operators of AAFB water system introduced a new treatment process (trichlor) in lieu of the approved system (MIOX) without first obtaining approval from Guam EPA.

Trichloro-S-Triazinetrione is also known as trichloroisocyanuric acid or trichlor for short. It is used as an ingredient in some products that are certified for use for drinking water treatment but the product "Pool Time Chlorination Tabs (3-in-1 Formula)" is an EPA registered pesticide sold for use as a sanitizer for pools and spas. Guam EPA does not allow the use of this sanitizer product for the disinfection of potable water, piping or storage tanks, even during the super chlorination prior to occupancy of the piping system and appurtenances.

When trichlor is dissolved in water, one of its dissociation products, cyanuric acid, is known to interfere with standard methods used to measure free chlorine residual, and as a result, actual chlorine residual is usually lower than indicated in operator's reports. The U.S. Environmental Protection Agency (USEPA) formally recognized this issue in an April 18, 2018, memorandum, which is attached for information and use in assessing the effects of the use of this product provided to the quality of water provided to users of the AAFB system.

Boric acid is used as an ingredient in many cleaning and personal hygiene products such as detergents, deodorants, and shampoos. It is also used as an insecticide in the control of cockroaches and termites. Its purpose as an active ingredient of the product "Pool Time Chlorination Tabs (3-in-1 Formula)" is not immediately clear to Guam EPA, however we are not aware of any approved use of boric acid as a drinking water treatment chemical, at any concentration or percent formulation.

II. VIOLATION

The Guam Safe Drinking Water Act prohibits *"Failure by a supplier of water to comply with regulations promulgated pursuant to §53105." 10 GCA §53113(b).*

The operators of AAFB water system introduced a new treatment process in lieu of the approved system (MIOX) without first obtaining approval from Guam EPA in violation of 22 GAR §6141.5(c).

III. COMPLIANCE ORDER

Andersen Air Force Base Water System is hereby ordered to:

- Cease and decease using "Pool Time Chlorination Tabs (3-in-1 Formula)" to treat

water at the 0.5 MG water storage tank located at Northwest field, Dededo, Guam.

- Apply to Guam EPA for a permit to utilize any disinfection system other than the original approved system. The application must include all relevant information identifying equipment and chemicals to be used for water treatment. All chemicals and equipment used must be approved for use in drinking water systems. The application must also include standard operating procedures (SOPs) detailing operation and maintenance of the proposed system.
- Discharge all water currently contained in the water storage tank and associated distribution piping, and flush and sanitize the tank and distribution system in order to remove any residue within 10 days of service of this notice.
- Conduct water testing for microbiological contamination upon completion of the preceding item and provide Guam EPA the laboratory results as soon as possible.
- Provide Guam EPA with a written report within 30 days of receipt of this NOV detailing the duration of the usage of Pool Time Chlorination Tabs (3-in-1 Formula (i.e., when it was first used and when its usage was stopped, and the total time that elapsed during that period) and an assessment of the impacts of this usage, to include but not be limited to: an assessment of probable average, minimum, and maximum chlorine residual concentrations during this time period, computed on the basis of the attached USEPA memo and associated online calculator; and a computation of the average and maximum concentrations of boric acid delivered to users of the AAFB system during this time.
- Issue a precautionary public notice as soon as possible to all users of water supplied by the USAF water system, utilizing the attached template. Any proposed modification of the language included in the attached template must be approved by Guam EPA.

IV. ADMINISTRATIVE PENALTY ORDER

Guam EPA hereby imposes an administrative penalty in the amount of One Thousand Seven Hundred ($1,700.00) for each day of violation, pursuant to 10 GCA §53114(a).

V. NOTICE OF RIGHT TO APPEAL

You may file within ten days of the date of your receipt of this Notice of Violation/Order of Compliance, a Notice of Intent to Appeal also known as a Notice of Defense with the Guam EPA's Board of Directors, setting forth in such Notice of Intent to Appeal/Notice of Defense, a verified petition outlining the legal and factual bases for such an appeal. A copy of the Notice of Intent to Appeal/Notice of Defense is attached for your convenience.

Unless a written request for a hearing signed by or on behalf of the person, agency or business entity named above in this Notice of Violation/Order of

Lt. Col. Todd Inouye
Andersen Air Force Base Water System
NOV#2019-001

Compliance is hand delivered or mailed to Guam EPA within ten days after the Notice of Violation/Order of Compliance was personally served on you or mailed to you, Guam EPA may proceed upon the Notice of Violation/Order of Compliance without a hearing. A request for hearing may be made by delivering the enclosed form entitled "Notice of Intent to Appeal also known as a Notice of Defense", or by delivering a notice of defense as provided in 5 GCA §9205, to the following address:

Guam Environmental Protection Agency Board of Directors
c/o Administrator Guam Environmental Protection Agency
Building 17-3304 Mariner Avenue
Tiyan Barrigada, Guam 96913

If you file a Notice of Intent to Appeal/Notice of Defense, the Guam EPA's Board of Directors shall hold a public hearing, at which time you may appear and present evidence in person or through counsel in support of this petition.

Failure to file a Notice of Intent to Appeal and Verified Petition within the period specified above will constitute a waiver of your right to a hearing. If you waive your rights to a hearing the Notice of Violation and Order of Compliance will become final, and Guam EPA may proceed upon the Order without a hearing and without further notice to you.

Should you have questions please contact Guam EPA Chief Engineer CDR Brian Bearden, P.E., BCEE at 300-4779 or Julie Mendoza SDWP staff 300- 9026.

Sincerely,

for WALTER S. LEON GUERRERO
Administrator

enclosures: Notice of Defense
Public Notification Template
Public Notification Certification
USEPA Dichlor/Trichlor Memo Dated April 18, 2018

cc: USEPA Region 9
Attorney General Office
Guam EPA Pesticides Program

GUAM
ENVIRONMENTAL PROTECTION AGENCY
AHENTAN PRUTEHSION LINA'LA GUAHAN

EDDIE BAZA CALVO
GOVERNOR OF GUAM

RAY TENORIO
LT. GOVERNOR OF GUAM

ERIC M. PALACIOS
ADMINISTRATOR

YVETTE CRUZ
DEPUTY ADMINISTRATOR

P.O. BOX 22439 BARRIGADA, GU 96921

EPA.GUAM.GOV

Guam EPA Case#_____

NOTICE OF DEFENSE

I, _____, have received your Notice of Violations and/or Order of Compliance, dated_____, charging me for violations, and I wish to:

(Please check appropriate sections)

[ ] **A. Request for a hearing and**

[ ] 1. Object to the accusation on the ground that it does not state acts or omissions upon which the Agency can proceed.

[ ] 2. Object to the form of accusation on the ground that it is so indefinite or ambiguous that I cannot identify the infraction or prepare my defense.

[ ] 3. Wish to prepare new matter in my defense.

[ ] 4. Admit to the accusation in part.

[ ] **B. Admit the accusation in whole.**

My mailing address is: _____

_____

_____

Signature: _____

Date: _____

DRINKING WATER WARNING

On **[give date]**, we received notice that the water disinfection chemical in use by our water system is not approved by the Guam Environmental Protection Agency, for reason that the product, "Pool Time Chlorination Tabs (3-in-1 Formula)" is not certified or approved for use in potable water systems.

What should I do? What does this mean?

- **YOU DO NOT NEED TO TAKE ANY ACTION. THIS IS AN ADVISORY NOTICE ONLY.** The **AAFB water system** has removed all water treated with the subject disinfection product, and the water delivered to all system users is now considered safe. AAFB is working with Guam EPA to determine the exact exposure to this product that may have occurred.

  "Pool Time Chlorination Tabs (3-in-1 Formula)" is composed of the following active ingredients: trichloro-s-triazinetrione , CAS No. 87-90-1 (99% weight) and boric acid CAS No. 10043-35-3 (0.5-1%).

  Trichloro-s-triazinetrione is also known as trichloroisocyanuric acid or trichlor for short. It is used as an ingredient in some products that are approved and certified for use for drinking water treatment. It is very unlikely that use of this chemical resulted in any adverse health effects.

  Boric acid is used as an ingredient in many cleaning and personal hygiene products such as detergents, deodorants, and shampoos. It is also used as an insecticide in the control of cockroaches and termites. Boron is also considered a possible trace mineral nutrient for humans, with an average daily dietary intake of about 1.5 mg for male adults. While exposure to large concentrations of boron can result in a number of severe health effects, it is very unlikely that any users of the AAFB water system were exposed to concentrations of boron large enough to produce any adverse health effects.

What is being done?

The **AAFB water system** has already removed all water treated with the unapproved disinfection product, and the water delivered to all water system users is considered safe. **AAFB water system** is working with Guam EPA to determine the exact exposure(s) to this product that may have occurred.

For more information, please contact **[name of contact] at [phone number] or [mailing address].**

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by the **Andersen Air Force Base Water System PWS ID No. GU0000009. Date distributed: _____.**

Public Notice Certification

I _____ certify that the public notice(s) that I am submitting here before you have been posted , hand delivered, mailed, published in the newspaper, or submitted to the media (T.V. / Radio station). I also acknowledge that anybody who knowingly and willfully makes false statement, presentation, or certification in any application, records, report plan or other documentation filed or required to be maintained under the Guam Safe Drinking Water Regulations, or by any certification, or order issued under the Guam Safe Drinking Water Regulations, or who falsifies, tampers with or knowingly renders inaccurate information shall be subject to the penalties.

Notice distributed by _____ on _____.
(Method of Notification) (Date of Notification)

Public Notice Locations: _____.

Public Notice has required Elements;

- ☐ A description of the violation (MCL or FTM, etc.)
- ☐ When the violation or situation occurred (MCL or FTM, etc...)
- ☐ Potential adverse health effects, using the standard mandatory language(MCL)
- ☐ Population at risk (MCL)
- ☐ Whether alternative water supply is needed (MCL or FTM, etc...)
- ☐ Actions consumers should take to reduce their exposure to the contaminant (MCL)
- ☐ What are you doing to correct the violation or situation (MCL or FTM, etc...)
- ☐ When you expect to return to compliance (MCL or FTM, etc...)
- ☐ Name, business address, and phone number for additional information, and (MCL or FTM, etc...)
- ☐ Standard language encouraging distribution to all persons served. (Where applicable)

_____ _____
(Signature of PWS contact) (PWS contact title)

_____ _____
(PWS Name) (PWS I.D. Number)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D C 20460

APR 18 2018

OFFICE OF WATER

MEMORANDUM

Subject: Compliance Determination for Inactivation Requirements of the National Primary Drinking Water Regulations when a Public Water Systems Uses Dichlor and Trichlor for Primary Disinfection

From: Anita M. Thompkins, Director
Drinking Water Protection Division

To: Regional Water Division Directors
Regions I-X

This memorandum is being issued to assist the Safe Drinking Water Act (SDWA) primacy agencies in the implementation of the microbial inactivation/disinfection requirements of the National Primary Drinking Water Regulations (NPDWRs) and the use of Dichlor (Dichloroisocyanuric acid) or Trichlor (Trichloroisocyanuric acid) for primary disinfection to meet those requirements.

It should be noted that under the SDWA, EPA's Office of Ground Water and Drinking Water does not approve disinfectants for disinfection of drinking water. These uses are approved through the Office of Pesticide Programs under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).[1] However, the NPDWRs establish requirements for inactivation/disinfection that public water systems must meet. EPA researchers have identified concerns regarding the measurement of free chlorine residual, measured in finished drinking water, using the NPDWRs-approved c DPD[2] and indophenol methods in the presence of the cyanuric acid found in Dichlor and Trichlor. Free chlorine residual measurement is necessary to apply the inactivation contact time tables found in the NPDWRs to determine the inactivation achieved in the treatment process for compliance with inactivation/disinfection requirements.

Based on the available literature, Dichlor and Trichlor, when dissolved in water, rapidly hydrolyze to release chlorine-containing species, where only a portion is free chlorine (i.e., hypochlorous acid and hypochlorite ion). The actual free chlorine percentage depends on several factors, including pH, temperature, chemical dosage and source (i.e., Dichlor or Trichlor), and the water's chlorine demand. The NPDWRs-approved DPD and indophenol methods cannot measure free chlorine residual in the presence of cyanuric acid when Dichlor or Trichlor are

[1] For more information on the intersect between SDWA and FIFRA, see https://www.epa.gov/pesticide-registration/guidance-disinfectant-products-intended-treat-drinking-water.
[2] DPD stands for N,N-diethyl-p-phenylene diamine. The method is generally referred to as DPD.

Doc. No. 35GL-20-1381.

being used for primary disinfection. This has raised concerns that the inactivation determined based on chlorine residual measurements using the approved DPD and indophenol methods, in the presence of the cyanuric acid in Dichlor and Trichlor, may not be sufficient to meet inactivation requirements for the Surface Water Treatment Rules (SWTRs) or, if applicable, the Ground Water Rule (GWR) since free chlorine is not being measured.

The EPA has developed a web-based calculator to determine free chlorine residual in the presence of Dichlor and Trichlor at 25°C. That calculator is available at: https://usepaord.shinyapps.io/cyanuric/. EPA researchers intend to develop an enhanced web-based calculator that would determine free chlorine residual in the presence of Dichlor or Trichlor at a range of temperatures. Upon publication of the updated web-based calculator, EPA will conduct a webinar to train the states and public water systems on how to utilize the tool.

In the interim, the EPA recommends that primacy agencies review information from public water systems that have installed (or are considering installing) primary disinfection using Dichlor or Trichlor. Primacy agencies can conduct the review through their existing Public Water System Supervision Program oversight activities programs (e.g., sanitary surveys, plan review and treatment change approval process, required SWTR/GWR monitoring). The review should focus on SWTR and, if applicable, GWR inactivation requirements and should include:

- Determining the primary disinfectant(s) being used by the public water system,
- Identifying the location(s) for measurement of disinfectant residual(s) used in the calculation of inactivation achieved,
- Calculating inactivation routinely achieved compared to inactivation required, and;
- Requesting information about the analytical method being used for disinfection residual measurement.

This review will allow the primacy agency and the public water system to work together to identify and address vulnerabilities that might potentially compromise the public water system's ability to meet disinfection requirements. EPA will continue to work closely with the water sector community to identify new information regarding the use of Dichlor/Trichlor as a primary disinfectant and with primacy agencies reviewing public water systems' disinfection practices.

Should you have any questions or concerns regarding this memorandum, please contact me or Cathy Davis of the Protection Branch at Davis.CatherineM@epa.gov.

cc: Regional Drinking Water Program Managers
Regional Drinking Water Enforcement Program Managers
Alan Roherson, Association of State Drinking Water Administrators
Anita Pease, Acting Director, Antimicrobials Division, Office of Pesticide Programs, EPA

19-0454

GUAM
ENVIRONMENTAL PROTECTION AGENCY
AHENSIAN PROTEKSION LINA'LA GUAHAN

EDDIE BAZA CALVO
GOVERNOR OF GUAM

RAY TENORIO
LT GOVERNOR OF GUAM

ERIC M. PALACIOS
ADMINISTRATOR

YVETTE CRUZ
DEPUTY ADMINISTRATOR

PO BOX 22439 BARRIGADA GU 96921

EPAGUAM.GOV

Guam EPA Case#_____

Guam Environmental Protection Agency

NOTICE OF DEFENSE

I, JONATHAN OSTIL, have received your Notice of Violations and/or Order of Compliance, dated January 03. 2018 [sic], charging me for violations, and I wish to:

(Please check appropriate sections)

[ ] A. Request for a hearing and

[X] 1. Object to the accusation on the ground that it does not state acts or omissions upon which the Agency can proceed.

[X] 2. Object to the form of accusation on the ground that it is so indefinite or ambiguous that I cannot identify the infraction or prepare my defense.

[ ] 3. Wish to prepare new matter in my defense.

[ ] 4. Admit to the accusation in part.

[ ] B. Admit the accusation in whole.

My mailing address is: Building 18001 Arc Light Blvd
Andersen Air Force Base
Yigo, GU 96929

Signature: J.C. Ostil

Date: 10 January 2019

Todo Y Nitala Y Tano Man Uno – All Living Things Of the Earth Are One

19-0454

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 36TH WING (PACAF)
ANDERSEN AIR FORCE BASE GUAM

RECEIVED
JUL 11 2019
Guam Environmental Protection Agency

Guam Environmental Protection Agency Board of Directors
c/o Administrator Guam Environmental Protection Agency
Building 17-3304 Mariner Avenue
Tiyan Barrigada, Guam 96913

SUBJECT: NOTICE OF VIOLATION #2019-001 RE ANDERSEN AIR FORCE BASE WATER SYSTEM, PWS ID. NO. GU0000009

Mr. Leon Guerrero:

Andersen Air Force Base, Guam ("AAFB," "we," or "our") has received[1] Guam Environmental Protection Agency's ("GEPA," "you," or "your") Notice of Violation #2019-001 ("NOV"). AAFB remains committed to maintaining compliant water system operations in accordance with applicable laws and regulations, and we are willing to cooperate with GEPA in resolving the above-referenced matter.

However, we are compelled to submit the attached Notice of Intent to Appeal/Notice of Defense on the following grounds. The NOV is so indefinite that AAFB cannot identify the infraction or prepare our defense. It charges, too generally, that the operator of the Northwest Field water system failed to comply "with regulations promulgated pursuant to §53105." NOV, Section II. Precisely which applicable regulation we have violated remains unclear.

Although the NOV more particularly charges that the operator of the Northwest Field water system has violated 22 GAR § 6141.5(c), that section is inapplicable here. Section 6141.5(c) deals with siting requirements and plan reviews, which occurs when a user newly constructs a public water system or decides to place a substantially altered water system into operation. It requires a user to obtain GEPA's approval before placing the new or altered public water system into operation. In this instance, AAFB never triggered Section 6141.5(c)'s approval requirement because we did not place a new or altered public water system into operation. Rather, we temporarily used a different method to disinfect groundwater drawn from wells AF-4 and AF-5.[2]

We respectfully assert that GEPA cannot proceed against AAFB without providing a definite and applicable basis for the NOV. Notwithstanding, we take this matter seriously and have, in good faith, taken immediate and meaningful steps to address your concerns, including ceasing the use of pool time chlorination tabs as a disinfection method, which had been used temporarily while the MIOX disinfection system was out of order; discharging and flushing the Northwest Field

[1] NAVFAC Marianas operates the subject Northwest Field water system and has received a copy of NOV #2019-001, which you addressed to Lt. Col. Todd Inouye, Base Civil Engineer, Andersen Air Force Base.

[2] The NOV states that the Northwest Field system draws water from wells AF-5 and AF-6. See NOV, Section I ("The System is an extension of the USAF water system, drawing water from USAF production wells AF-5 and AF-6 . . . ."). However, no well designated as AF-6 exists. The Northwest Field tank is fed by wells AF-4 and AF-5.

tank; conducting microbiological sampling; collecting data; and conducting thorough assessments. Currently, we have completed flushing and disinfecting the first tank and will start the same process to the other tank. We are also repairing our MIOX disinfection system with the intent to replace this system in the near future. We remain committed to working with you to resolve this matter promptly and in the right way.

If you have any questions, our point of contact is 1st Lt James Hammons, whom you may reach by phone at (671) 366-2556 or email at james.hammons.3@us.af.mil.

Sincerely,

JONATHAN OSTIL, GS-14, P.E., PMP
Deputy Director, 36th Civil Engineer Sq
Andersen AFB, Guam

Enclosures: (1) Notice of Intent to Appeal/Notice of Defense
(2) Verified Petition

"SAFETY FIRST"

19-0454

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED (OR EXPRESS COURIER)

Guam Environmental Protection Agency Board of Directors
c/o Administrator Guam Environmental Protection Agency
Building 17-3304 Mariner Avenue
Tiyan Barrigada, Guam 96913

RECEIVED
JAN 11 2019
Guam Environmental Protection Agency

Re: Appeal of Notice of Violation #2019-001

Andersen Air Force Base, Guam ("AAFB") provides the following Verified Petition outlining the legal and factual basis for the attached appeal.

VERIFIED PETITION

The Petition of **JONATHAN OSTIL** respectfully shows:

1. AAFB operates wells AF-4 and AF-5 (the "Wells") under Well Operating Permit Numbers 0314-009P and 0314-010P at Andersen Air Force Base, Guam.

2. AAFB also operates the Northwest Field tank (the "Tank"), which draws water from the Wells. The Tank does not draw water from a well designated as AF-6.

3. Upon information and belief, no well designated as AF-6 exists.

4. Water drawn from the Wells is disinfected before it is fed into the Tank.

5. On December 28, 2018, Guam Environmental Protection Agency ("GEPA") conducted an inspection of the Northwest Field water system (the "Inspection").

6. Following the Inspection, GEPA issued Notice of Violation #2019-001 ("NOV") dated "January 03, 2018 [sic]."

7. The NOV generally charges that the operators of Northwest Field water system failed to comply "with regulations promulgated pursuant to §53105."

8. It more specifically charges that the operators of the Northwest Field water system violated 22 GAR § 6141.5(c).

9. GEPA cannot proceed against NAVFAC Marianas under 22 GAR § 6141.5(c) because it does not apply here.

10. Section 6141.5(c) requires a user to obtain GEPA's approval before placing a new or altered public water system into operation. Here, AAFB never placed a new or altered public water system into operation. A "public water system" by definition under 10 GCA § 53103(c) refers to system facilities, for example, storage tanks. Here, no system facilities were altered. Rather, a different method to disinfect groundwater pumped from the Wells was utilized. The utilization of a different disinfection method does not trigger Section 6141.5(c)'s approval requirements.

11. GEPA cannot proceed against AAFB under the general charge that the operators failed to comply "with the regulations promulgated pursuant to §53105" because it is too indefinite that AAFB cannot identify the infraction or prepare a defense.

Dated this 11 day of January, 2019

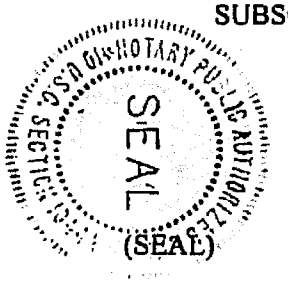
JC Ostil
JONATHAN OSTIL

VERIFICATION

JONATHAN OSTIL, being first duly sworn on oath deposes and says: That he verifies the petition and, in so doing, states that he has read the same and knows the contents of it, and that the same is true of his own knowledge, except as to the matters which are stated in it on his information or belief, and as to those matters, he believes it to be true.

JC Ostil
JONATHAN OSTIL

SUBSCRIBED AND SWORN to before me this 11 day of January, 2019.



NOTARY PUBLIC
Artevius Griffin, TSgt, USAF

NOTARY PUBLIC
Authorized Under
10 U.S.C. Section 1044a

19-0700

RECEIVED

FEB 19 2019

Guam Environmental Protection Agency

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 36TH WING (PACAF)
ANDERSEN AIR FORCE BASE GUAM

February 15, 2019

Guam Environmental Protection Agency Board of Directors
Building 17-3304 Mariner Avenue
Tiyan, Barrigada, Guam 96913

SUBJECT: Stipulated Request for Continuance re: Notice of Violation #2019-001

Honorable Members of the Board:

Andersen Air Force Base, Guam ("AAFB," "we," or "our") is in receipt of Guam Environmental Protection Agency's ("GEPA") January 3, 2019 Notice of Violation #2019-001 ("NOV"). We recently met with GEPA, on Thursday, February 7, 2019, concerning the subject NOV.

GEPA informed us that its Board of Directors (the "Board") intends to set a hearing date regarding the NOV and our Notice of Intent to Appeal/Notice of Defense at the upcoming February board meeting. We respectfully request the Board postpone scheduling this matter, until the following March board meeting, as we continue discussion with GEPA to resolve this matter.

We thank you for your kind consideration. You may contact 1Lt James Hammons, should you have any questions and or concerns at 671-366-2523 or james.hammons.3@us.af.mil.

OSTIL.JONATHAN.C.1187888596
Digitally signed by OSTIL.JONATHAN.C.1187888596
Date: 2019.02.15 11:26:15 +10'00'

JONATHAN C. OSTIL, GS-14, DoN
Deputy Director, 36th Civil Engineer Squadron

So stipulated:

KRISTAN FINNEY
Legal Counsel, GEPA

Post-it® Fax Note 7671	Date	# of pages ▶
To 1. BOARD	From	
Co./Dept. 2. SCAN/KRISTAN	Date 2/19/19	
Phone #	Phone # RENDER!	
Fax #	Fax # KRISTAN	

AHENSIAN PRUTEKSION LINA'LA GUÅHAN
LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

Guam Environmental Protection Agency
Board of Directors Meeting
Thursday, April 18, 2019 @ 4:00 pm
Main Office Conference Room

Agenda

I. Call to Order

II. Approval of Agenda

III. Approval of March 14, 2019 Minutes

IV. Administrator's Report

V. Old Business
- Navy NOV Status
- Nova Group, Inc. Settlement Agreement Status
- Safe Drinking Water NOV – GWA Status
- Air Force Re Stipulated Request for Continuance – NOV #2019-001
- RRF Rules and Regulations Draft Update
- PIEC Update

VI. New Business
- Presentation of Proposed Revision to the Recreational Beach Monitoring Plan: Guam Coastal Waters
- Confirmation of Board Secretary – Arlene S. Acfalle

VII. Miscellaneous

VIII. Next Meeting Date/Adjournment

AHENSIAN PRUTEKSION LINA'LA GUÅHAN
LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

Guam Environmental Protection Agency
Board of Directors Meeting
(Continuance from April 18, 2019)
Tuesday, April 30, 2019 @ 4:00 pm
Main Office Conference Room

AGENDA

~Recycling, Revolving Fund~

AHENSIAN PRUTEKSION LINA'LA GUÅHAN
LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

PUBLIC NOTICE

ORDER OF ADJOURNMENT

April 25, 2019

The Regular Session Meeting of the Guam Environmental Protection Agency Board of Directors was placed on recess and shall reconvene on Tuesday, April 30, 2019 at 4:00 pm, at the following location: Guam EPA 17-3304 Mariner Avenue Tiyan Barrigada, Guam.

Should you have any questions or concerns, please visit the Guam Environmental Protection Agency, Guam, Monday to Friday 8:00 a.m. – 5 p.m. or call 300-4751.

Doc. No. 35GL-20-1381.

AHENSIAN PRUTEKSION LINA'LA GUÅHAN

LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

Guam Environmental Protection Agency
Board of Director's Meeting
Thursday, April 18, 2019 @ 4:18 p.m.
Main Office Conference Room

MINUTES

I. **Call to Order**: Chairman Robert Perron called the Board of Director's meeting to order at 4:18 p.m. The following individuals were present at the board meeting: Board Members: Robert Perron-Chairman, Steve Hollister, Ann Roth and Florida Sanchez and Steven Carrara (Vice Chair Terrence Brooks was not present). **Guam EPA Staff**: Walter S. Leon Guerrero, Administrator; Arlene S Acfalle, Kristan Finney; Brian Bearden; Conchita SN Taitano; Sabrina Cruz-Sablan; Jesse T. Cruz; Nicolas Rupley Lee; Connie Aflleje, Vilma Balajadia, Roland Gutierrez, **USEPA**: Carl Goldstein and John McCarroll, **Guests**: Joe Poncy (Innovate), Steven Carbullido, Moneka DeOro,

II. **Approval of Agenda**: Director Roth made a motion to approve the agenda, seconded by Director Hollister. All voted in favor and motion passed.

III. **Approval of Minutes**: Director Roth made a motion to approve the minutes, seconded by Director Hollister. All voted in favor and motion passed.

IV. **Administrator's Report**

- Administrator introduced our USEPA Representatives: John McCarroll, Administrator/Pacific Island Office, Mr. Carl Goldstein, Guam Program Manager as well as American Samoa and CNMI Program Manager, Mr. Joe Poncy from Innovate who is the contractor for USEPA putting together out WALTERS electronic data base expansion for more of the programs and coming up with ways to better serve the public, Ms. Moneka DeOro and Steve Carbullido, both who have been recently nominated to our Board. Their hearing is set for tomorrow, 04/19/19 at 1pm along with two (2) of our existing board members, namely, Bob and Ms. Flori. He also allowed them to introduce themselves and say a few words.

- Monday, 04/22/19 is officially Earth Day. Our agency will be doing a cleanup at the Francisco Perez Beach, aka Pago Bay Beach. Administrator extends initiation to board to come out and participate. Our agency remains open but our office will be closed as we do our Earth Day cleanup project.

- Thursday, 04/25/19, we will be having our first SERC/LEPC meeting basically for emergency preparedness. In talking with Joe (from Innovate) the electronic data base has a GEO platform and can perform live information while out on the field. We will be showcasing this to the other Emergency First Responders. In the event of an emergency, they can look at our GEO platform, to access a situation or the specifics to an emergency response situation to better ensure their safety and the community as well.

- Wednesday, 04/24/19 we have the Consent Decree hearing regarding how GovGuam is going to continue maintaining payment for long-term monitoring of Ordot.

V. **Old Business:**

- ***Navy NOV – Notice to Appeal***

Chairman states we still have these NOV's listed. No updates per Ms. Finney. Administrator stated per Mr. Ed Moon, he advised that both our legal counsel and their legal counsel have been instructed to "work it out". Ms. Finney explained "what we are working out isn't going to involve any payment. It's going to involve them taking responsibility for their contract. We have been in touch but need further communication. Ms. DeOro asked if this was the water issue. Administrator and Kristen both replied: no this is the pipeline in Agana Heights. Ms. DeOro asked if we were going to pay anything. Ms. Finney explained that the contractor was the NOVA group and they paid a penalty and so an additional NOV was issued to the Navy for a lack of oversight of the project. Administrator stated we were putting them on notice/warning that if they cannot manage their contractors, in the future, both Navy and contractor will be issued penalties with fines.

- ***Nova Group, Inc. – Settlement Agreement Status.***

Administrator stated Fitz wrote letter and gave them opportunity to do the "sep", however the deadline came and past. Nothing finalized and will require an update. Per Ms. Finney no status on payment but they were informed that since they didn't come forward with a proposal for a "sep" that they have to pay the additional penalty. Director Roth asked what the additional penalties was. Ms. Finney mentioned $19K (something like that). Director Roth inquired if they paid the other penalties? Administrator stated yes. Chairman asked if that was the ones that provided materials to that middle school. Administrator advised "no that was from the fire. That is the air "sep".

- ***Safe Drinking Water NOV/ Guam Waterworks Authority (GWA).***

Administrator asked Brian if they have any update in regards to the SOP's. Administrator advised he spoke with the Air Force in regards to their request for continuance, buying them more time for presentation. Per Brian he is still waiting on the SOP's. Administrator advised to please follow up so we can get out of this. Per Brian they will be meeting with Air Force to discuss the "sep" for drinking water violation and discuss their fines.

- ***RRF Rules and Regulations Draft – Update***

Administrator reiterated that the Board afforded his recommendation to pass the rules and regs last week, however there are still something's that need to be fleshed out. In their (Administrator and Chairman) meeting at the senators office, he spoke with staffer Cyrus who is also working on the RRF. So they sent out two (2) different tracks when the Board passed the RRF last month. Although it was with the senator's office, the AG's and Adelup, the Administrator called an internal review once more to try and make sure that everyone is ready to move forward. I want this rectified as soon as possible said the Administrator. He stated it will be presented the next board meeting. Chairman recommended we call a special meeting. Administrator apologized for resubmittal because he was not comfortable so he will pull it back and asked to be excused for failure on his part. Board decided to not adjourn meeting but to do a recess/continuance for the RRF.

- ***PIEC Update***

Ms. Conchita advised we are down to 13 available seats out of 300. We need to discuss additional cost for food and beverage. Actively engaging in media / press release. Online registration ends May 1st. Gifts for speakers/ dignitaries and merchandise are being ordered. Instead of the mural we are doing interactive art display. Working with BSP who is donating $23K. Board and USEPA will also get a PIEC uniform and coordinate for a group photo.

VI. **New Business:**

- *Presentation of Proposed Revision to the Recreational Beach Monitoring Plan: Guam Coastal Waters*

Jesse Cruz apologized for not having the presentation ready for this meeting. Request to postpone it till next meeting under "Old Business" he will have it ready. (Jesse was acting administrator in Walter's absence) Approved by Board.

- *Confirmation of new Board Secretary – Arlene Acfalle*

Chairman introduced Arlene Acfalle to the Board as new Board Secretary. Motion to approve by Director Steve Carrara, seconded by Director Sanchez. All in favor and motion passed.

VII. New Meeting Date/ Recess

Recessed till April 25, 2019 at 4pm. Director Carrera motion to approve, seconded by Director Sanchez. All in favor and motion passed. Continuance meeting was rescheduled for April 30th.

Arlene S. Acfalle

Guam Environmental Protection Agency Board Meeting
(Continuance from April 18, 2019)

I. **Call to Order**: Continuance meeting called by Chairman Robert Perron at 4:20pm on April 30, 2019. The following individuals were present at the board meeting: **Board Members:** Robert Perron-Chairman, Terrace Brooks-Vice-Chairman, Steve Hollister, Ann Roth and Florida Sanchez, Steven Carrara **Guam EPA Staff**: Walter S. Leon Guerrero-Administrator, Arlene S Acfalle, Kristan Finney; Connie Aflleje, Brian Bearden, Sabrina Cruz-Sablan, Nicolas Rupley Lee, and Roland Gutierrez.

- *Continuance of RRF Rules and Regulations*

Administrator thanked the board for reconvening. Ms. Sabrina mentioned we have made amendments to the rules based on comment from legal counsel and we hope we have a product we all agree on. Legal counsel had other concerns that were minor and we took care of that internally. She had concerns about the statements from BBMR and BSP in regards to EIS. Ms. Sabrina advised the boardthat all the information that was given in the past is the same except now it is reconciled and it's the statement from Guam EPA. Nic provided clarity on what the confusion was and that is to determine if the agency had any qualifications to be exempt from the Economic Tax Statement. BBMR didn't feel we were but they suggested we seek guidance from DOL or BSP. So we chose BSP. BSP felt that we were exempted so we took both correspondences and formulated the economic impact statement based on the financial activity that takes place for the fund and what our agency perceives as lack of adverse impact toward the general public which was also agreed upon by BSP. Administrator reminded that this is money that is already being generated from the people of Guam through every registered vehicle. Our projects would not cost the consumer any more money.

Chairman asked legal counsel if she was representing the OAG as well. Ms. Finney advised she was assigned to review the previous version and did have concerns however they have been addressed already. Chairman recused himself from voting due to he attended the public hearing as a recycler, because as a recycler it may have a potential impact on his business. Chairman advised we can still vote since we still have quorum with the presence of Vice Chair Brooks during the continuance hearing.

Ms. Finney asked if the Board will be more comfortable if we went over the rules. Board agreed.

- Junk Vehicle – It is in the statue which is already law.
- Section 24302C – Administrator will determine the funding for initiatives every year for Board approval
- Current Initiatives
  -Mayors Council Island Wide Environmental Clean Up Program – Section 24303.1.
  -Recycling Industry Stimulus Program – 24303.2
- Projects being worked on
  -Solid Waste Management Plan
  -Guam Beverage Container Plan
  -Green Waste Plan
  -Zero Waste Program
  -Integrated Solid Waste Plan

Director Hollister questioned as to the difficulty of adding new plans in the future to the RRF. Administrator advised we currently don't have full authority but when the RRF is approved Senator Perez's office will grant us the ability and authority to move forward with proper regulations. Vice Chair asked if there were any more questions. Director Hollister asked if we approved the RRF, would only Guam EPA decide where funds go and this was concurred by Administrator. He also asked if the mayors' office still does the abandoned vehicle program. Administrator advised yes but they currently get direct funding from legislature.

Director Roth motioned to approve the RRF seconded by Director Sanchez. All in favor and motion passed.

II. Meeting adjourned at 4:45pm. Next Board meeting scheduled for May 23, 2019 at 4:00pm.

Arlene Acfalle

GUAM ENVIRONMENTAL PROTECTION AGENCY

BOARD OF DIRECTORS MEETING

April 18, 2019

ADMINISTRATOR'S REPORT

I. FISCAL YEAR 2019 FINANCIAL REPORT (as of 04/18/2019)

GUAM EPA REVENUES:

A. Federal Grant Funds -	$1,257,973.62
B. Special Funds (Budget Law Allotted)	$1,250,050.48
TOTAL GUAM EPA REVENUES:	**$2,508,024.10**

GUAM EPA OPERATING EXPENSES & O/S ENCUMBRANCES (as of 04/18/2019):

C. Federal Grant Funds -	$1,567,186.52
D. Special Funds (Budget Law) -	$582,428.00
TOTAL GUAM EPA EXPENDITURES & ENCUMBRANCES:	**$2,149,614.52**

GUAM EPA BALANCE/(DEFICIT):

E. Federal Grant Funds -	$277,242.62
F. Special Funds (Budget Law) -	$667,622.48
TOTAL GUAM EPA BALANCE/(DEFICIT):	**$635,652.20**

TOTAL GUAM EPA FEDERAL GRANT REIMBURSEMENTS

Total Payment Requests for Reimbursement –	$ 748,813.53
Pending Approval of Reimbursements -	**$ 636,609.67**

GUAM ENVIRONMENTAL PROTECTION AGENCY

BOARD OF DIRECTORS MEETING

April 18, 2019

ADMINISTRATOR'S REPORT

II. RECYCLING REVOLVING FUND ACCOUNT (as of 04/18/2019)

REVENUES

Recycling Revolving Funds - $ 2,895,965.00

GUAM EPA OPERATING EXPENSES & O/S ENCUMBRANCES FOR THE RECYCLING FUND (as of 04/18/2019):

A.	Personnel -	$29,601.65
B.	Contractual -	$1,348,790.49
C.	Equipment, Materials, Supplies, Utilities, etc -	$0.00
D.	Travel -	$0.00

TOTAL GUAM EPA EXPENDITURES & ENCUMBRANCES: $1,378,392.14

TOTAL GUAM EPA BALANCE/(DEFICIT): $1,517,572.86

AHENSIAN PRUTEKSION LINA'LA GUÅHAN
LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

THE GUAM ENVIRONMENTAL PROTECTION AGENCY BOARD OF DIRECTORS

The Guam Environmental Protection Agency Board of Directors confirms Arlene S. Acfalle as the Board Secretary of the Guam Environmental Protection Agency, Pursuant to 10 GCA § 45104.

Confirmed This Day: April 18, 2019

Robert Perron
Guam EPA Board Chairman

As Witnesses This Day By:

Walter S. Leon Guerrero
Administrator

COPY

AHENSIAN PRUTEKSION LINA'LA GUÅHAN

LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

May 3, 2019

Honorable Leevin T. Camacho
Attorney General
590 South Marine Corps Drive
ITC Building, Suite 901
Tamuning, GU 96913

Hafa Adai Attorney General Camacho,

On April 5, 2019, Guam EPA submitted an adjudication record for the Recycling Revolving Fund Rules and Regulations. After the submittal, we were made aware of some issues that needed to be resolved. The Agency with the ratification from the Board has since made the necessary changes, we request that this record, Guam EPA Board Resolution no. 19-001 (A), dated April 30, 2019, be considered for your review.

In accordance with 5 Guam Code Annotated (GCA), Chapter 9, §9303, Guam Environmental Protection Agency (Guam EPA) is submitting for your review and approval the proposed "Rules and Regulations for the Recycling Revolving Fund". The attached rules were developed pursuant to 10 GCA Chapter 51 §51307 (c).

The proposed rules and regulations were posted on the Guam EPA website (www.epa.guam.gov) on December 6, 2018. Five copies of the draft rules and regulations were on file at reception desk of the Guam EPA Administration building through December 19, 2018.

A public hearing was held on December 19, 2018 on the proposed rules. An announcement was published in the Guam Daily Post on December 6, 2018. Only one member of the public attended the public hearing and provided oral comments. The transcript of the public meeting is attached.

The following materials are included:

- Hard copy of proposed Rules and Regulations for Recycling Revolving Fund
- Hardcopy of the public hearing notice on the Guam Daily Post December 6, 2018.
- Hardcopy of transcript of the public hearing on December 19, 2018.
- Hardcopy of the Preliminary Cost Impact Statement

RECEIVED 5/8/19
OFFICE OF THE ATTORNEY GENERAL
ADMINISTRATION

Doc. No. 35GL-20-1381.

- Hardcopy of the Economic Impact Statement
- Hardcopy of all correspondence with BBMR, DOA and BSP
- Hardcopy of Board Resolution No# 19-001(A)
- Computer disk with the electronic copy of all documents.

Should you have any questions, please feel to contact me directly at 300.4759 or email: walter.leonguerrero@epa.guam.gov.

Senseramente,

Walter S. Leon Guerrero
Administrator

Attachments

AHENSIAN PRUTEKSION LINA'LA GUÅHAN
LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

THE GUAM ENVIRONMENTAL PROTECTION AGENCY
BOARD OF DIRECTORS

In Accordance with
10 Guam Code Annoted, Chapter 51, Article 3, §51307 (c)

Hereby approves the amended
Rules and Regulations for the Recycling Revolving Fund
Version April 30, 2019

Approved this day: April 30, 2019

Resolution Number # 19-001-A

ROBERT A. PERRON
Guam EPA Board Chairman

As Witnessed This Day By:

TERRENCE BROOKS
Guam EPA Board Vice Chairman

Arlene Acfalle
Guam EPA Board Secretary

GUAM'S RECYCLING REVOLVING FUND
RULES AND REGULATIONS
Title 22, Division 4, Chapter 24, Article 3

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GUAM'S RECYCLING REVOLVING FUND
RULES AND REGULATIONS
Title 22, Division 4, Chapter 24, Article 3

SECTION 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 of the Guam Code Annotated (GCA), Chapter 51, Article 3, under the authority granted by 10 GCA §51307(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) **"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.

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

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

(d) **"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.

(e) **"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.

(f) **"Electronic Waste"** or **"E-Waste"** shall mean electrical and electronic equipment that is dependent on electric currents or electromagnetic fields in order to function (including all components, subassemblies and consumables, which are part of the original equipment at the time of discarding). For example e-waste may include consumer/entertainment electronics such as televisions, DVD players and tuners; Devices of office, information and communications technology such as computers, circuit boards, telephones and mobile phones.

(g) **"Import"** shall mean to bring in, or accept delivery of recyclable materials from any source outside of Guam.

(h) **"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.

(i) **"Priority Materials"** shall mean all those materials identified by the Fund, in the order specified in section 24302.1(b) of this Article.

(j) **"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.

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

(l) **"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.

(m) **"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.

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

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

(p) **"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, reuse and composting.

SECTION 24302. ADMINISTRATION OF RECYCLING REVOLVING FUND

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

(b) The Administrator may use the *Fund* for the recycling initiatives described under §24303 in these Regulations with the following priorities:

First Priority: junk vehicles, tires, batteries, waste oil, white goods/appliances;
Second Priority: paper, cardboard, plastic and glass;
Third Priority: other recyclables as determined by the Administrator, and

(c) The Administrator shall determine the funding for each of the recycling initiatives and submit the determination to the Board for approval by March 31st of each year. The approved funding will be effective on the following fiscal year.

SECTION 24303. RECYCLING INITIATIVES

§24303.1 Mayor's Council of Guam (MCOG) Island-wide Environmental Cleanup Program (IECP)

(a) The Administrator may approve contracts between the MCOG and recycling companies for the collection, recycling, 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) to implement an IECP 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 MCOG for payment.

(b) In each fiscal year, prior to any collection, processing, or storage of recyclable materials under a contract pursuant to this section, a comprehensive *Operation Plan* for the contractual work described in §24303.1(a) must be submitted by the MCOG 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 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 of 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 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 Section 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 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.

    i. "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 U.S. EPA Office of Resource Conservation and Recovery Volume-to-Weight Conversion Factors; and

    ii. "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); and

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.

Doc. No. 35GL-20-1381.

193	§24303.4	Guam Beverage Container Recycling- RESERVE
194	§24303.5	Integrated Solid Waste Management Plan- RESERVE
195	§24303.6	Green Waste Plan- Composting and Organics RESERVE
196	§24303.7	**Disaster Debris Management- RESERVE**
197	§24303.8	**Zero Waste Grant Program – RESERVE**

Doc. No. 35GL-20-1381.

AHENSIAN PRUTEKSION LINA'LA GUÅHAN
LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

ECONOMIC IMPACT STATEMENT FOR THE RECYCLING REVOLVING FUND PROPOSED RULES AND REGULATIONS AS DETERMINED BY THE GUAM ENVIRONMENTAL PROTECTION AGECNY

April 29, 2019

EXECUTIVE SUMMARY:

The Recycling Revolving Fund (RRF) was created as a separate Government of Guam (GovGuam) fund by Public Law (P.L.) 27-381 in November 2003. The spirit of the RRF sought to improve upon the existing Abandoned Vehicle and Streetlight Fund (AVSF) by addressing the AVSF's inefficiencies in funding abandoned vehicle removal, and to address the island's worsening solid waste management issues. The Guam Environmental Protection Agency (Agency) was authorized to execute contracts with recycling companies to collect, remove, and dispose recyclable materials.

The RRF originated as a fund under the administration of the Department of Public Works (DPW). In September 2009, Guam P.L. 30-55 reverted RRF revenue appropriation from DPW to the Agency. This appropriation exists to fund the costs of the administration and implementation of the RRF statutes.

Today, the Agency proposed rules and regulations for the RRF seeks to 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 of the Guam Code Annotated (GCA), Chapter 51, Article 3, under the authority granted by 10 GCA §51307(c). Title 10 GCA Chapter 51, Article 3 § 51307 (c) states that the Agency "shall promulgate the necessary rules and regulations, in accordance with the Administrative Adjudication Law, to properly implement this Article."

With the adoption of these rules and regulations, the Agency will not seek to impose or raise any fees to the public. These proposed rules and regulations seek to provide the legally required administrative mechanism to expend annual appropriations from the RRF that have been set forth in 10 GCA Chapter 51 §51305 and enacted by Guam P.L. 28-58. The RRF is funded by the authorization that is given to the Department of Revenue and Taxation (DRT) to levy recycling fees from the annual renewal of motor vehicle registrations on Guam. These rules and regulations do not seek to raise or impose any other fees outside of what is already authorized by Guam P.L. 28-580.

This administrative mechanism also serves to satisfy concerns from a report issued by the Guam Office of the Public Auditor (OPA) in 2015. The OPA questioned expenditures funded by the RRF and

Doc. No. 35GL-20-1381.

subsequently made recommendation to place a moratorium on funding for any items outside of those listed in 10 GCA Chapter 51 §51303(1-4).

The recycling initiatives sought in the Agency's proposed rules and regulations are as follows: Mayor's Council of Guam (MCOG) Island-wide Environmental Cleanup Program (IECP), Recycling Industry Economic Stimulus Program (RIESP) Applicability and Eligibility, Economic Stimulus and Sustainability Recycling Adjustment Plan and the Recycling Industry Economic Stimulus Program Payment Calculation.

BENEFICIAL IMPACTS:

In accordance with 5 GCA Chapter 9 §9301(f), the Agency sought consultation from the Bureau of Budget and Management Research (BBMR) in conducting a preliminary cost impact assessment to determine if the these rules and regulations would exceed $500,000 in cost impacts to the community, and if the Agency would be exempt from performing an economic impact statement (Attachment A). BBMR was able to affirm $1.2M of fiscal impacts, based on the estimated annual cost of the RIESP established by a legislative fiscal note issued for Guam P.L. 33-136. The note reported data that reflected 40,000 tons of materials are recycled annually and that the RRF will pay out $30.00 per ton of eligible materials, to eligible RIESP participants.

The table below reflects the fiscal activity, relative to the RRF for the last three (3) fiscal years:

FY	RRF APPROPRIATION	RIESP PAYMENT	MATERIAL VOLUME	MCOG APPROPRIATION
2016	$2,801,597	$329,390	10,979 TONS	-
2017	$2,859,696	$1,004,911	33,497 TONS	-
2018	$2,931,296	$275,000	9,166 TONS	$2,181,296

Throughout the last three FYs, the removal of approximately 53,642 eligible tons of materials from the island should serve as significant beneficial impact to the public. Considerations for this activity include:

- Significant diversion of materials from both the landfill and our jungles
- Increase in GovGuam's Business Privilege Tax (BPT) revenue
- Overall solid waste management industry growth on the island – two additional recycling companies have opened for business in the last 3 FYs.
    - FY16 saw 11 permits issued
    - FY17 saw 16 permits issued
    - FY18 saw 8 permits issued

In FY18, the 34th Guam Legislature appropriated $2,181,296 to the MCOG for the IECP. This appropriation was funded by the Agency's $2,931,296 appropriation to the RRF. The IECP enabled the 19 different municipalities to execute contracts with recycling companies for the sole purpose of the removal, processing and disposal of eligible materials from each respective municipality. In the

past, Guam P.L. 29-116 authorized the MCOG to execute contracts with recycling companies. This appropriation affected the funding available for use in the RIESP.

With the promulgation of these rules and regulations, the Agency seeks to empower and authorize the MCOG to return to executing contracts recyclers, based on availability of funds and in determination with the Agency Administrator and Board of Directors (BOD).

ADVERSE IMPACTS:

BBMR advised the Agency to seek guidance from other GovGuam agencies to further assess a determination to as to any cost-related impact to the public that exceeded $500,000. The Agency chose to consult with the Bureau of Statistics and Plans (BSP) and enlist the services and expertise of BSP's chief economist (Attachment B).

It was the intention of the Agency to demonstrate that there would not be any negative impacts to the general public with the promulgation of these rules and regulations. In determining any negative impacts to general public, the agency chose to consider the following [pursuant to 5 GCA Chapter 9 §9301(f)]:

- **The purpose and the need for the rule or regulation; an assessment of the risk and the cost of the imposed rule or regulation. In addition, government agencies proposing a new rule or regulation must include with the assessment, the justification for the new rule or regulation.**
    - *10 GCA Chapter 51 §51303 authorizes the agency to fund the Recycling Industry Economic Stimulus Program, one (1) full time employee to administer the fund and implement Article 3 of 10 GCA Chapter 51, contractual services for recycling outreach and contractual services to implement the 2013 Guam Zero Waste Plan. Funding for all other expenditures outside of those referenced above are prohibited until the agency promulgates rules and regulations for the RRF.*
    - *This is a legal and administrative mechanism that serves to satisfy concerns from a report issued by the OPA in 2015. The OPA questioned expenditures funded by the RRF and subsequently made recommendation to place a moratorium on funding for any items outside of those listed in 10 GCA Chapter 51 §51303(1-4), until the Agency has officially promulgated rules and regulations for the RRF.*
- **The financial impact of the proposed rule or regulation upon those persons or corporate entities directly affected by the proposed rule or regulation, and upon the people and the economy of Guam.**
    - *The agency's proposed rules and regulations for the RRF may enhance the revenues of permitted recycling facilities that participate in the Recycling Industry Economic Stimulus Program. In FY16, FY17 and FY18, $329,390, $1,004,911 and $275,000 respectively, were paid to qualified facilities at a rate of $30.00 per ton. The authorized levy of recycling fees collected by DRT on motor vehicle registrations remains unchanged.*

- *A slight increase in GovGuam's BPT revenues could be realized as a result of increased income for all permitted participants of RIESP, and all permitted recycling companies who are contracted by the MCOG for the IECP.*

- *From FY16-18, the RRF has an average appropriation of $2,864,196.33. This appropriation is funded by a reliable revenue stream that originates from the renewal of motor vehicle registrations. The Agency does not intend to increase of adjust the recycling fee that is associated with these motor vehicle registration renewals.*

- **Any potential increase or decrease in the cost of living on Guam, or any specific increase or decrease in the price or availability of any good or service on Guam directly or indirectly attributable to the proposed rule or regulation.**

  - *The agency does not anticipate any increase or decrease in the cost of living, nor does it anticipate any specific increase or decrease in the price or availability of any good or service on Guam, as a result of the proposed rules and regulations for the RRF.*

- **Any direct or indirect impact upon employment on Guam or any increase or decrease in the availability of a particular job or jobs, or jobs in general, attributable to the proposed rule or regulation.**

  - *The agency does not anticipate any negative impact upon employment on Guam, nor does it anticipate any decrease in a particular job or jobs, or jobs in general, as a result of the proposed rules and regulations for the RRF.*

  - *The recycling industry could experience some growth if more companies open for business in order to avail themselves of the RIESP and contracts with the MCOG for the IECP. This growth in the industry could mean more job opportunities, and a positive impact on GovGuam's tax revenue stream.*

- **Any increase or decrease in the cost of doing business as an enterprise or industry on Guam, or any increase or decrease in doing business in general, which is attributable to the proposed rule or regulation.**

  - *The agency does not anticipate any increase or decrease in the cost of doing business as an enterprise or industry, nor does it anticipate any increase or decrease in general, as a result of the proposed rules and regulations for the RRF. Though funding the RIESP and the MCOG IECP could create a modest competitive market in terms of the cost of service to the general public.*

- **Any adverse or beneficial economic impact, which is attributable to the proposed rule or regulation.**

  - *The agency does not anticipate any adverse economic impact as a result of the proposed rules and regulations for the RRF. Given the $ 1,361,801 amount paid to qualified and permitted facilities for their participation in the RIESP, the Agency sees*

a beneficial economic impact to the recycling industry that will likely continue in a similar manner, as a result of the proposed rules and regulations for the RRF.

- *The rules and regulations seek to increase recycling activity on Guam. As of November 2018, Guam' recycling rate is listed as 39.16% - up 6.82 percentage points over last year's reported recycling rate. In 2011, the Agency began tracking our island's recycling activity and reported a 17.85% recycling rate in 2012.*

- *A stimulus could serve as a catalyst for the recycling industry, and could generate positive social change by way of increased recycling activity. Economic benefits could also be realized by freeing up land resources on Guam, by ridding of the recyclable materials from the island.*

The agency has determined that financial activity by way of collections, appropriations and expenditures exceeds a $500,000 annual impact on the general public, though it is unlikely that any adverse cost impacts will burden the general public since fees will neither be imposed or raised. Given the Agency's findings, it remains unlikely that the general public would have to bear any adverse economic impacts that would result from the adoption of these proposed rules and regulations.

ATTACHMENTS:
A – August 28, 2018 Agency correspondence with BBMR and BBMR's September 21, 2018 reply to the Agency

B – November 13, 2018 Agency correspondence with BSP and BSP's November 15, 2018 reply to the Agency

ATTACHMENT A: August 28, 2018 Agency correspondence with BBMR and BBMR's September 21, 2018 reply to the Agency

GUAM
ENVIRONMENTAL PROTECTION AGENCY

EDDIE BAZA CALVO
GOVERNOR OF GUAM

RAY TENORIO
LT. GOVERNOR OF GUAM

17-3304 MARINER AVENUE • TIYAN, BARRIGADA, GUAM 96913-1617

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August 22, 2018

Mr. Lester Carlson Jr.
Acting Director
Bureau of Budget and Management Research
Ricardo J. Bordallo Governor's Complex
Adelup, Guam 96910

RECEIVED BY
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Print GO-1 Title
AUG 22 2018
Signature Bureau of Budget and Management Research

RE: BBMR review, recommendations and guidance

Hafa Adai Acting Director Carlson!

The Guam Environmental Protection Agency (Guam EPA) is seeking your review, recommendation and guidance with our draft economic impact statement for our proposed rules and regulations for the Recycling Revolving fund (RRF). Attached herewith are the agency's drafts of the economic impact statement and the proposed rules and regulations.

Pursuant to 9 GCA Chapter 9 §9301(i), an exemption from an economic impact statement may be granted "if the annual economic impact to the general public is Five Hundred Thousand Dollars ($500,000) or less, as determined by a preliminary cost impact assessment performed by the Bureau of Budget and Management Research, or the department, agency, autonomous agency, office or instrumentality proposing the rule, change of rule, regulation or request to impose or raise fees."

We are seeking BBMR's opinion on whether an exemption to the aforementioned statute may apply to the agency. If the bureau determines that the agency may not be exempt, we request your guidance in producing a statement that will satisfy the legislative requirements.

While it is not the agency's intention to impose or raise any fees since Guam P.L. 27-38 authorizes the levy of recycling fees for deposit into the RRF, we have determined that economic activity, as drafted in our proposed rules and regulations could potentially exceed $500,000, as evidenced by the payments made to permitted and qualified recycling facilities who participated in the Recycling Industry Stimulus Program in FY 16 and FY17.

The agency looks forward to you and the bureau's financial expertise in assisting us in our efforts to promulgate rules and regulations. Additionally, BBMR's review and/or concurrence will be placed in our administrative adjudication law record for both public review and upon submittal to *I Liheslaturan Guåhan.*

If you have any questions or concerns, or should require assistance, please feel free to contact me at your earliest convenience. We look forward to hearing from you soon.

Very Respectfully,

NIC RUPLEY LEE
Acting Administrator
Guam Environmental Protection Agency

TODO Y NILALA Y TANO MAN UNO - ALL LIVING THINGS OF THE EARTH ARE ONE.

Doc. No. 35GL-20-1381.

18-1586

BUREAU OF BUDGET & MANAGEMENT RESEARCH

OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932

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GOVERNOR

RAY TENORIO
LIEUTENANT GOVERNOR

LESTER L. CARLSON, JR.
DEPUTY DIRECTOR

SEP 21 2018

RECEIVED
SEP 21 2018
Guam Environmental Protection Agency

MEMORANDUM

To: Administrator, Guam Environmental Protection Agency (GEPA)

From: Deputy Director, Bureau of Budget and Management Research (BBMR)

Subject: Guidance on Draft Economic Impact Statement

The Bureau has reviewed your request for a preliminary fiscal (cost) impact assessment on GEPA's Draft Economic Impact Statement (EIS) for the proposed rules and regulations for the Recycling Revolving Fund (RRF).

As was mentioned in your letter dated August 22, 2018, GEPA had determined that the economic activity, as drafted in the proposed rules and regulations could potentially exceed $500,000, based on payments made to permitted and qualified recycling facilities who participated in the Recycling Industry Stimulus Program in FY16 in the amount of $329,390.78 and $1,004,911.25 in FY17. Therefore, the Bureau is of the opinion that the proposed rules and regulations does not qualify for the exemption under 5 GCA Article 3 Chapter 9 §9301 as the annual economic impact to the general public is projected to be more than $500,000.

The Bureau does agree that the adoption of the proposed rules and regulations is to comply with Public Law Nos. 29-116:4 and 33-136:4 which provides for the promulgation of the necessary rules and regulations by GEPA as required by those respective measures, and in accordance with the Administrative Adjudication Act.

However, at this time, the Bureau is only able to, affirm that the estimated annual cost of the stimulus would be approximately $1.2 million based upon the legislative committee report on Bill No. 241-33, now P.L. 33-136. This fiscal cost impact was based on statistics from GEPA that showed that 40,000 tons are recycled annually. Using the data as a base and at $30.00 per ton, the estimated annual cost would be $1.2 million or half the projected annual revenues of the Recycling Revolving Fund.

Based on the provisions of the law, both BBMR and the department are granted the discretion to conduct a preliminary cost impact assessment relative to the proposed change in rule, regulation, fee, or increase of fees or services as mandated by P.L. No. 34-22. Due to the Bureau's limited staff expertise and funding resources, it is recommended that GEPA conduct its own preliminary economic cost impact analysis to determine if in fact, the estimated impact to the general public exceeds $500,000. The Bureau also recommends GEPA seek the assistance of preparing an EIS from the Department of Labor, the Bureau of Statistics and Plans, and/or the Guam Economic Development Authority, as these agencies have Chief Economists on staff.

Should you have any questions on this matter, please contact the Bureau at (671) 475-9412.

LESTER L. CARLSON, JR.

ATTACHMENT B: November 13, 2018 Agency correspondence with BSP and BBSP's November 15, 2018 reply to the Agency

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November 13, 2018

Mr. Carl V. Dominguez
Director
Bureau of Statistics and Plans
Ricardo J. Bordallo Governor's Complex
513 West Marine Corps Drive
Hagåtña, Guam 96910

Transmitted via hand delivery

RE: Request for Assistance – Economic Impact Statement

Hafa Adai Director Dominguez,

The Guam Environmental Protection Agency (Guam EPA) is seeking your review, recommendation and guidance with our draft economic impact statement for our proposed rules and regulations for the Recycling Revolving fund (RRF). Attached herewith are the agency's drafts of the economic impact statement and the proposed rules and regulations.

Pursuant to 9 GCA Chapter 9 §9301(i), an exemption from an economic impact statement may be granted "if the annual economic impact to the general public is Five Hundred Thousand Dollars ($500,000) or less, as determined by a preliminary cost impact assessment performed by the Bureau of Budget and Management Research, or the department, agency, autonomous agency, office or instrumentality proposing the rule, change of rule, regulation or request to impose or raise fees."

While it is not the agency's intention to impose or raise any fees since Guam P.L. 28-58 authorizes the levy of recycling fees for deposit into the RRF, we have determined that economic activity, as drafted in our proposed rules and regulations could potentially exceed $500,000, as evidenced by the payments made to permitted and qualified recycling facilities who participated in the Recycling Industry Stimulus Program in FY 16 and FY17.

After consulting with BBMR, Guam EPA was advised to reach out to Bureau of Statistics and Plans for assistance in the agency's efforts to in producing an economic impact statement so that it may entered into our adjudication record for public comment and public hearing. The agency looks forward to you and the BSP's planning expertise in assisting us in our efforts to promulgate rules and regulations.

If you have any questions or concerns, or should require assistance, please feel free to contact me at your earliest convenience. We look forward to hearing from you soon.

[redacted]
WALTER S. LEON GUERRERO
Administrator, Guam EPA

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ENVIRONMENTAL PROTECTION AGENCY
AHENSIAN PROTEKSION LINA'LA GUAHAN

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ECONOMIC IMPACT STATEMENT FOR THE RECYCLING REVOLVING FUND PROPOSED RULES AND REGULATIONS AS DETERMINED BY THE GUAM ENVIRONMENTAL PROTECTION AGECNY

AUGUST 16, 2018

Guam EPA's proposed rules and regulations for the Recycling Revolving Fund (RRF) will not seek to impose any fees, nor will it seek to impose raising any fees to the public. Continuing appropriations into this fund have been set forth in 10 GCA Chapter 51 §51305 and enacted by Guam P.L. 28-58, where authorization is given to the Department of Revenue and Taxation (DRT) levies recycling fees from the annual renewal of motor vehicle registrations. In FY16 and FY17, recycling fees levied by DRT are $2,801,597.77 and $2,859,696.33 respectively.

The recycling initiatives delineated in proposed rules and regulations are: Mayor's Council of Guam Island-wide Environmental Cleanup Program (IECP), Recycling Industry Economic Stimulus Program Applicability and Eligibility, Economic Stimulus and Sustainability Recycling Adjustment Plan, Guam Beverage Container Recycling, Integrated Solid Waste Management Plan, Green Waste Plan, Disaster Debris Management, Zero Waste Grant Program and a Subsidization of the Recycling/Tipping Fees for Low Income Household. Throughout these initiatives, the agency will not be imposing or raising any fees.

In the pursuit of agency compliance with transparency and open governance, Guam EPA will address items, pursuant to 5 GCA Chapter 9 §9301(f):

1. The purpose and the need for the rule or regulation; an assessment of the risk and the cost of the imposed rule or regulation. In addition, government agencies proposing a new rule or regulation must include with the assessment, the justification for the new rule or regulation.

10 GCA Chapter 51 §51303 authorizes the agency to fund the Recycling Industry Economic Stimulus Program, one (1) full time employee to administer the fund and implement Article 3 of 10 GCA Chapter 51, contractual services for recycling outreach and contractual services to implement the 2013 Guam Zero Waste Plan. Funding for all other expenditures outside of those referenced above are prohibited until the agency promulgates rules and regulations for the RRF. Additionally, a report issued by the Guam Office of the Public Auditor in 2015 questioned expenditures funded by the RRF and subsequently made a recommendation to place a moratorium on funding for items outside of those listed in 10 GCA Chapter 51

§51303(1-4).

2. The financial impact of the proposed rule or regulation upon those persons or corporate entities directly affected by the proposed rule or regulation, and upon the people and the economy of Guam.

The agency's proposed rules and regulations for the RRF may enhance the revenues of permitted recycling facilities that participate in the Recycling Industry Economic Stimulus Program. In FY16 and FY17, $329,390.78 and $1,004,911.25 respectively, were paid to qualified facilities at a rate of $30.00 per ton. The authorized levy of recycling fees collected by DRT on motor vehicle registrations remains unchanged.

3. Any potential increase or decrease in the cost of living on Guam, or any specific increase or decrease in the price or availability of any good or service on Guam directly or indirectly attributable to the proposed rule or regulation.

The agency does not anticipate any increase or decrease in the cost of living, nor does it anticipate any specific increase or decrease in the price or availability of any good or service on Guam, as a result of the proposed rules and regulations for the RRF.

4. Any direct or indirect impact upon employment on Guam or any increase or decrease in the availability of a particular job or jobs, or jobs in general, attributable to the proposed rule or regulation.

The agency does not anticipate any negative impact upon employment on Guam, nor does it anticipate any decrease in a particular job or jobs, or jobs in general, as a result of the proposed rules and regulations for the RRF.

5. Any increase or decrease in the cost of doing business as an enterprise or industry on Guam, or any increase or decrease in doing business in general, which is attributable to the proposed rule or regulation.

The agency does not anticipate any increase or decrease in the cost of doing business as an enterprise or industry, nor does it anticipate any increase or decrease in general, as a result of the proposed rules and regulations for the RRF.

6. Any adverse or beneficial economic impact, which is attributable to the proposed rule or regulation.

The agency does not anticipate any adverse economic impact as a result of the proposed rules and regulations for the RRF. Given the $1,334,302.03 amount paid to qualified and permitted facilities for their participation in the Recycling Industry Economic Stimulus Program, the agency sees a beneficial economic impact to the recycling industry that will likely continue in a similar manner, as a result of the proposed rules and regulations for the RRF.

While the agency has determined that financial activity by way of collections, appropriations and expenditures exceeds the $500,000 annual impact on the general public, the agency seeks an exemption from §9301(j) since fees will neither be imposed nor raised.

Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

BUREAU OF
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Government of Guam
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Carl V. Dominguez
Director
Manuel Q. Cruz
Deputy Director

November 15, 2018

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Protection A

MEMORANDUM

To: Administrator, Guam EPA

From: Director, Bureau of Statistics and Plans

Subject: Proposed Rules and Regulations: Assistance with Economic Impact Statement

Thank you for requesting our assistance in completing an assessment as to whether or not GEPA is required to perform an Economic Impact Statement pursuant to 9 GCA Chapter 9 §9301(i), as it proceeds to formally adopt its rules and regulations for its Recycling Revolving Fund through the Administrative Adjudication Act. As this proposed change is administrative in nature and does not affect existing fees we find no significant economic costs imposed unto the general public or relevant participants of the Recycling Revolving Fund

We agree that GEPA is exempt from the EIS requirement and I am submitting to you findings and justifications collaboratively developed by your staff and the Bureau's Chief Economist for your official use. As GEPA is the lead agency, we recommend incorporating language in the attached Preliminary Cost Impact Assessment re-titled as justification to be exempt from producing the EIS for public record and discussion.

If you have any questions or concerns, please feel free to contact me at 472-4201.

CARL V. DOMINGUEZ

Attachment: Preliminary Cost Impact Assessment

Doc. No. 35GL-20-1381.

PRELIMINARY COST IMPACT STATEMENT
FOR THE RECYCLING REVOLVING FUND
PROPOSED RULES AND REGULATIONS
AS DETERMINED BY THE
GUAM ENVIRONMENTAL PROTECTION AGENCY*

Guam EPA is required by law to adopt proposed rules and regulations for the Recycling Revolving Fund (RRF) pursuant to 10 GCA Chapter 51 §51307(e). Furthermore, the adoption of said rules and regulations will not affect nor impact statutory fees, currently sufficient for such purposes. Therefore, GEPA will not seek to raise or adjust existing fees pursuant to 10 GCA Chapter 51 §51308.

The recycling initiatives delineated in proposed rules and regulations are: Mayor's Council of Guam Island-Wide Environmental Cleanup Program (II CP). Recycling Industry Economic Stimulus Program Applicability and Eligibility. Economic Stimulus and Sustainability Recycling Adjustment Plan, Guam Beverage Container Recycling. Integrated Solid Waste Management Plan. Green Waste Plan, Disaster Debris Management. Zero Waste Grant Program and a Subsidization of the Recycling Tipping Fees for Low Income Household.

Appropriations into the RRF are set forth in 10 GCA Chapter 51 §51305 and §51306, as enacted by Guam Public Law No. 28-58, where authorization is given to the Department of Revenue and Taxation (DRT) to levy recycling fees on annual motor vehicle registration renewals. The Recycling Fee is imposed on payers of vehicle registrations, the funds collected of which are deposited as a continuing appropriation into the RRF account separate and apart for this purpose. The proposed rules and regulations do not affect nor impact vehicle registration renewal fees as levied by the Department of Revenue and Taxation.

In FY2016 and FY2017, recycling fees levied by DRT were $2,801,597.77 and $2,859,696.33, respectively. Funds disbursed in this program in FY2016 and FY2017 were $329,390.78 and $1,004,911.25, respectively. Thus far there are sufficient revenues generated, and GEPA expects that there will be sufficient revenues in FY2018 and FY2019 to fulfill the objectives of this program.

5 Guam Code Annotated, Chapter 9 Administrative Adjudication Law, Article 3 Rule Making Procedures, §9301(i): Exemptions. Any proposed rule, change, change of rule, regulation or request to impose or raise fees or rates shall be exempted from the economic impact statement requirements of Subsection (d),(e),(f),(g) and (h)of this Section if the annual economic impact to the general public is Five hundred Thousand Dollars ($500,000) or less as determined by a preliminary cost impact assessment performed by the Bureau of Budget Management Research, or by the department, agency, autonomous agency, office or instrumentality proposing the rule, change of rule, regulation or request to impose or raise fee. The preliminary cost impact assessment must be completed and made available to the public prior to any required hearings on the proposed rules and regulations, and must be transmitted to *I Liheslatura* (the Legislature) as part of the Agency Record.

Therefore, Guam Environmental Protection Agency has determined that the requirement of §9301(d),(e), (f), (g) and (h) is not applicable to the proposed Recycling Revolving Fund Rules and

Regulations as there are no newly proposed fees or fee increases and will not have a measurable economic impact to the general public of Five Hundred Thousand Dollars ($500,000) or less.

The preliminary Economic Cost Statement will address the following:

1. The purpose and the need for the rule or regulation: an assessment of the risk and the cost of the imposed rule or regulation. In addition, government agencies proposing a new rule or regulation must include with the assessment, the justification for the new rule or regulation.

The enabling statute, 10 GCA Chapter 51 §51303 authorizes the agency to fund the Recycling Industry Economic Stimulus Program, one (1) full time employee to administer the fund and implement Article 3 of 10 GCA Chapter 51, contractual services for recycling outreach and contractual services to implement the 2013 Guam Zero Waste Plan. Funding for all other expenditures outside of those referenced above are prohibited until the agency promulgates rules and regulations for the RRF. Additionally, a report issued by the Guam Office of the Public Auditor in 2015 questioned expenditures funded by the RRF and subsequently made a recommendation to place a moratorium on funding for items outside of those listed in 10 GCA Chapter 51 §51303(1-4). The proposed rules and regulations, as adopted, will address and resolve issues noted by the Office of the Public Auditor and allow GEPA to hire the program Administrator.

2. The financial impact of the proposed rule or regulation upon those persons or corporate entities directly affected by the proposed rule or regulation, and upon the people and the economy of Guam.

The RRF revenues are collected from vehicle registration renewal fees by the Department of Revenue and Taxation pursuant to 10 GCA Chapter 51 §51305 and §51306. The RRF have consistently averaged $2.8 million over the past two years and have proven to be a stable source of revenues. Due to enforcement activities and the mandatory liability insurance law, compliance with Guam's vehicle registration program remains a success.

The proposed rules and regulations are administrative in nature and will have no additional financial burden to payers of this fee nor the general public. The GEPA has reviewed the fee and has elected not to adjust the fee at this time. Fees collected are adequate to fulfill program objectives at this time.

Upon adoption of the rules and regulations GEPA expects expenditures made for this program to increase as participating recycling facilities join the Recycling Industry Economic Stimulus Program.

3. Any potential increase or decrease in the cost of living on Guam, or any specific increase or decrease in the price or availability of any good or service on Guam directly or indirectly attributable to the proposed rule or regulation.

The agency does not anticipate any increase or decrease in the cost of living, nor does it anticipate any specific increase or decrease in the price or availability of any good or service on Guam, as a result of the proposed rules and regulations for the RRF. The vehicle registration renewal fee has been imposed several years ago, is negligible relative to the total cost of vehicle ownership and is required by law. Consumers are accustomed to it and budget accordingly.

4 Any direct or indirect impact upon employment on Guam or any increase or decrease in the availability of a particular job or jobs, or jobs in general, attributable to the proposed rule or regulation.

The agency does not anticipate any negative impact upon employment on Guam, nor does it anticipate any decrease in a particular job or jobs, or jobs in general, as a result of the proposed rules and regulations for the RRF. While there may be an increase in participating recyclers it is expected employment within the industry to remain constant in the short term. Waste and recycling efforts respond to shifts in net migration which are typically modest over time.

5 Any increase or decrease in the cost of doing business as an enterprise or industry on Guam or any increase or decrease in doing business in general which is attributable to the proposed rule or regulation.

The agency does not anticipate any increase or decrease in the cost of doing business as an enterprise or industry, nor does it anticipate any increase or decrease in general, as a result of the proposed rules and regulations for the RRF. It is expected that the adoption will lead to programmatic and administrative efficiencies, nevertheless.

6 Any adverse or beneficial economic impact which is attributable to the proposed rule or regulation

Upon enactment of this 10 GCA Chapter 51 as described above, expenditures to stimulate and or encourage recycling companies to "export" local reusable solid waste abroad serves a positive social and economic means to an end that preserves real estate values, frees up land otherwise destined as a solid waste landfill and improves our quality of life in the years to come. This program results in a net economic benefit to the residents of Guam.

Given the preliminary findings discussed above, the agency does not anticipate any adverse economic impact as a result of the proposed rules and regulations for the RRF.

[4] Assistance provided by the Bureau of Statistics and Plans

GUAM
ENVIRONMENTAL PROTECTION AGENCY

EDDIE BAZA CALVO ... RAY TENORIO
Governor of Guam ... Lt. Governor of Guam
17-3304 ... Mariner Avenue, Tamuning-Barrigada, Guam 96913-1617 ... FIND US ONLINE AT EPA.GUAM.GOV

RECEIVED
AUG 22 2018
DEPT OF ADMINISTRATION
DIRECTOR'S OFFICE

August 22, 2018

Mr. Edward Birn
Director
Department of Administration
590 South Marine Corps Drive Suite 215
Tamuning, Guam 96913

RECEIVED BY	
Print	Title
Signature	Date

Transmitted hand delivery

Re: §9301(e) 5 GCA - Adoption, Repeal, Rescission or Amendment of Rules: Procedure.

Hafa Adai Director Birn,

The Guam Environmental Protection Agency (Guam EPA) has completed a draft of proposed rules and regulations for the use and codified administration of Recycling Revolving Fund (RRF), pursuant to §51307(c) 10 GCA that states:

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

Pursuant to 10 GCA Chapter 51 §51303(2), the RRF appropriates funding towards not more than one (1) full-time (FTE) employee at Guam EEPA whose time is solely dedicated to administering and implementing Article 3 of 10 GCA Chapter 51. While it is the understanding of the agency that the proposed draft of the rules and regulations for RRF do not include any classifications specifications or wage and benefit determination, our intention is to fully comply with §9301(e) 5 GCA, which requires a review from the Department of Administration prior to its transmittal to *I Liheslaturan Guåhan*. The agency seeking DOA's written concurrence, or approval with our proposed draft so that we may enter it as part of our administrative adjudication record.

For your kind consideration and expeditious review, attached herewith are the agency's proposed rules and regulations. We understand that your department is not without its own personnel challenges, but we appreciate your assistance in helping our agency meets its mission in protecting human and environmental health.

If you have any questions about this matter, please contact Nic Rupley Lee at 671-300-4753. We look forward to hearing from you soon.

Very Respectfully,

Nic Rupley Lee
Acting Administrator, Guam EPA

Cc: Shane Ngata

TODO Y NILALA Y TANO MAN UNO - ALL LIVING THINGS OF THE EARTH ARE ONE.

GUAM
ENVIRONMENTAL PROTECTION AGENCY

EDDIE BAZA CALVO
GOVERNOR OF GUAM

RAY TENORIO
LT GOVERNOR OF GUAM

17-3304 MARINER AVENUE • TIYAN BARRIGADA, GUAM 96913-1617

FIND US ONLINE AT EPA.GUAM.GOV

August 22, 2018

Mr. Shane Ngata
Personnel Services Administrator
Department of Administration
590 South Marine Corps Drive Suite 215
Tamuning, Guam 96913

RECEIVED BY	
Winona	
Print	Title
	8/22/18
Signature	Date

Transmitted hand delivery

Re: §9301(e) 5 GCA - Adoption, Repeal, Rescission or Amendment of Rules: Procedure.

Hafa Adai Mr. Ngata,

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Nic Rupley Lee
Acting Administrator, Guam EPA

Department of Administration
Human Resources Division
AUG 22 2018
Records Branch

Cc. Edward Birn

TODO Y NILALA Y TANO MAN UNO - ALL LIVING THINGS OF THE EARTH ARE ONE

Government of Guam
(Gubetnomention Guahan)
Department of Administration
(Dipattamenton Atmenestration)
Post Office Box 884 Hagatña, Guam 96932
Tel: (671) 475-1221/1250 • Fax: (671) 477-6788

Eddie Baza Calvo
Governor
Ray Tenorio
Lieutenant Governor

Edward M. Birn
Director
Vincent P. Arriola
Deputy Director

DEC 1 1 2018

HRD NO.: 18-725

MEMORANDUM

To: Administrator, Guam Environmental Protection Agency

From: Director, Department of Administration

Subject: Request for Review Proposed Rules for Recycling Revolving Fund
RE: §9301 (e) 5 GCA – Adoption, Repeal, Rescission or Amendment of Rules: Procedure

Buenas yan Håfa Adai! This is in reference to your memorandum dated August 22, 2018, requesting a review of your proposed rules and regulations for the use and codified administration of the Recycling Revolving Fund (RRF) pursuant to §51307 (c) of Title 10 Guam Code Annotated (GCA).

A review was conducted in accordance with Title 5 GCA, Chapter 9, Administrative Adjudication Law, and it has been determined that the Guam's Recycling Revolving Fund Rules and Regulations are not personnel related in nature and do not pertain to employment. Therefore, approval from our Department is not necessary. Please refer to the Administrative Adjudication Law for further compliance. Should you have any questions, please do not hesitate to contact our Regulatory and Compliance Branch at 475-1132 or 1174. *Dångkolo na Agradesimiento!*

EDWARD M. BIRN

cc: Director's Office, Regulatory & Compliance Branch

PRLLIMINARY COST IMPACT STATEMENT
FOR THE RECYCLING REVOLVING FUND
PROPOSED RULES AND REGULATIONS
AS DETERMINED BY THE
GUAM ENVIRONMENTAL PROTECTION AGENCY*

Guam EPA is required by law to adopt proposed rules and regulations for the Recycling Revolving Fund (RRF) pursuant to 10 GCA Chapter 51 §51307(e). Furthermore, the adoption of said rules and regulations will not affect nor impact statutory fees, currently sufficient for such purposes. Therefore, GEPA will not seek to raise or adjust existing fees pursuant to 10 GCA Chapter 51 §51308.

The recycling initiatives delineated in proposed rules and regulations are: Mayor's Council of Guam Island-Wide Environmental Cleanup Program (IWCP). Recycling Industry Economic Stimulus Program Applicability and Eligibility. Economic Stimulus and Sustainability Recycling Adjustment Plan, Guam Beverage Container Recycling. Integrated Solid Waste Management Plan. Green Waste Plan, Disaster Debris Management. Zero Waste Grant Program and a Subsidization of the Recycling Tipping Fees for Low Income Household.

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Therefore, Guam Environmental Protection Agency has determined that the requirement of §9301(d),(e), (f), (g) and (h) is not applicable to the proposed Recycling Revolving Fund Rules and

Regulations as there are no newly proposed fees or fee increases and will not have a measurable economic impact to the general public of Five Hundred Thousand Dollars ($500,000) or less.

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Upon adoption of the rules and regulations GEPA expects expenditures made for this program to increase as participating recycling facilities join the Recycling Industry Economic Stimulus Program.

3. Any potential increase or decrease in the cost of living on Guam, or any specific increase or decrease in the price or availability of any good or service on Guam directly or indirectly attributable to the proposed rule or regulation.

The agency does not anticipate any increase or decrease in the cost of living, nor does it anticipate any specific increase or decrease in the price or availability of any good or service on Guam, as a result of the proposed rules and regulations for the RRF. The vehicle registration renewal fee has been imposed several years ago, is negligible relative to the total cost of vehicle ownership and is required by law. Consumers are accustomed to it and budget accordingly.

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Upon enactment of this 10 GCA Chapter 51 as described above, expenditures to stimulate and or encourage recycling companies to "export" local reusable solid waste abroad serves a positive social and economic means to an end that preserves real estate values, frees up land otherwise destined as a solid waste landfill and improves our quality of life in the years to come. This program results in a net economic benefit to the residents of Guam.

Given the preliminary findings discussed above, the agency does not anticipate any adverse economic impact as a result of the proposed rules and regulations for the RRF.

*Assistance provided by the Bureau of Statistics and Plans

Guam Republicans announce legislative leadership

By Kevin Kerrigan
kevin@postguam.com

The Republican Party of Guam has announced that Sen. Wil Castro will be the party's minority leader in the 35th Guam Legislature. Sen. Louise Borja Muna will serve as assistant minority leader.

According to a release from the party, the GOP caucus recently met and unanimously elected the two incumbent senators to those leadership positions.

"I am most humbled and privileged to be chosen as minority leader," said Castro in the release. "I stand committed to working with my colleagues ... as well as the new administration in Adelup."

Returning Sen. Telo Taitague was chosen as minority whip, and freshman-elect Sen. Jim Moylan, who was the top GOP vote-getter among Republicans in the primary election, will serve as assistant minority whip.


Wil Castro


Louise Muna

Incumbent Sen. Mary Torres, who was elected to her third term in the legislature, will have the longest consecutive tenure as a senator, in either party, when the members of the 35th Legislature are sworn in.

Torres was not selected to a leadership position. She is named a "minority member." She told The Guam Daily Post she was one of three senators who sought the minority leadership position.

"Each of us had a chance to express our interest, and what we thought were our strong points," said Torres. "Unfortunately, I didn't have the votes."

"I respect the process," Torres added, "and I did whatever I could to facilitate it so that we could come to some decision about the leadership in a timely manner."

Republican Party of Guam Chairman Jerry Crisostomo congratulated the caucus "for coming together to elect their leadership team."

The Republican leadership in the 35th Guam Legislature:

- Sen. Wil Castro – minority leader
- Sen. Louise Borja Muna – assistant minority leader
- Sen.-elect Telo Taitague – minority whip
- Sen.-elect Jim Moylan – assistant minority whip
- Sen. Mary C. Torres – minority member

The Republicans will control only five of the 15 seats in the next legislature, one less than they currently hold.

That puts them at a disadvantage in the face of the 10 seats won by Democrats who now hold a super-majority.

A super-majority means that the Democrats have enough votes to override a veto by the governor, which may not often be necessary as Gov.-elect Lou Leon Guerrero is also a Democrat.

The Democratic Party has yet to announce its legislative leadership lineup.

Guardsmen fail to withdraw recruitment fraud guilty pleas

Chief Judge Frances Tydingco-Gatewood of the District Court of Guam denied a motion to withdraw guilty pleas and dismiss criminal charges against Anthony T. Ngirarlois and Roderick Y. Ngirmekur.

In the order, Tydingco-Gatewood said the defendants bore the burden of establishing that the withdrawal of their guilty plea was warranted.

Ngirarois argued that a case recently decided by the 6th U.S. Circuit Court of Appeals constituted a change in the law, which rendered the accusations against the defendant null. In United States v. Osborne, the appellate court held that, in a trial of a defendant who allegedly stole from the Guard Recruiting Assistance Program, or G-RAP, the government failed to produce sufficient evidence that program funds belonged to the United States.

That case was decided after the court had already accepted the defendants' guilty pleas.

Ngirarlois and Ngirmekur pleaded guilty in 2016 to theft of government property. Ngirarois additionally pleaded to wire fraud. Ngirarois' indictment accused him of knowingly stealing and converting to his own use $19,500 from the Department of Defense, and of aiding and abetting Ngirmekur.

While Ngirmekur argued the government failed to provide sufficient evidence in the Osborne case, Tydingco-Gatewood did not believe that would mean the government would be unable to produce evidence in a trial against these defendants.

The court held the defendants failed to show a "fair and just reason" for requesting the withdrawal of their guilty pleas and denied the motions.

(Daily Post Staff)

DEPARTMENT OF LABOR
DIPATTAMENTON HUSTOTNAT • Sam Mabini, Ph.D. Director • Cecile B. Sala, Deputy Director
Joseph Rasa Calvo Governor
Ray Tenorio Lieutenant Governor

NOTICE OF PUBLIC HEARING

The Guam Department of Labor (GDOL) is seeking public input on the update of the Guam Registered Apprenticeship Program Demand Occupations Listing.

A public hearing will be conducted on Friday, December 14, 2018, at 10:00 a.m. in the GDOL American Job Center conference room, 3rd floor, Bell Tower Plaza in Anigua. The public is invited to attend and provide testimony on which areas need additional professional and skilled technical trade workers. Written testimony may also be sent via email to apprenticeship@dol.guam.gov or by fax to 475-6811 until close of business on December 14, 2018.

Copies of the prior year's approved Guam Registered Apprentice Program Demand Occupations Listing are on file and available for examination at the GDOL Director's Office located on the 4th floor of the GCIC Building in Hagåtña.

For more information, please contact GDOL at 300-4572. Requests for reasonable accommodations must be made at least 72 hours in advance.

This ad is paid with Apprenticeship Expansion Grant federal funds administered by the Guam Department of Labor

GUAM ENVIRONMENTAL PROTECTION AGENCY
AHENSIAN PROTEKSION LINA'LA GUAHAN

NOTICE OF PUBLIC HEARING
PROPOSED RULES AND REGULATIONS FOR THE RECYCLING REVOLVING FUND

In accordance with §7301(a), Chapter 7, Title 5 of the Guam Code Annotated, Guam Environmental Protection Agency (Guam EPA) invites the general public and all interested parties to a public hearing on the agency's proposed rules and regulations for the Recycling Revolving Fund.

PUBLIC HEARING IS SCHEDULED FOR
Wednesday • December 19, 2018 • 5:00 p.m.
at the Guam EPA Administration Building Conference Room located at 17-3304 Mariner Avenue, Tiyan.

Documentation relevant to this public hearing can be reviewed at the agency's administration building in Tiyan from 8:00 a.m. to 4:30 p.m. on business days, beginning on Thursday, December 6, 2018. Documentation will also be available on-line at www.epa.guam.gov.

Written comments are welcomed and must be received by the agency via hand delivery or mail and should be addressed to: Walter S. Leon Guerrero
c/o Guam EPA: 17-3304 Mariner Avenue Tiyan Barrigada, Guam 96913-1617
Written comments must be received no later than 5:00 p.m. on December 19, 2018.
Facsimile or electronic copy submittals will not be accepted.

/s/ Walter S. Leon Guerrero, Administrator

Individuals requiring special accommodations, auxiliary aids or services should contact Guam EPA by calling 300-4751.

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#GuamEPA @guamepa @guamepa epa.guam.gov

Get results in our CLASSIFIEDS POST

GUAM ENVIRONMENTAL PROTECTION AGENCY

PUBLIC HEARING

DRAFT RECYCLING REVOLVING FUND RULES AND REGULATIONS

Deadline to receive written public comments via hand delivery or mail is 5:00 p.m. December 19, 2018.
Public Hearing begins on Wednesday, December 19, 2018 at 5:00 p.m.
Location: Guam EPA, Main Office Program: Solid Waste Management Program

	Name	Position / Title	Company / Agency	Mailing Address	Phone No.	E-mail	Facsimile No.
1	Gabriela Cruz Sablan	SPC	Guam EPA		300 4751	gabriela.cruzsablan@epa.guam.gu	
2	Conchita JV Tatano	PH	Guam EPA				
3	Robert Pearson	Gm	Liberty Waste Pacific		777-5320	rpearson@libertyhawaii.com	
4	Kristan K Finney						
5	Nic Pangelinan	ACTING DEPUTY	GUAM EPA		300 9753		
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12							
13	Glenn V. San Nicolas	SSOMP	GUAM EPA		7772372	glenn.sannicolas@epa.guam.gu	
14							
15							
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Page _____ of _____

Draft Recycling Revolving Fund Comments
Public Hearing December 19, 2018

Company	Comments	Guam EPA Response
Guahan Waste Control: Bob Perron	So has the sliding scale been released yet?	The Sliding scale was received and prepared by our contractor Jacobs and was received last week and will be made available as part of the administrative record to the community.
	Where, which market? Is it the market in the States or in China? I think they need to modify based on what's going on here, because like I said.	Contractor was using the consumer index which was not specific to Guam, it was going to be destination wide.
	Uh, cardboard lets see, I have to ask our shipper what he's paying. Unintelligible. We do 26 tons per container, so 26 times 83.	Section on the Stimulus Payment Calculation E4, explains where they got the calculations based on World Freight Rates.
	END OF COMMENTS	

TRANSCRIPT OF DRAFT RECYCLING REVOLVING FUND RULES AND REGULATIONS
PUBLIC HEARING ON DECEMBER 19, 2018

Hafa Adai; Good Afternoon, my name is Sabrina Cruz Sablan, I'm a Special Projects Coordinator here at Guam EPA. We are here today at the Administration conference room for the public hearing on the Draft Recycling Rules and Regulations it is now 5:01 pm, December 19 2018. In compliance with the open government law this was noticed on December 6, 2018, in the Guam Daily Post. The floor is open for anybody to make comments please and ask for everybody present to please sign in even though it is all Guam EPA. The floor is open would anybody like to make comment or review the draft? This public hearing will remain open until 5:30 pm, December 19, 2018 and if there are no interested parties we will close the public hearing and public comment period.

Bob Perron: So has the sliding scale been released yet?

Conchita Taltano: The sliding scaled was received and was prepared by our contractor Jacobs, and was received last week and it will be made available as part of the administrative record to the community. The deadline is five o'clock today to receive written comments. After the completion of the public comment period our process would be to consolidate and collate all written comments and then make it available to the public. We will incorporate it to the existing draft regulations and later present it to the Board of Directors for their review and consideration.

Kristan Finney: Just for reference where in the rules is the sliding scale you are talking about reference?

Conchita Taltano: It would be under the Stimulus.

Sabrina: The sliding scale that rules that we put out after the publication Kristen, as Conchita said we just received it last week so this was received after we made the publication and that is why we have them available now.

Conchita: But it would be...page 9?

Bob: It is on page 7.

Conchita: It would be page 7, if you to look for it and it would be under the Stimulus provision.

Sabrina: We also received some language for the zero waste grants.

Conchita: Oh, okay, so why don't we give her this one.

Kristen: Okay, because I am looking under this and I don't see it.

Bob: Page 7

Conchita: It's under the Recycling Industry Economic Stimulus, so you see all of this?

Kristen: Oh...

Conchita: That's the sliding scale that we are talking about.

Kristen: Can I see I where it's like ....

Conchita: So it starts here, it's incorporated here, because remember we had gone back and forth about developing a sliding scale and we didn't have the details so now we have the details.

Sabrina: What version do you have Bob?

Bob: The one you gave me.

Sabrina: That's right because it came in after.

Bob: Is this releasable to me?

Sabrina: Yes, this is the public hearing.

Kristen: So this refers to Section 24303.3, there is an additional proposed Section E and F.

Conchita: Yes

Kristen: That describes how this, how the payments be calculated and

Conchita: Correct

Kristen: and proposes a sliding scale starting on January 1, 2019?

Conchita: We can always adjust that based on how long it would get to the Legislature. We can always say that we can have that actually that effective 60 days after the regulations are promulgated.

Kristen: Right

Conchita: Maybe to be safe.

Kristen: Right

Conchita: Because what that will do, when we say January 2019, Bri, the problem is it may create a problem.

Sabrina: Yes, we can change that date

Conchita: Yea, I would change that to 30 days whatever is reasonable

Kristen: Based on whenever

Sabrina: Whenever it's passed.

Conchita: Very good point

Kristen: So then, just to clarify, in Section C: this24303.C it says "The Administrator may determine the dollar amount of the stimulus to be disbursed to the eligible recycling facilities." This is different from E and F?

Conchita: Well because if you look at the table, under here Stimulus payout, it's to be determined which is TBD1, which is it really comes down to what can we pay. Because if you look amount, based on the shipping cost that was determined, the market value, and this is what the Stimulus payout per dollar, per ton should be. That doesn't necessary mean the amount that we can pay.

Kristen: So this goes back to the beginning, or this other part where says here is all these initiatives and the Administrator is going to determine how much is available for each of these.

Conchita and Sabrina: Right

Kristen: The Administrator is going to determine how much total is available for this Section, Stimulus program. Is that correct?

Conchita: I would think so.

Kristen: And then the specific amounts will come from this calculation.

Conchita: That's right

Kristen: And the F sets it out for the first cycle.

Conchita: Yea, when this is promulgated, that's what I'm thinking.

Kristen: I'm just making sure I'm understanding.

Conchita: What did you think about that Bob, because obviously the shipping companies have to...

Bob: Uh, cardboard lets see, I have to ask our shipper what he's paying. Unintelligible. We do 26 tons per container, so 26 times 83.

Sabrina: Well Bob, it also if you see E4, it tells you where they got the calculations.

Conchita: It's roughly,

Bob: To China

Conchita: This is where they are saying they got it, they are making reference to world freight rates

Sabrina: World Freight rates

Conchita: World Freight rates with comparable shipping cost from port to port containers and EPA is the volume to weight, so there really was a lot of effort.

Bob: But port to port, going to which port to which port?

Conchita: I don't know

Bob: Oh okay.

Conchita: But I'm just saying that roughly what they are looking at

Bob: This seems to be pretty good, I think if it goes to China

Conchita: But that the market that's the shipping cost that does not include the market price. So there is the market price and then so in terms of the Stimulus payout dollars right now they are getting zero, but it gives the Administrator.

Bob: Right, I think it should be zero right now, we don't need it

Conchita: To be... exactly

Bob: This one needs help cos uh, this is ugh this is Zero

Conchita: The market price is wrong and mind you it all depends like right now

Bob: It's been zero for a long long time, so I would like to see where they get that

Conchita: And that is a very good question

Bob: I think they are paying they might be getting, like 1 cent a pound or something

Conchita: and that is a very good question and maybe this is a question that you can come in as a community member saying that I want to know how did they arrive at this?

Bob: Yea and so, cos some even tires is to much, if you pay that much

Conchita: Right, but that is a very good question, and so again, you should ask that question, you should register as somebody coming in as industry.

Bob: Yea, cos I just want it to be right, fair

Sabrina: Your welcome to come in, this is the public hearing

Kristen: One other question I have is Section D on page 6

Sabrina: Shssh, Section D page 6

Kristen: Yea, of this original I just got.

Sabrina: The Agency shall develop a program payment calculation?

Kristen: Yea, Is that supposed to be taken out and replaced by a Section E?

Sabrina: I suppose so, I think we need to change some of that language because it's says shall develop and we are already showing you we did develop it.

Kristen: So it just looked like maybe it was a replacement that I have unintelligible.

Sabrina: As I said we just received it, I haven't had time to really digest it and I wanted to wait until we had the public hearing so we can share this with everyone.

Conchita: Right, we didn't want to make any changes until everybody looked at it and hacked it to death. Laughter... unintelligible So yes, I recommend that you weigh in as a recycler.

Bob: If you like I can put you guys or Jacobs or whoever in touch with Jim Fagelson our commodity guy because he pays the shipping cost, he's got a good shipping price because of the amount of containers he ships.

Conchita: No what it is, Is this, is that. You know, you present the question and what will happen is we will send it over to Jacobs.

Bob: Oh, okay.

Conchita: So they will be able to respond, it's a valid question. How did you arrive at this?

Bob: right, right.

Conchita: Because the quantity is there, the sliding scale.

Bob: Oh I mean the commodities, some of our

Conchita: Like plastics, plastics is a dead giveaway because right now plastics isn't worth anything

Bob: the plastics

Glenn: They are going with the market

Bob: Where? Which market? Is it the market in the states or the market in China?

Glenn: so that, I'm hoping that they

Sabrina: I think what they were saying in our discussion is they were going to use the consumer index and it was not specific to Guam, it was going to be a destination wide.

Bob: I think they need to modify based on what's going on here, because like I said

Conchita: I agree, I agree

Sabrina: Can you guys all speak loud so can make sure all your comments are heard.

Glenn: Because of a lot of the commodities are going overseas already, then those numbers are readily available, but they should be able to separate the overseas market versus the local CONUS markets, right?

Bob: Sure

Glenn: So they'll be using market index for those commodities along with the shipping index for our area.

Conchita: But I think that is the key phase "our area" and and that's where you question, where they came up with these values and whether or not unintelligible are these values representative of the region?

Bob: Right

Conchita: Versus the national, because there are two different sets of the numbers

Bob: Right, Right because I can give you invoices and shipping documents to show you exactly

Conchita: No no no, you don't need to do that, it's the job of the Agency to explain this.

Bob: Yea, maybe it might behoove the Agency or Jacobs to go gather local data as far as how much shipping cost are from here to market. Because from here if it goes to China right now, I think it's in the low two's like twenty two hundred maybe. If it goes to Japan or Korea, it's over three thousand, so it just depends on what market is open and China has been so fickle, I can't ship to China this month, anything, so we're froze.

Sabrina: I think Bob, when the contractor's paid a visit to us in October, that's what they did they didn't touch every recycler but they did go to recyclers and talked to them about their shipping cost.

Bob: um hum

Conchita: But that's a valid question, put that in your comment.

Bob: Yea

Sabrina: Oh no no, I'm just...absolutely

Glenn: Yea, So in addition to that sliding scale maybe the Agency should put language in there that's says maybe it will be done uh you know quarterly as opposed to every time it the market drops because we're going to be changing every time

Bob: Every day

Glenn: So we need to say at least once a year or whatever the Administrator decides

Bob: uh hum

Sabrina: And approved by the Board

Glenn: Yea, and approved by the Board that is adequate that is fair.

Bob: Yea Yea

Glenn: Because otherwise we are changing the scale

Bob: Because cardboard I agree, we should get zero because right now we could get close to one sixty if it goes to China, if it goes to Taiwan or anywhere else, it's about sixty dollars it's such a big variance depending on where it has to go, but I think it's doing okay now, stimulus really isn't required. Paper is required, paper, we stop doing paper we don't do it, because we gotta pay to have someone accept paper.

Conchita: Well that's where the stimulus is needed

Bob: Exactly

Conchita: Just like the plastics

Bob: Right

Conchita: That's where the stimulus really is needed because but then again stimulus for that and we can also work on markets here on the island

Sabrina: So you were saying... I'm Sorry

Conchita: And that part of the Rules and Regulations, we have it reserved but that's where we need to change the Statute that will authorize the Agency to give out grants. Because right now we don't have that but it's reserved, you'll see in that section there, even though there are details in it, it's reserve because we are not authorized to give grants. We should have something final though, we should have a good draft for the 10 GCA chapter 51 by they are targeting by the end of January. So you'll see that to. We'll get that to you Kristen.

Glenn: And that will be specific to uh the

Conchita: That and our assessment report

Glenn: To the RRF

Conchita: Yup, well it's RRF and a bunch of other things, remember there was some stuff there you said needed to be cleaned up. So it's like the RRF, the Zero Waste, I think there is a number of things that they need to include, it's really quite extensive, I think.

Sabrina: Before everybody forgets, can I please just remind everybody to sign in again.

Conchita: Oh yes

Bob: You want me to sign in?

Sabrina: Yes

Bob: As recycler?

Conchita: Yea, you gotta give the community a face.

Listening to the Legislature voting on bills.

Sabrina: Kristen, can you sign in please

Conchita: Young lady, you need to sign in

Bob: Like for tires, um, it's all a function of what the recyclers will charge the tire shop. So if the recycler charges five or six dollars a tire then there wouldn't be a need for stimulus to help that commodity. But if you wanted to charge like three dollars then you would need a subsidy, so we need to figure out how that works.

Glenn: Because I think it's going to be based on the market

Bob: Without taking any

Glenn: They are not going to be doing any O & M, because O & M is going to be different across the board. You know, Mr. Rubbishman's O & M may be higher than Viba recycling who is only two man operation, I mean that's only a Mom and Pop.

Bob: What affects me mainly is just talking to one is they are paying to much, like cardboard is at zero it's fine for now, it's gotta, I'm not sure like paper makes a small amount right now, which probabaly makes it viable but plastic has got nothing, plastic really needs it. The government is subsidizing it right now at twelve grand a month.

Glenn: Yea, I think like plastics on this side of the house, we need to make it, you know if it's truly zero waste we could process petroleum project or something or something that we can use on island.

Bob: Yea, like a plastic to oil system yea cause if there was a stimulus I could probably buy one of those systems because that has to be subsidized there is no way we could deal with plastics.

Glenn: yea, you know that is something, that is something that we could entertain, that's that is truly zero waste. But one of the ideas that the Agency should pursue is require uh, an advance disposal fee for the uh for trash bins. And the recyclable bins for trash service

Sabrina: We have five more minutes,

Nic: Seven and some change

Sabrina: Okay, we'll go by my clock and it says 5:23, so we have seven more minutes. Oh, we're going by the camera? Why thank you so we won't dispute that.

Glenn continues to chatter in the background unintelligible.

Glenn: We would have, you know pay the utility and then they pay for the trash bins by default so everybody has a trash bin plus a recyclable bin, that should curb a lot unintelligible and illegal dumping. And then private sector, you the commericial that can concentrate on multi units, commercial buildings like they're doing right now. That would increase the revenue for the GSWA, the collection portion of it.

Bob: Uh, huh. Like the tires, if there was a $433 dollar subsidy as what's contemplated, we could do a tire disposal at a buck and half to two dollars a tire to the community. If they use the number that is listed.

Glenn: It's either that they use an advance disposal fee so that there won't be an excuse for oh no I'm going to use this tire. How many times do they say I'm going to use this tire because they don't want to pay the disposal fee.

Bob: They just throw it in the jungle or in the dumpster.

Glenn: But Senator Respicio passed this tire thread use, reuse tires, who enforces that?

Bob: Is it in the law now?

Glenn: It is the law.

Bob: The one he did was the six, anything over 6 years old, I don't remember that

Glenn: Uninitelligible

Bob: That's under the safety inspection law, when you do the safety inspection and we do it, if your under a certain amount of the thread, we don't pass you. We get yelled at by some people.

Glenn: I mean no body is really enforcing that, is what I'm saying is that Guam EPA's responsibility now, not that tires there is a tire debt?

Conchita: The tires a debt, boy did I hear that a lot.

Nic: five minutes

Sabrina: We have 5 more minutes if anyone wants to put any real comments on.

Conchita: Sahll we do roll call?

Sabrina: Glenn, can you sign.

Conchita: Glenn will talk

Sabrina: Thank God there is a limit on that, we're down to three minutes Glenn.

Nic: We can show Glenn how to turn the camera off.

Kristan: Other than the sliding scale there was no other written comments?

Sabrina: No, the sliding scale and as we mentioned the Zero Waste grants, but that's just still on reserve, even though we are already doing some work on it.

Conchita: But they're comments were recieve so we can't ignore that

Sabrina: But then I will go back and clean it up based on these little things that you mentioned.

Conchita: The redundancies, we'll eliminate the redundancies.

Background chatter...

Sabrina: We have about two miutes before we close but if I haven't stated already, Guam EPA did not receive any written comments during the ten day period that it was published.

Conchita: We did

Sabrina: No, from the public, no only the comments from our Contractor, no , what I'm saying is that nobody came in a picked up a packet or anything like that.

Conchita: Okay

Sabrina: It's been out in the front

Nic: Five copies right?

Sabrina: Correct

Background chatter

Nic: How do they do it down at the Legislature though?

Conchita: Which one?

Nic: If no on shows up

Sabrina: I don't think there has ever been a case were no one should up

Nic: I've seen it

Sabrina: Oh, you have?

Conchita: But not for our stuff, we cango through an entire public comment period and get nothing and then all of a sudden the cry, the outcry comes out when it gets to the Legislature.

Nic: You know, this is why we are following the law, we are complying with the open government rules

Conchita: No we're fine, I'm just saying I'm not shocked but the will come out when it goes before the Legislautre, because then the sense of realism kicks in

Nic: So I think this , that, plus whatever I forgot to mention that becasue all of you were talking, she has to transpose all of that.

Sabrina: You forgot to mention what?

Nic: Because they were all speaking you have to transpose all of that

Kristan: Transcibe

Nic: Transcribe, rather, you have to transcribe the entire conversation and that gets entered into the adjudication record that goes to

Conchita: The conversation that is germaine that is relative to the document.

Nic: that's two thirds of out banter today

Conchita: yea but track more like two thirds mor like ten percent we discussed that.

Nic: Okay that's it.

Sabrina: Kkay don't turn it off yet Nic, tell me the time

Nic: 5:31

Sabrina: The time is 5:31, December 19, 2018, the public hearing for the draft Recycling Rules and Regulations is now closed. Thank you everyone for coming, which is all the Guam EPA staff and our one recycler.

AHENSIAN PRUTEKSION LINA'LA GUÅHAN
LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

Guam Environmental Protection Agency
Board of Directors Meeting
Thursday, May 23, 2019 @ 4:00 pm
Main Office Conference Room

AGENDA

I. Call to Order

II. Approval of Agenda

III. Approval of April 18 & 30, 2019 Minutes

IV. Administrator's Report

V. Old Business
- Navy NOV Status
- Nova Group, Inc. Settlement Agreement Status
- Safe Drinking Water NOV – GWA Status
- Air Force Re Stipulated Request for Continuance – NOV #2019-001
- PIEC Update
- Status of RRF Approval Process
- Presentation of Proposed Revision to the Recreational Beach Monitoring Plan: Guam Coastal Waters

VI. New Business
- Introduction of New Board members Steven Carbullido, Moneka De Oro and Nicholas Pape

VII. Miscellaneous

VIII. Next Meeting Date/Adjournment

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 36TH WING (PACAF)
ANDERSEN AIR FORCE BASE GUAM

21 May 2019

Guam Environmental Protection Agency Board of Directors
Building 17-3304 Mariner Avenue
Tiyan Barrigada, Guam 96913

SUBJECT: Third Stipulated Request for Continuance re: Notice of Violation #2019-001

Honorable Members of the Board:

By stipulated requests for continuance, dated February 15, 2019 and March 13, 2019, the undersigned requested that the Board of Directors postpone setting a hearing date for the above-referenced matter while the parties worked toward a resolution. Since the last stipulated request, the parties have met, including on April 17, 2019. Guam Environmental Protection Agency ("GEPA") at that meeting requested for information, which has since been provided, but is still under GEPA' review. GEPA has recently requested for additional clarification on some of the information provided, which we are diligently working with GEPA to clarify. Consequently, we respectfully ask that the Board postpone setting a hearing date until the July board meeting.

We thank you for your kind consideration. Our point of contact is LT James Hammons, whom you may reach by phone at (671) 366-2526 or by email at james.hammons.3@us.af.mil.

Sincerely,

OSTIL.JONATHAN.C.1187888596 Digitally signed by OSTIL.JONATHAN.C.1187888596 Date: 2019.05.21 17:35:06 +10'00'

JONATHAN OSTIL, GS-14, P.E., PMP
Deputy Director
36th Civil Engineer Squadron

So stipulated:

KRISTAN FINNEY
GEPA Legal Counsel

GUAM ENVIRONMENTAL PROTECTION AGENCY

BOARD OF DIRECTORS MEETING

May 23, 2019

ADMINISTRATOR'S REPORT

II. RECYCLING REVOLVING FUND ACCOUNT (as of 05/22/2019)

REVENUES

Recycling Revolving Funds - $ 2,895,965.00

GUAM EPA OPERATING EXPENSES & O/S ENCUMBRANCES FOR THE RECYCLING FUND (as of 05/22/2019):

A.	Personnel -	$34,155.75
B.	Contractual -	$1,348,790.49
C.	Equipment, Materials, Supplies, Utilities, etc -	$0.00
D.	Travel -	$0.00

TOTAL GUAM EPA EXPENDITURES & ENCUMBRANCES: $1,382,946.24

TOTAL GUAM EPA BALANCE/(DEFICIT): $1,513,018.76

GUAM ENVIRONMENTAL PROTECTION AGENCY

BOARD OF DIRECTORS MEETING

May 23, 2019

ADMINISTRATOR'S REPORT

I. FISCAL YEAR 2019 FINANCIAL REPORT (as of 05/22/2019)

GUAM EPA REVENUES:

A. Federal Grant Funds -	$1,257,973.62
B. Special Funds (Budget Law Allotted)	$1,321,137.48
TOTAL GUAM EPA REVENUES:	**$2,579,111.10**

GUAM EPA OPERATING EXPENSES & O/S ENCUMBRANCES (as of 05/22/2019):

C. Federal Grant Funds -	$1,785,894.29
D. Special Funds (Budget Law) -	$649,951.76
TOTAL GUAM EPA EXPENDITURES & ENCUMBRANCES:	**$2,435,846.05**

GUAM EPA BALANCE/(DEFICIT):

E. Federal Grant Funds -	-$527,920.67
F. Special Funds (Budget Law) -	$671,185.72
TOTAL GUAM EPA BALANCE/(DEFICIT):	**$143,265.05**

TOTAL GUAM EPA FEDERAL GRANT REIMBURSEMENTS

Total Payment Requests for Reimbursement –	$1,385,423.20
Pending Approval of Reimbursements -	**$ 0.0**

19-1193

May 6, 2019

RECEIVED
MAY 13 2019
Guam Environmental
Protection Agency

Hi Arlene

Attached are the OATHS for the individuals listed below, please distribute to them at the next scheduled board meeting.

Steven Carbullido
Moneka De Oro
Robert A Perron
Florida Sanchez

If you have any questions, please let me know.

Thanks
Michael

UFISINAN I MAGA'HÅGA
OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

OATH

I, **STEVEN P. CARBULLIDO**, do solemnly swear in the presence of Almighty God, that I will well and faithfully support the Constitution of the United States, the laws of the United States applicable to Guam and the laws of Guam, and that I will conscientiously and impartially discharge my duties as a:

Member
GUAM ENVIRONMENTAL PROTECTION AGENCY
BOARD OF DIRECTORS

I swear under penalty of perjury that the foregoing is true and correct.

Executed at Adelup, Guam on MAY 2, 2019.

STEVEN P. CARBULLIDO

Administered by:

LOURDES A. LEON GUERRERO
I Maga'Hågan Guåhan
Governor of Guam

RICARDO J. BORDALLO GOVERNOR'S COMPLEX • HAGÅTÑA, GUAM 96910
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OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

OATH

I, **MONEKA DE ORO**, do solemnly swear in the presence of Almighty God, that I will well and faithfully support the Constitution of the United States, the laws of the United States applicable to Guam and the laws of Guam, and that I will conscientiously and impartially discharge my duties as a:

Member
GUAM ENVIRONMENTAL PROTECTION AGENCY
BOARD OF DIRECTORS

I swear under penalty of perjury that the foregoing is true and correct.

Executed at Adelup, Guam on MAY 2, 2019.

Moneka DeOro

MONEKA DE ORO

Administered by:

LOURDES A. LEON GUERRERO
I Maga'Hågan Guåhan
Governor of Guam

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LOURDES A. LEON GUERRERO
MAGA'HAGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

OATH

I, **ROBERT A. PERRON**, do solemnly swear in the presence of Almighty God, that I will well and faithfully support the Constitution of the United States, the laws of the United States applicable to Guam and the laws of Guam, and that I will conscientiously and impartially discharge my duties as a:

Member
GUAM ENVIRONMENTAL PROTECTION AGENCY
BOARD OF DIRECTORS

I swear under penalty of perjury that the foregoing is true and correct.

Executed at Adelup, Guam on MAY 2, 2019.

Robert A Perron

ROBERT A. PERRON

Administered by:

Lou Leon Guerrero

LOURDES A. LEON GUERRERO
I Maga'Hågan Guåhan
Governor of Guam

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LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

OATH

I, **FLORIDA M. SANCHEZ**, do solemnly swear in the presence of Almighty God, that I will well and faithfully support the Constitution of the United States, the laws of the United States applicable to Guam and the laws of Guam, and that I will conscientiously and impartially discharge my duties as a:

Member
GUAM ENVIRONMENTAL PROTECTION AGENCY
BOARD OF DIRECTORS

I swear under penalty of perjury that the foregoing is true and correct.

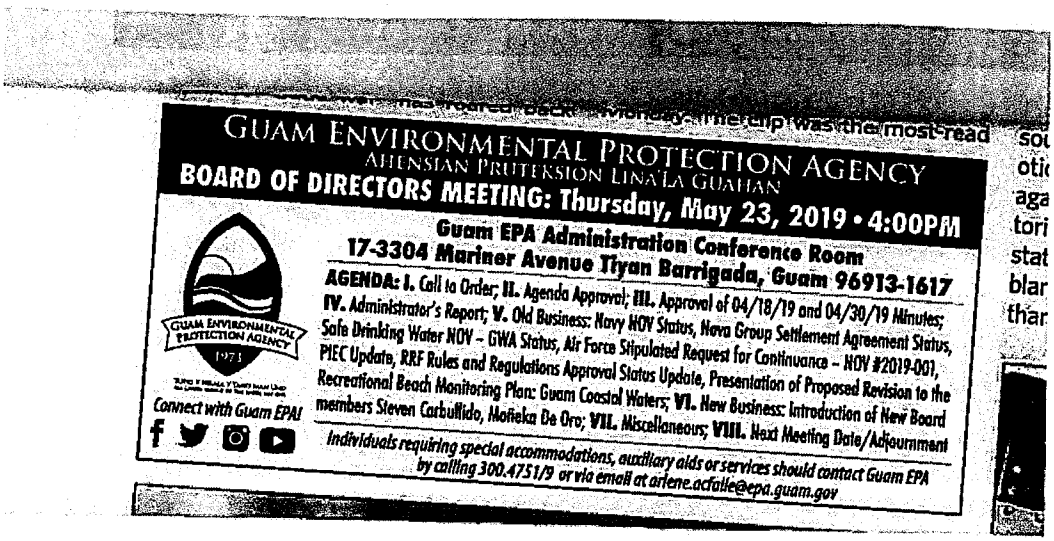
Executed at Adelup, Guam on MAY 2, 2019.

FLORIDA M. SANCHEZ

Administered by:

LOURDES A. LEON GUERRERO
I Maga'Hågan Guåhan
Governor of Guam

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GUAM ENVIRONMENTAL PROTECTION AGENCY

AHENSIAN PRUTEKSION LINA'LA GUAHAN

BOARD OF DIRECTORS MEETING: Thursday, May 23, 2019 • 4:00PM

Guam EPA Administration Conference Room

17-3304 Mariner Avenue Tiyan Barrigada, Guam 96913-1617

AGENDA: I. Call to Order; **II.** Agenda Approval; **III.** Approval of 04/18/19 and 04/30/19 Minutes; **IV.** Administrator's Report; **V.** Old Business: Navy NOV Status, Nova Group Settlement Agreement Status, Safe Drinking Water NOV – GWA Status, Air Force Stipulated Request for Continuance – NOV #2019-001, PIEC Update, RRF Rules and Regulations Approval Status Update, Presentation of Proposed Revision to the Recreational Beach Monitoring Plan: Guam Coastal Waters; **VI.** New Business: Introduction of New Board members Steven Carbullido, Moñeka De Oro; **VII.** Miscellaneous; **VIII.** Next Meeting Date/Adjournment

Individuals requiring special accommodations, auxiliary aids or services should contact Guam EPA by calling 300.4751/9 or via email at arlene.acfalle@epa.guam.gov

Connect with Guam EPA!

Recreational Beach Monitoring Plan 2019: Guam Coastal Waters PROPOSED

ABISON TASEN GUAHAN
BEACH WATCH

Monitoring Program
Environmental Monitoring and Analytical Services Division,
Guam Environmental Protection Agency

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RBMP

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- The goal is to monitor and assess the island's coastal beaches for bacteria concentration and notify the public against swimming at beaches with high levels of bacteria.
  - Exposure to high concentrations of bacteria increases the risk of contracting potential waterborne illnesses such as diarrhea, nausea, ear and eye infections, skin rashes, etc.
- The RBMP has been collecting bacteriological samples and providing advisories weekly since 1974.
- 3rd Program Revision

What is the Recreational Beach Monitoring Program (RBMP)?

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Beaches Environmental Assessment and Coastal Health (BEACH) Act

- Awards grants to state and local governments to develop and implement beach monitoring and assessment programs
  - Guam EPA receives approx. $300,000/year ($9.5 million)
- Requires states and tribes that have coastal recreation waters to adopt new or revised water quality standards
  - Board Approved in 2017
  - USEPA Approved in 2018
- Requires Online Reporting of data and advisories to USEPA databases.
  - Complying since 2000
  - In-house database allows for weekly reporting

BEACH Act 2000/2012

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Beaches Environmental Assessment and Coastal Health (BEACH) Act

- Expand and Enhance existing beach monitoring programs
  - Improve beach monitoring
    - Evaluating Risk
    - Increase in Sampling Frequency
    - Increase coverage Area
  - Improve public notification of beach advisories or closures
  - Use the *National Beach Guidance and Required Performance Criteria for Grants, 2014 Ed*

BEACH Act
Requirements

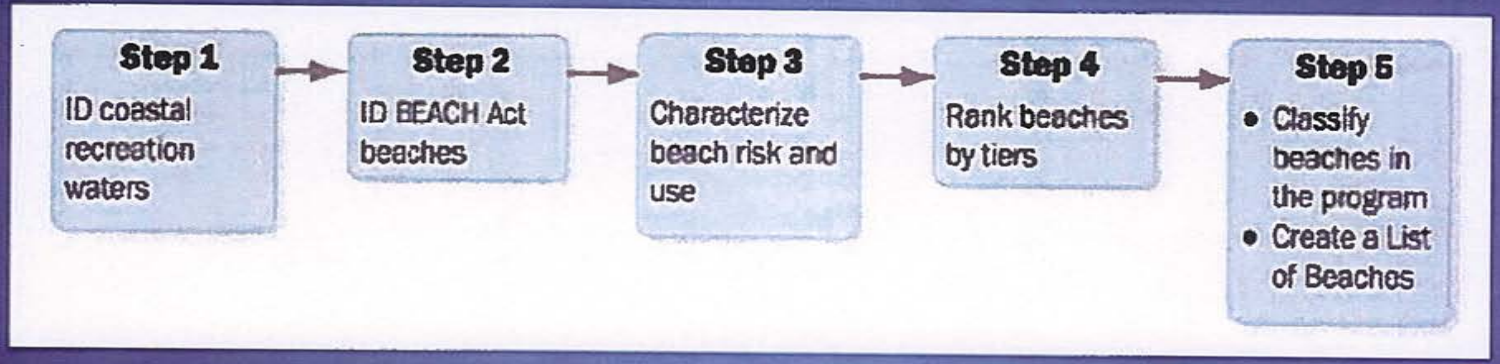
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Category	Performance criterion	General requirement
Evaluation and Classification	1	Risk-based beach evaluation and classification process
Monitoring	2	Tiered monitoring plan
	3	Methods and assessment procedures
	4	Monitoring report submission
	5	Delegation of monitoring responsibilities
Public Notification and Prompt Risk Communication	6	Public notification and risk communication plan
	7	Actions to notify the public
	8	Notification report submission
	9	Delegation of notification responsibilities
Implementation Schedules	10	Adoption of new or revised WQS and identification and use of a beach notification threshold
Public Evaluation	11	Public evaluation of program

National Beach Guidance and Required Performance Criteria, 2014

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Performance Criterion 1

Evaluation & Classification

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Guam Coastal Recreation Waters

- 102 areas around the island have been classified
  - Data Layers on a Geographical Information System (GIS)
    - Local & Federal
  - Atlas of Guam's Beaches (1974)

Performance Criterion 1
Step 1 *Identify Coastal Recreation Waters*

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Scoring Criteria

- **Accessibility** to a beach indicating use by the public
- A **bacterial pollution source** that may affect the water quality of a beach
- Resulted in 78 Beaches needing further Evaluation

Performance Criterion 1
Step 2 *Identify BEACH Act Beaches*

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Beach Use and Risk

- *Use* refers to the usage of the beach by the public
  - Identify beaches within 1 mile to socioeconomic resource points: Beach, Boat Ramp, Dive Site, Marina, Subsistence Fishing and Surfing
  - Beaches within a Marine Preserve Area (MPA)
  - Location of Beaches and village population density

Performance Criterion 1

Step 3 ***Characterize the Beach to Determine Risk and Use***

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Beach Use and Risk

- *Risk* refers to the susceptibility of beach waters to contamination from fecal pollution sources
  - 2018 GWA Spill Reports
  - 2018 Guam EPA Typhoon Incident Reports
  - Reported Incidences of *Leptospirosis* and *Vibrio*
  - Microbial Source Tracking (MST) Monitoring is conducted
  - Proximity to Non-Sewered Buildings
  - Proximity to River Discharges
  - Proximity to National Pollution Discharge Elimination System (NPDES)
  - Percentage of Impervious Land Cover within the Watershed
  - Water Quality Data

Performance Criterion 1

Step 3 ***Characterize the Beach to Determine Risk and Use***

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Beach Tiers

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- Scoring Matrix
  - Tier 1 = 18-25
  - Tier 2 = 9-17
  - Tier 3 is ≤ 8 points,

*Maximum Points = 25

**Break Points determined by dividing by 3 tiers

Performance Criterion 1
Step 4 *Rank Beaches by Tiers*

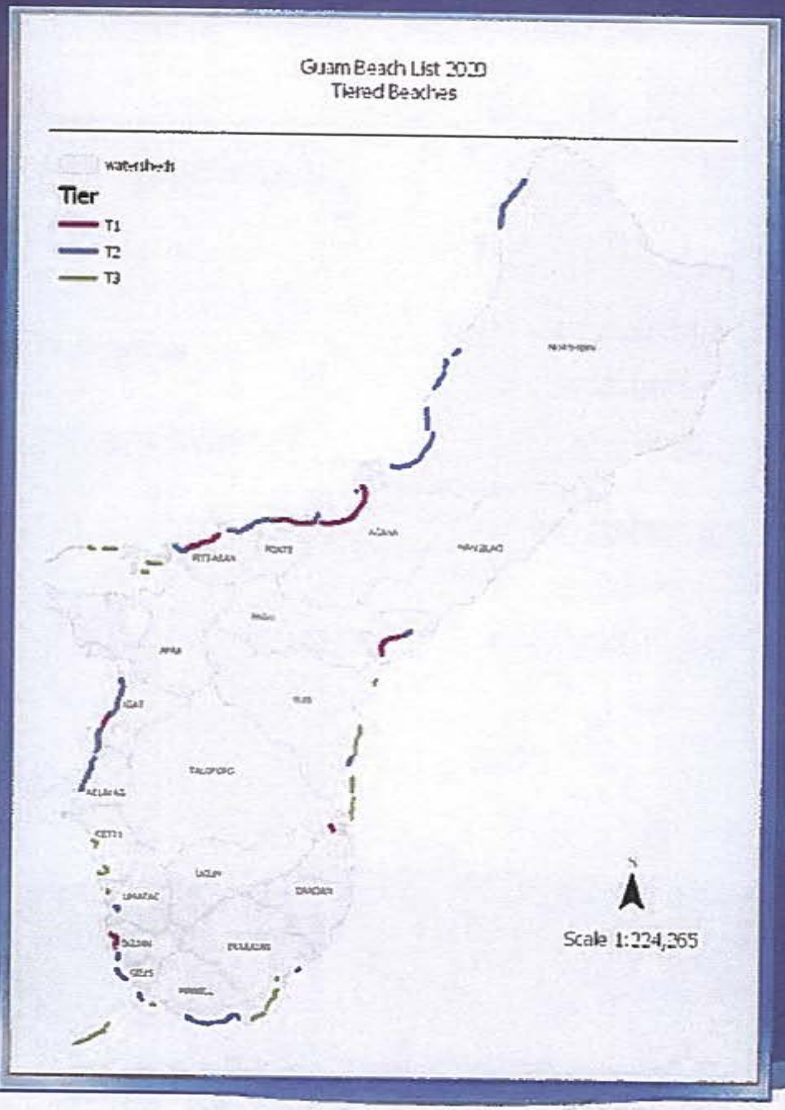
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BEACH Act Beaches: 71

- Tier 1 beaches – 8 Total
  - Considered highest priority based on risk/use indicators
- Tier 2 beaches – 39 Total
  - Considered Medium priority based on risk/use indicators
- Tier 3 beaches – 24 Total
  - Considered Lowest priority based on risk/use indicators
- 7 Beaches were removed as they have been determined to be Federal property

Performance Criterion 1
Step 4 *Rank Beaches by Tiers*

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2018 Tiered Beaches

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Beach Monitoring
Tier 1
(8 Beaches)



N-13 Hagåtña Bayside Park Beach

- West Hagatna Beach
- Beach at Pago Bay
- Beach at Talofofo Bay
- Beach at Piti Bay
- Dungca's Beach, East Hagatna Bay
- Beach North of Finile River
- Toguan Bay
- Trinchera Beach, East Hagatna Bay

- Dry Season Monitoring
  - 2 samples/week
  - Composite Sample
- Wet Season Monitoring
  - 3 samples/week
  - Composite Sample

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Performance Criterion 2
Monitoring

Beach Monitoring
Tier 2
(39 Beaches)

- Asan Memorial Beach
- Naton Beach, Tumon Bay
- Ypao Beach, Tumon Bay
- Beach at Fonte River
- Hagatna Marina
- Togcha Bay (Agat Beach)
- Beach North of Togcha River
- Gognga Beach, Tumon Bay
- Gun Beach, Tumon Bay
- Merizo Public Pier Park
- Beach South of Finile River
- Salinas Beach
- Alupang Island
- Faifai Beach
- Umatac Bay
- Tanguisson Beach
- Tanguisson Point
- Nimitz Beach
- North Pago Bay Beach
- Apaca Park Beach
- Inarajan Pools

Performance Criterion 2
Monitoring

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Beach Monitoring
Tier 2
(39 Beaches)

- West of Adelup Point
- Ajayan River 1
- Ajayan River 2
- Bile Bay Beach
- Shark's Hole Beach
- Intermittent beach 2 - Ajayan Bay
- Intermittent beach 3 - Ajayan Bay
- Intermittent beach 4 - Ajayan Bay
- Intermittent beach- North Tanguisson
- Pigua River Beach
- Taelayag Beach
- United Seamen's Service Beach
- West of volcanic headland
- Aba Beach
- Beach to Liyog River Mouth
- Intermittent beach 1 - Ajayan Bay
- Liyog river Mouth
- Urunao Beach

Performance Criterion 2
Monitoring

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Beach Monitoring
Tier 2
(39 Beaches)

- Dry Season Monitoring
  - 1 sample/month
  - Grab/Composite Sample
- Wet Season Monitoring
  - 1 sample/week
  - Grab/Composite Sample

Performance Criterion 2
Monitoring

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Beach Monitoring
Tier 3
(24 Beaches)

- Family Beach
- Outhouse Beach
- Tagachang Beach Park
- Agfayan River Beach
- Ajmo Beach
- Asanite Point Beach aka First Beach
- Beach to Asgadao Bay
- Intermittent beach - Asgadao Bay
- Marianas Yacht Club Beach
- Mouth of Cetti Bay
- Port Authority Beach
- Aang Beach
- Beach north of Asmafines River
- Ypan Beach Park Beach
- Beach south of Sella River
- Calvo's Beach

Performance Criterion 2
Monitoring

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Beach Monitoring
Tier 3
(24 Beaches)

- Cocos Island
- Head of Fouha Bay
- Islet
- Agfayan River Beach
- Jones Beach
- Atao Beach
- Beach north of Acho Point
- Guijen Rock area

- Dry Season Monitoring
  - 1 sample/quarter
  - Grab/Composite Sample
- Wet Season Monitoring
  - 1 sample/month
  - Grab/Composite Sample

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Performance Criterion 2
Monitoring

Beach Monitoring Total All Tiers

- Dry Season Monitoring
  - 1,588 samples
  - 698 analyses
- Wet Season Monitoring
  - 3,364 samples
  - 1,695 analyses
- Yearly Total
  - 4,952 samples
  - 2,393 analyses

Performance Criterion 2
Monitoring

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Beach Method and Assessment Procedures

- Field Assessment
  - SOP #GEPAMP017: Collection of Wadeable and Non-wadeable Surface Water for Microbiological Examination
- Laboratory Assessment
  - Standard Method 9223B; Enzyme Substrate Coliform Test (Enterolert®)
- Assessment Criteria - Enterococcus
  - Geometric Mean > 35 CFU/100mL (30 Days)
  - 10% of Samples >Statistical Threshold Value (STV) of 130 CFU/100mL

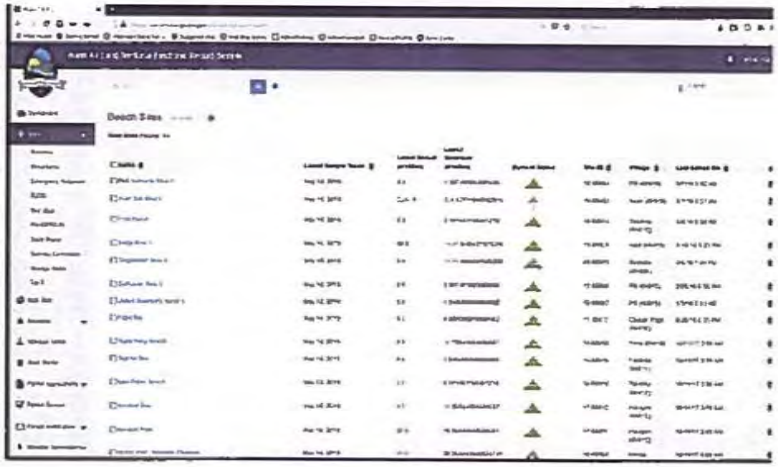


Performance Criterion 3
Monitoring

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Beach Reporting Procedures

- Guam EPA Database and Notification System
  - Element Laboratory Information Management System (LIMS)
  - Water Air Land Territorial Electronic Record System (W.A.L.T.E.R.S)



Performance Criterion 4
Monitoring

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Beach Reporting Procedures

- US EPA's Database and Notification System
  - Water Quality Exchange (WQX)
    - Mechanism for Submitting Data to USEPA
  - Water Quality Portal (WQP)
    - Mechanism for Retrieving Data from USEPA
  - STOrage and RETrieval (STORET) database
    - Analytical Data and Station Repository
  - PRogram tracking, beach Advisories, Water quality standards, and Nutrients (PRAWN)
    - database provides information on any beach closings or advisories.
  - Beach Advisory and Closing Online Notification (BEACON 2.0)
    - public database depicting pollution w/in coastal recreational waters

Performance Criterion 4

Monitoring

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Beach Monitoring Responsibilities

- Guam EPA is the Responsible Entity for the collection and Analyses of all samples collected under this program.
  - Sample Collection
    - Monitoring Program, EMAS Division
      - 3 Biologists and 1 Environmental Technician
  - Sample Analyses
    - Analytical Services Program, EMAS Division
      - 2 Chemists and 1 Laboratory Technician
- No plans to "Out Source" either Sampling or Analyses
    - Volunteer Sampler Program
    - Contractor

Performance Criterion 5

Delegation of Monitoring Responsibilities

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Beach Notification



An open "yellow" sign for Advisory.

- Weekly Advisories are released Notifying the Public of Beaches exceeding the Standard, jellyfish exposure, and consumption advisories
  - Agency webpage and social media sites
  - Email
    - Print media, television, and radio
    - Government Agencies
    - Interested Businesses
    - Interested Individuals
  - Permanent Signs with a matrix bar code (QR Code), various languages
  - Smart Phone Applications
  - Call In/Text phone number

Performance Criterion 6-9

Public Notification and Prompt Risk Communication

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Beach Notification





- Special Advisory/Closure
  - Heavy Rainfall Event Notification
    - 2 inches of rainfall in a 24-hour period
    - Automatic Advisory
    - In place until next sampling event
  - Beach Closures
    - Only when verified pollution event (sewage spill) occurred
    - Issued by Guam Public Health and Social Services

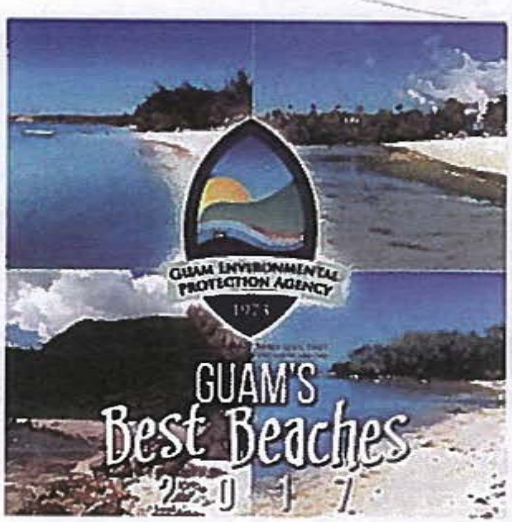
Performance Criterion 6-9

Public Notification and Prompt Risk Communication

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Beach Notification



- Reporting
  - USEPA Databases
    - WQX/WQP
    - STORET
    - PRAWN
    - BEACON
  - USEPA Integrated Report (IR)
  - Guam EPA's Annual Best Beaches Report

Performance Criterion 6-9

Public Notification and Prompt Risk Communication

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Beach Water Quality Criteria

- 2017 Guam Water Quality Standards

- *Enterococci* bacteria – The GM of samples taken in any thirty-day interval should not exceed 35 CFU/100mL and the statistical threshold value (STV) of 130 CFU/100mL should not be exceeded by more than 10 percent of the samples taken during the same thirty-day interval.

- *E. coli* bacteria - The GM of samples taken in any thirty-day interval should not exceed 126 CFU/100mL and the STV of 410 CFU/100m should not be exceeded by more than 10 percent of the samples taken during the same thirty-day interval.

Performance Criterion 10
2012 Recreational Water Quality Criteria

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RBMP Public Evaluation

- USEPA and Public Review and Comment
  - July 2019
- Guam EPA Board of Director's
  - Review September 2019
  - Approval October 2019

Performance Criterion 11
Public Evaluation

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Differences

- Proposed Revision
  - 71 Beaches
    - 114 Stations
  - 8 Tier 1
    - 2 samples/week -dry season
    - 3 samples/week -wet season
  - 39 Tier 2
    - 1 sample/month -dry season
    - 1 sample/week -wet season
  - 34 Tier 3
    - 1 sample/quarter -dry season
    - 1 sample/month -wet season

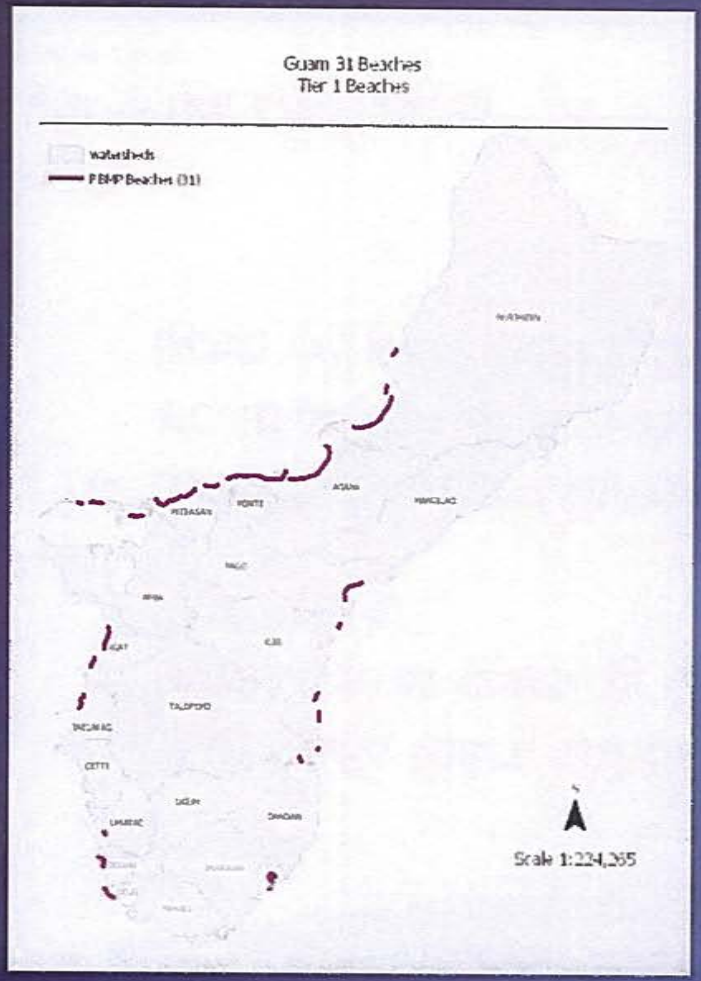
- Current RBMP
  - 31 Beaches
    - 43 Stations
  - All Tier 1
    - 1 sample/week

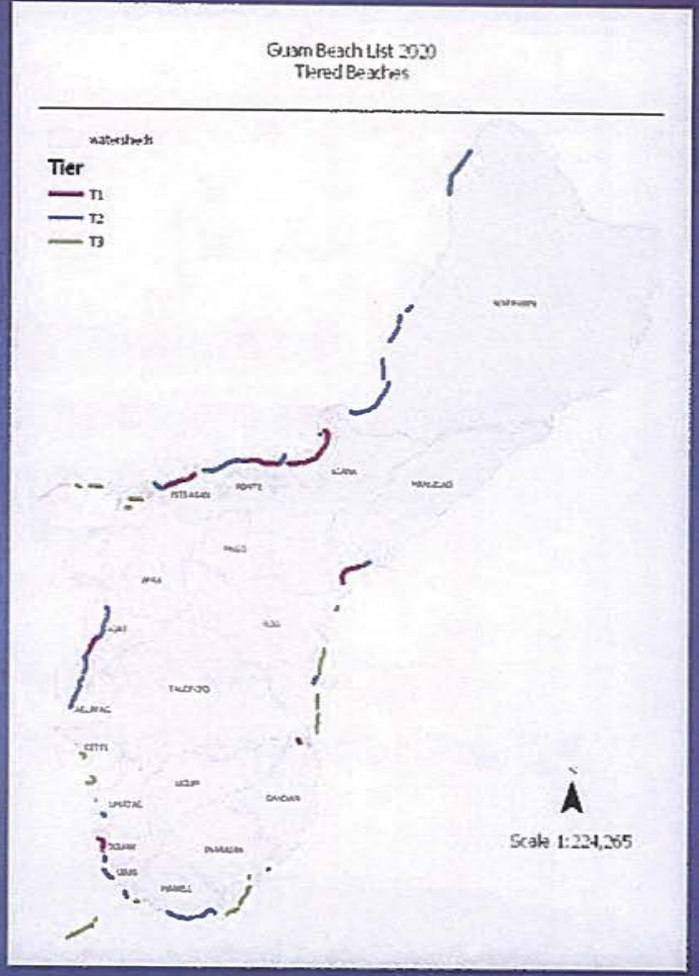
RBMP Major Differences

Proposed vs Current

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Differences between Current and Proposed Plan

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Differences

- Although these enhancements will increase the demand on existing laboratory and field resources,
- They will allow for monitoring and public notification of beaches that either have never been or were infrequently monitored.

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Questions/Comments

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LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

Guam Environmental Protection Agency
Board of Directors Meeting
Thursday, June 20, 2019 @ 4:00 pm
Main Office Conference Room

AGENDA

I. Call to Order

II. Approval of Agenda

III. Approval of May 23, 2019 Minutes

IV. Administrator's Report

V. Old Business
- Air Force Re Stipulated Request for Continuance – NOV #2019-001
- PIEC Final update
- RRF approval process status

VI. New Business
- Active NOV's
  - Andersen Air Force Base - Safe Drinking Water Program
  - Coco Palm Resort - Safe Drinking Water Program
  - Tsubaki Hotel/Nippo USA Inc. - Water Pollution Control Program
  - Lin's Hardware - Safe Drinking Water Program
  - Su & Zheng Corporation - Safe Drinking Water Program
  - Feiyang Construction & Engineering - Safe Drinking Water Program
- Water Division policy updates**copies available upon request**
  - Lead Ban Act sampling fees
  - Permit exemption for percolation tests
  - Clarification of requirement for building plumbing system disinfection

VII. Miscellaneous

VIII. Next Meeting Date/Adjournment

Doc. No. 35GL-20-1381.

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WALTER S. LEON GUERRERO, ADMINISTRATOR

Guam Environmental Protection Agency
Board of Director's Meeting
Thursday, June 20, 2019
Main Office Conference Room

MINUTES

I. **Call to Order**: Chairman Robert Perron called the Board of Director's meeting to order at 4:08 p.m. The following individuals were present at the board meeting: **Board Members**: Robert Perron-*Chairman*, Terry Brooks-*Vice Chairman*, Steve Hollister, Moneka De Oro, Nicholas Pape, Steven Carbullido, Florida Sanchez and Steve Carrara **Guam EPA Staff**: Walter S. Leon Guerrero, *Administrator*; Arlene S Acfalle, Kristan Finney, Nic Rupley, Sabrina Cruz-Sablan, Conchita SN Taitano, Laura Kanai, Connie Afjelle, Brian Bearden and Jesse Cruz. **JACOBS Team**: Corey Hinds

II. **Approval of Agenda**: *Vice Chair Brooks* made a motion to approve the agenda, seconded by *Director Sanchez*. All voted in favor and motion passed.

III. **Approval of Minutes**: *Vice Chair Brooks* made a motion to approve the minutes, seconded by *Director De Oro*. All voted in favor and motion passed.

IV. **Administrator's Report:** Administrator reiterated to Board of Directors the urgency of registering for the 30th Pacific Island Environmental Conference. *Administrator* advised Board that he was made aware by our Public Information Officer, Nic Rupley, of public law that requires that the Board of Directors provide a Performance Evaluation for the Administrator. This has not been done in the past therefore there is no existing form. A blank standard Performance Evaluation form was created and submitted to the Board for approval. *Administrator* advised if board approves the form, he has prepared a self-evaluation for review if Board is ready to move forward. *Chairman* advised the Board members that first order of business is to approve the format of PE or if they would like to make changes. *Nic:* It is public law that a performance evaluation be done for Administrator after 6 months of confirmation and every year thereafter. It was pointed out that June is the 6th month since confirmation of Administrator by our new administration. *Director Sanchez* asked that we will move this to "old business" on our next meeting that way everyone has a chance to review the form and self-evaluation. All agreed. *Vice Chair Brooks* made a motion to approve the form, seconded by *Director Carrera*. All voted in favor and motion passed. *Director Carbullido* inquired if a PE should be done on Board Secretary as well. *Kristen (Legal Counsel)* clarified that the PE's are not pertaining to salary increments but more so a provision that the board is required to perform a periodic review for the Administrator. They are not aware if this needs to be done for the Board Secretary as well.

V. Old Business:

- ***Air Force Re: Stipulated Request for Continuance – NOV #2019-001*** – Per Brian we are in agreement and trying to determine the fine. Invitation extended to Board of Directors for press conference on Tuesday, 06/25/19.
- ***PIEC Update:*** *Reported by Conchita*- Board was advised of agenda for PIEC Conference. Uniform update by Sabrina. Calendar details also provided. GVB is assisting with welcoming committee.
- ***Status of RRF Approval Process*** – *Walter/Sabrina* – approved by AG's office. Just need to work with Governor's Protocol Office

VI. **New Business**: Active NOV's presented by Brian

- *Smithbridge:* Permit expired in 2018 and citation was issued for operating without a permit. Order was given to cease work until Permit renewed. Proposed fine of $125K due to Public Law 25-152 issued a maximum fine of $125K. Back and forth conversation in regards to the regulations and the law regarding the cap of maximum fine. Director Brooks advised the Board to go to Legislative website to read more into the history of the bill and how it became public law.
- *Anderson Air Force Base* (Safe Drinking Water) Same NOV was discussed earlier and everyone up to date with this NOV.
- *Coco Palm Resort* (Safe Drinking Water) Issue was they didn't have a certified operator to treat potable water being trucked in. Violation was triggered by not doing testing on time.
- *Tsubaki Hotel/Nippo USA Inc.* (Water Pollution Control)-Final settlement is being prepared. Violation regarding erosion control standards. They were also fined by USEPA but we cited them for the same thing a year later.
- *Lin's Hardware* (Safe Drinking Water) – Lead Ban NOV. All uncertified fixtures have been taken off their shelves. They have submitted a notice of defense that may require a hearing. Schedule forthcoming.
- *Su & Zheng Corporation* (Safe Drinking Water) Lead Ban NOV. They pulled all uncertified fixtures, which was in violation, off the shelf and is now in compliance.
- *Feiyang Construction & Engineering* (Safe Drinking Water) Lead Ban NOV. They were very slow to comply but they have pulled all uncertified fixtures of the shelf. Inventory has not been submitted. May need to issue a fine.

Administrator: Our water division keeps stringent tabs on GWA to make sure the distribution system provides clean lead free water. The problem that we/Brian noticed is that we stopped doing our hardware store inspections, so this is now back in the process to make sure our Island is totally lead free.
Violation process was clarified by Administrator. "What normally takes place is if the entity is issued a NOV. The entity has the right to file a Notice of Appeal. When this happens the entity will present their case to the Board. If a hearing is required, a hearing officer will be appointed, to facilitate the hearing, and to hear the case of Guam EPA's and the entities and eventually judgment is made"

Water Division policy updates:

- *Lead Ban Act sampling fees*- No change in the regulation. Just wanted to update Board that we have started collecting the fees (by-law) when occupancy inspections are completed. Invoices are created by the inspector and attached to the package. Payments are made at Treasurer of Guam before the Occupancy Permit is released. **Hard copy of Policy available upon request**
- *Permit exemption for percolation tests* – We discovered that the percolation test was not being done. We waived the requirement for percolation test under certain conditions which is listed on Policy. **Hard copy of policy available upon request**
- *Clarification of requirement for building plumbing system disinfection* – Brian advised that Guam EPA has been requiring every building or home to have their plumbing system disinfected by a specialty contractor. Testing is examined by GEPA Inspectors and approved only if results come back negative of bacteria.

VII. **Miscellaneous**: Director De Oro inquired on Senator Regine Biscoe Lee's Plastic Bag Band Law. Administrator advised we have a two (2) year window. We will be addressing this issue after the PIEC Conference.

VIII. **New Meeting Date/ Adjournment**: Next meeting set for July 18th at 4pm.
Director De Oro made motion to adjourn meeting and seconded by Director Carbullido. All voted in favor and meeting adjourned at 5:45pm.

Arlene S Acfalle

Board of Director's Meeting
Thursday, June 20, 2019, 4:00 p.m.
Guam EPA Conference Room

SIGN IN SHEET

BOARD MEMBERS:

Robert Perron

Terrence Brooks

Florida Sanchez

Ann Roth

Steven Carrara

Steven Hollister

Moneka De Oro

Steven Carbullido

Nicolas Pape

Regular Board Meeting
05/16/2019

Employees and visitors sign in here:

1. Kristan K Finney
2. WIC Murphy
3.
4. SABRINA
5. Cynthia SN Taitano
6. Cay Hinds
7. Laura Kanai
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27. BRIAN BEARDEN
28. JESSE T. CRUZ

GUAM ENVIRONMENTAL PROTECTION AGENCY
AHENSIAN PRUTEKSION LINA'LA GUAHAN
BOARD OF DIRECTORS MEETING: Thursday • June 20, 2019 • 4:00PM

GUAM ENVIRONMENTAL PROTECTION AGENCY
1973

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Guam EPA Administration Conference Room
17-3304 Mariner Avenue Tiyan Barrigada, Guam 96913-1617

AGENDA: I. Call to Order; **II.** Agenda Approval; **III.** Approval of 05/23/19 Minutes; **IV.** Administrator's Report; **V.** Old Business: Air Force Regarding Stipulated Request for Continuance for NOV #2019-001, PIEC Final update, RRF approval process status; **VI.** New Business: Water Division policy updates, Lead Ban Act sampling fees, Permit exemption for percolation tests, Clarification of requirement for building plumbing system disinfection; **VII.** Miscellaneous; **VIII.** Next Meeting Date/Adjournment

Individuals requiring special accommodations, auxiliary aids or services should contact Guam EPA by calling 300.4751/9 or via email at arlene.acfalle@epa.guam.gov

AHENSIAN PRUTEKSION LINA'LA GUÂHAN

LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

Guam Environmental Protection Agency
Board of Directors Meeting
Thursday, July 18, 2019 @ 4:00 pm
Main Office Conference Room

AGENDA

I. Call to Order

II. Approval of Agenda

III. Approval of June 20, 2019 Minutes

IV. Administrator's Report

V. Old Business
- Air Force Re Stipulated Request for Continuance – NOV #2019-001 *(A copy of Continuance request attached for review)*
- Active NOV's
  - Tsubaki Hotel/Nippo USA Inc. - Water Pollution Control Program
  - Lin's Hardware - Safe Drinking Water Program
  - Su & Zheng Corporation - Safe Drinking Water Program
  - Feiyang Construction & Engineering - Safe Drinking Water Program
- RRF approval process status
- PIEC Wrap Up
- Administrator's Performance Evaluation

VI. New Business
- None at this time

VII. Miscellaneous

VIII. Next Meeting Date/Adjournment

Doc. No. 35GL-20-1381.

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WALTER S. LEON GUERRERO, ADMINISTRATOR

Guam Environmental Protection Agency
Board of Director's Meeting
Thursday, July 18, 2019
Main Office Conference Room

MINUTES

I. **Call to Order**: Chairman Robert Perron called the Board of Director's meeting to order at 4:05 p.m. The following individuals were present at the board meeting: **Board Members**: Robert Perron-*Chairman*, Florida Sanchez, Ann Roth, Steven Hollister, Moneka De Oro, Nicholas Pape, and Steven Carbullido **Guam EPA Staff**: Walter S. Leon Guerrero, *Administrator*; Arlene S Acfalle, Julie Mendoza, Kristan Finney, Brian Bearden, Michael O'Mallan, Mevany Hecita, Nic Rupley, Glenn San Nicolas, Conchita Taitano and Jesse Cruz. **USEPA/Region 9:** Everett Pringle, Enforcement and Compliance Assurance Division and Jennifer MacArthur, Enforcement and Compliance Assurance Division/ Hazardous Waste & Chemical Section and Cyrus from Senator Sabina Perez Office.

II. **Approval of Agenda**: *Director Roth* made a motion to approve the agenda, seconded by *Director Hollister*. All voted in favor and motion passed to include changes and approve. *Director Roth asked to include some prior NOV's to old business for an update -Coco Palm and Smithbridge.

III. **Approval of Minutes**: *Director Sanchez* made a motion to approve the minutes, seconded by *Director Hollister*. All voted in favor and motion passed.

IV. **Administrator's Report:** Introduction of two (2) Inspectors from our USEPA Team and allowed them some time to share what they are working on with our Guam EPA Team. *Jennifer:* Has been doing Hazardous Waste Inspections with HazWaste Team. Twelve (12) HazWaste inspections majority with the Navy and AAFB, Port Authority and GIAA as well. No major issues. She will be also be going out to do some training/observation for Underground Storage Tank Inspections. *Everett*: Purpose is to provide Compliance Assistance and Assurance with GEPA. He did "Fall Prevention Training and Certification" for GEPA and GWA as well. Also did presentation regarding "seps". *Director Pape* inquired on process/coordination of how USEPA comes out to Guam. *Administrator* explains the consolidated grant process, and also a program that USEPA provides in regards to Enforcement, Certification and support *Administrator* advised In June 2019 a conference call was made to Mr. Brian Moyer and John Wells regarding Agent Orange and GEPA Investigation. *Administrator* advised BOD about class action lawsuit regarding PFAS. Per Cyrus it is still with the AG's Office. *Administrator* provided update on construction of new building. He and division heads (DH) met with John Hattig from CLTC in hopes of obtaining property (est: 3-5 acre) Brian has put together a preliminary plan/design incorporating the request of each DH (est: 21,000 office space) We have received confirmation from the Governor, that GEPA will be receiving $3M from the DOI Capital Improvement Project. Building will roughly cost $7-9M so we will be sourcing out other avenues for other funding (USEPA, USDA or other federal grants to name a few). *Administrator* updated on the **RRF**. Acting Governor signed RRF and now it is with the Legislature. Conchita provided timeline and added OPA was also updated on July 10th. *Administrator* mentioned Jesse and his team is meeting with Navy and USEPA regarding Abandoned Derelict Vessel Removal Project from Apra Harbor. Per Jesse 15 abandoned vessels were identified in the Harbor of Refuge, some being underwater. Collaborative effort from GEPA, USEPA, US Coast Guard, and Department of Navy to complete project. *Jesse* clarified all inquiries made by *Director Roth, Director Pape and Director De Oro* in regards to disposal plan, cost for project and ramification for owners of the abandoned vessels. *Administrator* informed BOD of Legislation for PFAS regulation (Bill 174),

Informational meeting regarding Used Oil Task Force, Bill 374 – Requesting for 350K from RRF to UOG-CIS. Per Administrator he does not support Bill 374 since we have our regulations in place and we should follow our plan. *Conchita* added that Bill 374 had no direct nexus to the intent for the use of RRF Funds. *Director Carbullido* recommended prioritizing Health & Safety training. *Everett* mentioned USEPA will be in Saipan next year providing training on combined space. *Administrator* also touched on cost, clinics and testing in regards to Medical Monitoring Program.

V. **Old Business**:

- ***Air Force Re: Stipulated Request for Continuance – NOV #2019-001*** – (*A copy of Continuance request attached for review)* Per Kristan they are still going through negotiations but have been cooperative.

Active NOV's

- Tsubaki Hotel/Nippo USA Inc. - Water Pollution Control Program – *Per Brian:* Final settlement agreement has been put together and should be rectified by next meeting. *Director Hollister* advised he noticed a run-off from the construction site. Brian advised they will do a site visit.
- Lin's Hardware - Safe Drinking Water Program – No updates
- Su & Zheng Corporation - Safe Drinking Water Program – No updates
- Feiyang Construction & Engineering - Safe Drinking Water Program – No updates
- Coco Palm -This has been resolved
- Smithbridge – There is no indication they will contest. They are working on fixing issues and waiting on them to submit new erosion control measures.
- **PIEC wrap up** – *PRO:* We did very well in terms of attendance, networking, and interests on website and speaker profiles. Report indicates we did not use any local funds for conference. In addition to all the great comments, the three individuals from the Native American Tribe stated they enjoyed the Radon Testing Course and mentioned they want the Instructors from our APC to conduct the training during the tribal conference. *CON*: Hyatt's audio/visual system was horrible despite our efforts to boost up Internet for Audio/Visual Presentations.
- **RRF Approval Process status** – *Kindly refer to Administrator's Report*
- **Administrator's Performance Evaluation** – BOD's went over the Performance Evaluation format, rating scale, verbiage and comments provided by USEPA. Nic advised that the Board function is to primarily vote on retaining the Administrator. The PE form has no bearing on pay raises but mostly for the accomplishments of the agency during tenure as the Administrator. PE form must also be posted online. Chairman advised the BOD that they can preliminary approve the format and changes. He will work with Nic on compilation and have final format ready for signature by next board meeting. Director Sanchez made motion to retain the Administrator and seconded by Director Roth. All in favor and motion passed.

  Chairman mentioned he did include proposed accomplishments to be worked on or completed by next review date such as filling open positions within the divisions, Implement plan to address illegal dumping, new Fee Schedule, Implement the new RRF, Training personnel, and move forward with construction of new building, Health & Safety, Plastic Bag Ban and Bottle Bill to name a few. Most of these are already in motion or in the 5yr plan.

VI. **New Business**: NONE

VII. **Miscellaneous**: NONE

VIII. **New Meeting Date/ Adjournment**: Next meeting set for August 15th at 4pm.
Director Roth made motion to adjourn meeting and seconded by *Director Sanchez*. All voted in favor and meeting adjourned at 5:52pm.

Arlene S Acfalle

GUAM ENVIRONMENTAL PROTECTION AGENCY
AHENSIAN PRUTEKSION LINA'LA GUAHAN
BOARD OF DIRECTORS MEETING: Thursday • July 18, 2019 • 4:00PM

GUAM ENVIRONMENTAL PROTECTION AGENCY 1973

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Guam EPA Administration Conference Room
17-3304 Mariner Avenue Tiyan Barrigada, Guam 96913-1617

AGENDA: I. Call to Order; **II.** Agenda Approval; **III.** Approval of 06/20/19 Minutes; **IV.** Administrator's Report; **V.** Old Business: Air Force Re Stipulated Request for Continuance – NOV #2019-001, Active NOVs: (Tsubaki Hotel/Nippo USA Inc. - Water Pollution Control, Lin's Hardware - Safe Drinking Water, Su & Zheng Corporation - Safe Drinking Water, Feiyang Construction & Engineering - Safe Drinking Water), RRF approval process status, PIEC Wrap Up, Administrator's Performance Evaluation; **VI.** New Business: None; **VII.** Miscellaneous; **VIII.** Next Meeting Date/Adjournment

Individuals requiring special accommodations, auxiliary aids or services should contact Guam EPA by calling 300.4751/9 or via email at arlene.acfalle@epa.guam.gov

Guam Environmental Protection Agency
Board of Directors Meeting
Thursday, August 15, 2019 @ 4:00 pm
Main Office Conference Room

AGENDA

I. Call to Order

II. Approval of Agenda

III. Approval of July 18, 2019 Minutes

IV. Administrator's Report

V. Old Business
- Air Force Re Stipulated Request for Continuance – NOV #2019-001
- Active NOV's
  - Tsubaki Hotel/Nippo USA Inc. - Water Pollution Control Program
  - Lin's Hardware - Safe Drinking Water Program
  - Su & Zheng Corporation - Safe Drinking Water Program
  - Feiyang Construction & Engineering - Safe Drinking Water Program
  - Smithbridge
- RRF approval process status
- Administrator's Performance Evaluation

VI. New Business
- Septic systems, lot sizes, & advanced on-site treatment proposal
- PFAS activities

VII. Miscellaneous

VIII. Next Meeting Date/Adjournment

Doc. No. 35GL-20-1381.

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WALTER S. LEON GUERRERO, ADMINISTRATOR

Guam Environmental Protection Agency
Board of Director's Meeting
Thursday, August 15, 2019
Main Office Conference Room

MINUTES

I. **Call to Order**: Chairman Robert Perron called the Board of Director's meeting to order at 4:15 p.m. The following individuals were present at the board meeting: **Board Members**: Robert Perron-*Chairman*, Florida Sanchez, Ann Roth, Moneka De Oro, Nicholas Pape, Steven Carbullido and Steven Carrera **Guam EPA Staff**: Walter S. Leon Guerrero, *Administrator*; Arlene S Acfalle, Kristan Finney, Brian Bearden, Connie Aflleje, Glenn San Nicolas, and Jesse Cruz **General Public**: Karen Storts (IAN Corp)

II. **Approval of Agenda**: *Director Roth* made a motion to approve the agenda, seconded by *Director Pape*. All voted in favor and motion passed to include changes and approve. **Director Roth asked to include Smithbridge to active NOV's under old business.*

III. **Approval of Minutes**: *Director Roth* made a motion to approve the minutes, seconded by *Director Carbullido.* All voted in favor and motion passed. **Director Carbullido asked to amend the verbiage on 2nd page to read* "recommend prioritizing Health & Safety training" *and* "confined" space *instead of combined space. *Chairman also asked to amend verbiage under PIEC wrap up to read* CON: Hyatt audio/visual system *and not Hyatt system. *Director Pape also pointed out the use of PFOS on Administrators Report but should be* PFAS

IV. **Administrator's Report:** *Administrator* gave update on our quest to obtain property for our new building. Three (3) possible locations (Tamuning, Fadian and Nimitz Hill) provided to us by CLTC. Site visits are scheduled for next week. *Administrator* also advised that the Lease for Ops building ends August 15th, 2019. We met with GALC Board yesterday, 08-14-19, to do site inspection due to the leaks in the building. Hopefully we will get some assistance to repair the Ops building. *Administrator* gave Glenn SN the floor to explain more on numerous Verona complaints. NOV's will be issued. *GEPA* testified in support of bill 169-35 relative to radon reporting requirements in residential dwellings. We currently do Radon testing at no cost at this time, but hopefully this will change in the future. *GEPA* also testified in opposition of bill 174-35 in its current form, relative to PFAS regulations. *Administrator* updated EMAS division was approved for a NOAA grant $250K. Discussion for the removal and disposal of the tire reef at Cocos Lagoon has taken place. *Administrator* was among the four from GEPA to attend the Used Oil Task Force. This would include all used oils. Per GPA-General Manager, John Benavente, switch over to take place in 2022. *Administrator* advised that Brian and Jesse also met with Hyundai Engineering Company which is the preferred contractor for GPA Dededo power plant. *Director De Oro* inquired if there has been any discussion on incinerators. Per Administrator he has met with representatives from ACE Power Company in regards to incineration contract. *Administrator* advised 40 hour HazWopper training was offered to GEPA, US Fish and Wildlife, National Park Service and Coast Guard. September will be a busy month with meetings on Coral Reef Task Force in Palau, SERC/LEPC, meeting with Patrick Wilson, USEPA in regards to PFAS interaction with human health and Labor Day to name a few.

V. **Old Business:**

- ***Air Force Re: Stipulated Request for Continuance – NOV #2019-001*** – (*A copy of Continuance request attached for review)* – Per Kristan there is nothing new to report at this time.

Active NOV's

- Tsubaki Hotel/Nippo USA Inc. - Water Pollution Control Program – *Per Brian:* Final settlement agreement prepared and sent for approval and signature. *Director Roth* asked about runoff. Per Brian GEPA team went out but no runoff from this project.
- Lin's Hardware - Safe Drinking Water Program – Owner will cooperate to be in compliance.
- Su & Zheng Corporation - Safe Drinking Water Program – Selling same products as Lin's Hardware - Items taken off the shelf per Brian.
- Feiyang Construction & Engineering - Safe Drinking Water Program – Selling same products as Lin's Hardware - Items taken off the shelf per Brian.
- Coco Palm -This has been resolved.
- Smithbridge – Still on cooperative phase. Waiting to see their new erosion control plans.
- **RRF Approval Process status** – *Per Kristan* this is with the Legislature. We need to wait for the hearing date.
- **Administrator's Performance Evaluation** – *Per Chairman*, he worked with Nic to incorporate all the comments, and concerns from all Board Members (on the last Board Meeting), USEPA, and Region 9 on the Performance Evaluation form. *Director Roth* made motion to approve the Final PE second by *Director Carrara.* All voted in favor and PE Approved. Signed by Board Chairman. Final approved PE will be forwarded to Nic to upload on GEPA website.

VI. **New Business**

- Septic systems – Brian touched on numerous topics such as potential policy changes, Parental subdivision law, septic system rule, WERI, water quality standard, adequate public sewer and data on production well on northern Guam. Working group created and consists of GEPA, GWA and WERI. *Director De Oro* brought up composting and gray water. Brian clarified the purpose and difference and stated it is not realistic, we would need a more aggressive waste water treatment. *Director Carrara* added you can't see or taste nitrates. Details on Northern Guam Aquifer working group meeting shared. Location: GWA CCU Boardroom 1:30pm to 3pm, August 8, 2019. Tentative topics of Discussion: Monitoring Well project, update of the Nitrate data, discharge from the seep and PFOS study.

- PFAS – Brian provided update on actions taken to date. In 2016 EPA released their drinking water health advisory. GWA and EPA came up with strategy where no one will receive water if it exceeded limits. GAC system was installed in wells that provide water to public. The wells that do not have a GAC system in place have been shut down. (ex: Well across Agana McD's) Conversations have taken place with EPA Toxicologist Patrick Wilson in regards to differences in MCL. Per Administrator invitation was extended to a lot of stakeholders to join in conference call. *Director Pape* also inquired on difference in MCL from New Jersey and what was proposed.

VII. **Miscellaneous**: Karen Storts from IAN Corp spoke about their concern on approved disposal of wooden power poles. Landfill rules have changed and they no longer accept wooden power poles and treated lumber as well. Looking for support in disposal due to power poles are deteriorating from the rain. She has had discussions with Larry Gast as well. Director De Oro also asked for an update, during out next Board meeting, on the Plastic Bag Ban.

VIII. **New Meeting Date/ Adjournment**: Next meeting set for September 19, 2019 at 4pm.
Director Roth made motion to adjourn meeting and seconded by *Director Sanchez*. All voted in favor and meeting adjourned at 6:02pm.

Arlene S Acfalle

Board of Director's Meeting
Thursday, August 15, 2019, 4:00 p.m.
Guam EPA Conference Room

SIGN IN SHEET

BOARD MEMBERS:

Robert Perron _____

Terrence Brooks _____

Florida Sanchez _____

Ann Roth _____

Steven Carrara _____

Steven Hollister _____

Moneka De Oro _____

Steven Carbullido _____

Nicolas Pape _____

Regular Board Meeting
08/15/2019

Employees and visitors sign in here:

1. Krista K. Finney
2. BRIAN BEARDEN
3. KAREN STORTS
4. Connie Affleje
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28. JESS T. CRUZ

Translation request by EPA via Arlene Acfalle
Diha 15 gi i Agosto, 2019
As Approved by Kumisión i Fino' CHamoru

1) GUAM ENVIRONMENTAL PROTECTION AGENCY
AHENSIAN PRUTEKSIÓN LINA'LA' GUÅHAN

2 Vision: ALL LIVING THINGS ARE ONE
TINANGA: MANUNU TODU I MANLÅLA'LA'

3) Mission statement: The Guam Environmental Protection Agency provides an integrated and comprehensive framework of environmental protection throughout the island and its waters. The Agency's framework is designed to facilitate the improvement and maintenance of a high quality environment at all times, to guarantee an enjoyable life for the people of Guam at present and in the future and to ensure that environmental degradation of the quality of land, water and air by any pollutants, including all physical, chemical and biological agents, should not be allowed.

3) Misión: I *AHENSIAN PRUTEKSIÓN LINA'LA' GUÅHAN* NUMA'GUÅGUAHA UN MANÁDANÑA' YAN MANGABÅLES NA CHINACHALÅNEN *PRUTEKSIÓN LINA'LA'* GI I ENTERU ISLA YAN I HANOM-ÑA SIHA. I CHINACHALAN I AHENSIA MAFA'TINAS PARA U ABÅNSA YAN U SOSTIENI I ETMÅS TÁKHELO' NA KUALIDÅT LINA'LA' TODU I TIEMPO, PARA U GARANTIHA MINAGOF NA LINA'LA' TAOTAO GUÅHAN SIHA GI I PRISENTE YAN MANMÁMAILA' NA TIEMPO YAN U NA'ASIGURÅT NA TI U RIBÅHA I KUALIDÅT I TANO', HÅNOM, YAN AIRE NU I BINENU SIHA, TÁTKOMU FISIKÅT, KEMIKÅT, YAN MANNÁNA'MINALÅNGON TÅTAOTAO SIHA, NOH DEBIDI U MA SEDI.

GUAM ENVIRONMENTAL PROTECTION AGENCY

AHENSIAN PRUTEKSION LINA'LA GUAHAN

BOARD OF DIRECTORS MEETING: Thursday • August 15, 2019 • 4:00PM

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Guam EPA Administration Conference Room
17-3304 Mariner Avenue Tiyan Barrigada, Guam 96913

AGENDA: I. Call to Order; **II.** Agenda Approval; **III.** Approval of 07/18/19 Minutes; **IV.** Administrator's Report; **V.** Old Business: AAFB Stipulated Request for Continuance – NOV #2019-001, Active NOVs: (Tsubaki Hotel/Nippo USA Inc. - Water Pollution Control, Lin's Hardware - Safe Drinking Water, Su & Zheng Corp. - Safe Drinking Water, Feiyang Construction & Engineering - Safe Drinking Water), RRF approval process status, Administrator's Performance Evaluation; **VI.** New Business: Septic systems, lot sizes, & advanced on-site treatment proposal, PFAS activities; **VII.** Miscellaneous; **VIII.** Next Meeting Date/Adjournment

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WALTER S. LEON GUERRERO, ADMINISTRATOR

Guam Environmental Protection Agency
Board of Directors Meeting
Thursday, September 19, 2019 @ 4:00 pm
Main Office Conference Room

AGENDA

I. Call to Order

II. Approval of Agenda

III. Approval of August 15, 2019 Minutes

IV. Administrator's Report

V. Old Business
- Air Force Re Stipulated Request for Continuance – NOV #2019-001
- Active NOV's
  - Tsubaki Hotel/Nippo USA Inc. Update (Water Pollution Control Program)
  - Lin's Hardware update (Safe Drinking Water Program)
  - Su & Zheng Corporation Update (Safe Drinking Water Program)
  - Feiyang Construction & Engineering update (Safe Drinking Water Program)
  - Smithbridge update
- RRF approval process status
- PFAS activities update
- Septic systems, lot sizes & advanced on-site treatment proposal update

VI. New Business
- Proposed UST (Underground Storage Tank) Rules & Regulations
- Vision Statement, Mission Statement, Agency name in CHamorro approved by Kumisión I Fino' CHamoru update

VII. Miscellaneous

VIII. Next Meeting Date/Adjournment

Doc. No. 35GL-20-1381.

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Diha 15 gi i Agosto, 2019
As Approved by Kumisión i Fino' CHamoru

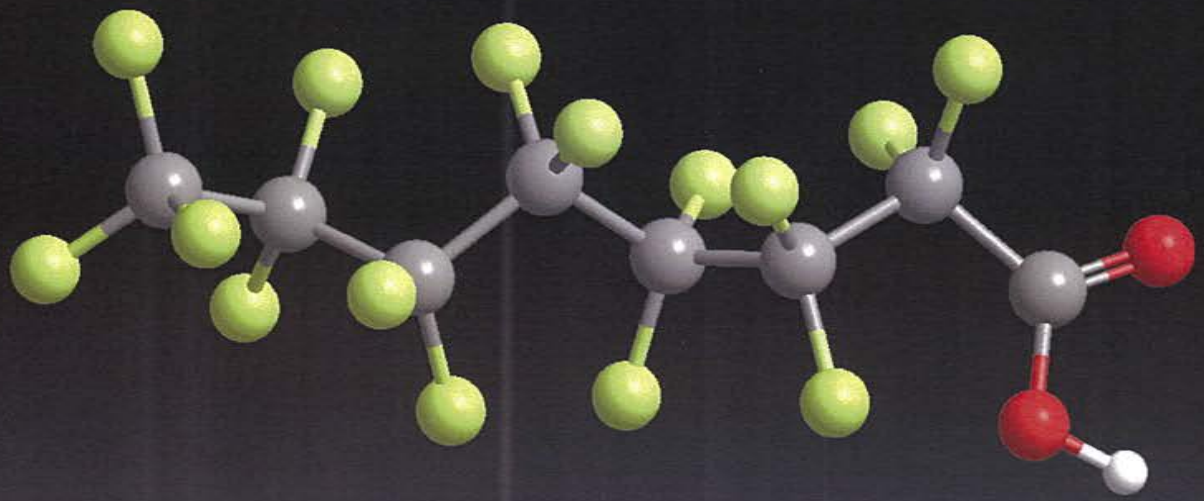
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AHENSIAN PRUTEKSIÓN LINA'LA' GUÅHAN

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PFAS Activities Update



PFAS Actions and Timelines

- 2016: EPA releases PFAS Drinking Water Health Advisory (HA) = 70 ng/L for PFOA and PFOS combined
- 2016: (a few months later) GEPA & GWA remove all wells exceeding HA from service, or provide with GAC treatment
- 2019: Guam Legislature proposes maximum contaminant level (MCL)
  - GEPA testifies at Informational Briefing
  - GEPA testifies at Public Hearing

PFAS MCLs

- USEPA Drinking Water Health Advisory:
  - 70 ng/L: non-enforceable (for PFOA and PFOS only)
  - Not an MCL
- USEPA: Regulatory Determination at end of 2020
  - MCL timeline: 3.5 – 5.5 years if determined by Administrator to move forward with regulation (already indicated to Congress that EPA would develop an MCL)

PFAS MCLs

- 6 States proposing MCLs:

State	PFOA (ng/L)	PFOS (ng/L)	PFHxS (ng/L)
Massachussetts	TBD	TBD	TBD
Michigan	9	8	84
New Hampshire	38	70 with PFOA	
New Jersey	14	13	NA
New York	10	10	NA
Vermont	20 (total for PFOA,PFOS,PFHxS,PFHpA,PFNA)		

PFAS MCLs

- Differences between proposed state MCLs:
  - Selection of endpoints
  - Selection of toxicological models
  - Selection of uncertainty factors
  - In other words: the preferences of the toxicologist(s) working for that state
- Which would we choose if we were to adopt one?

PFAS MCLs

- California Office of Env. Health Hazard Assessment (OEHHA)
  - Respected & referenced world-wide
  - Has set "notification level" – simple adoption of NJ proposed MCLs
  - Actual CA MCL probably 2-3 years away (must follow process)

PFAS Monitoring

- GWA to start new round of PFAS monitoring (in discussion)
  - Repeats of all PFAS-detect wells
  - Monitoring island-wide based on:
    - UCMR "representative monitoring plan"
    - Plus: wells around known or probable sources
- Using new method with lower detection limit
  - 25 parts per trillion (ppt) in 2015-16
  - 2.0 ppt now
- To start as early as October

PFAS Legislation (proposed)

- GEPA SDW position:
  - GEPA SDW would support:
    - EPA's HA as "action level" or "response level"
      - Don't recommend adding any additional PFAS until EPA does so
      - Possibility to accept California's "notification level" – more conservative, but science is trending that way according to one EPA toxicologist who briefed Guam stakeholders
    - Defined responses, such as:
      - No water exceeding HA provided to any PWS
      - Treatment requirements
      - Monitoring requirements

FACT SHEET – RESOLUTION NUMBER # 19-002
GUAM EPA - BOARD OF DIRECTORS MEETING
DATE: September 19, 2019

Pursuant to Title 10, Guam Code Annotated Chapter 76 § 76104(d), Underground Storage of Regulated Substances Act, the Guam Environmental Protection Agency hereby submits a copy of the Draft Underground Storage Tank (UST) Regulations for your review and motion for approval.

Background:

- March 12, 2019 – Mr. Walter S. Leon Guerrero, Administrator for the Guam Environmental Protection Agency (Guam EPA) received a letter from Ms. Geraldine A. Cepeda, Compiler of Laws for the Supreme Court of Guam. Ms. Cepeda stated that upon review of the entire record for adoption of the UST Regulations (Title 22 GAR, Chapter 50 dated September 30, 2013), the rule-making process did not comport with applicable Guam law (pursuant to 5 GCA, Chapter 9)

- In July 2015, EPA revised the 1988 federal underground storage tank (UST) regulations by increasing emphasis on properly operating and maintaining UST equipment. The revision will help prevent and detect UST releases and help ensure all USTs in the United States, including US territories and Indian country meet the same minimum standards, In addition, EPA added new operation and maintenance requirements.

- Because of the large regulated universe of USTs at the inception of the program, EPA designed the UST program to be implemented by states, US territories, and Indian country.

    - 38 states, plus the District of Columbia and Puerto Rico, have been approved to act in lieu of the federal program and may have more stringent UST requirements: of those, four (4) states have approved programs under 2015 federal UST regulations.
    - The remaining states have agreements with EPA to be the primary implementing agency including Guam.
    - Guam EPA will be seeking State Program Approval (SPA) once our regulations have been approved.

Doc. No. 35GL-20-1381.

- States have reported that UST releases are the most common source of groundwater contamination and that petroleum is the most common contaminant.

EPA's Review of Draft UST Regulations

- May, June, and July 2019, Ms. Elizabeth McDermott, UST Regulation Development and State Program Approval, EPA Office of Underground Storage Tanks (Headquarters, Washington DC) reviewed and provided comments on Guam's Draft UST Regulations. An electronic copy of the draft regulations was also provided to Mr. Omer Shalev, USEPA Region 9. No comments were received from Omer.

Public Outreach:

- August 6, 2019 – Guam EPA notified registered owners and operators via email of the Ad in the Guam Daily Post of the Notice of Public Hearing and Public Comment and Review Period for the proposed UST Regulations of Regulated Substances.. A copy of the Ad was included in the email that included the Agency's website (www.epa.guam.gov) to download the regulations.

Guam Daily Post - Notice of Public Hearing and Public Review and Comment Period:

- August 5, 2019 and August 30, 2019
  - ❖ Guam EPA placed an Ad in the Guam Daily Post informing the general public and owners/operators of USTs containing Regulated Substances of a Public Hearing for 22 GAR, Chapter 50, Guam EPA UST Regulations on September 11, 2019 at 3:00 p.m. at Guam EPA's Conference Room, Tiyan.
  - ❖ The Ad also included the start date of August 5, 2019 and end date of September 19, 2019 for the ***45-days Public Comment and Review Period*** for the proposed UST Regulations and the availability of the Environmental Impact Statement (EIS) and UST Regulations at the Agency and Agency website.

Public Hearing:

Guam EPA conducted a Public Hearing: Wednesday September 11, 2019 @ 3:00 p.m. at the Guam EPA Administration Building Conference Room. The meeting was attended by 13 stakeholders and adjourned at approximately 3:17 p.m., September 11, 2019.

- There were no significant comments or questions made on the proposed UST regulations other than the vent lines from the UST – Do we require lines to be double walled. Response – not required for vent lines.
- The other question that was asked was the process and the duration that it would take for the regulations to become effective.

GUAM ADMINISTRATIVE RULES AND REGULATIONS (GAR)

TITLE 22

GUAM ENVIRONMENTAL POTECTION AGENCY

CHAPTER 50

GUAM UNDERGROUND STORAGE TANK REGULATIONS

Doc. No. 35GL-20-1381.

GUAM ADMINISTRATIVE RULES AND REGULATIONS (GAR)

TITLE 22

GUAM ENVIRONMENTAL PROTECTION AGENCY (Guam EPA)

CHAPTER 50

GUAM UNDERGROUND STORAGE TANK REGULATIONS

Article 1. Scope and Installation Requirements for Partially Excluded UST Systems
Article 2. UST Systems: Design, Construction, and Installation
Article 3. General Operating Requirements
Article 4. Release Detection
Article 5. Release Reporting, Investigation, and Confirmation
Article 6. Release Response Action
Article 7. Out-of-Service UST Systems and Closure
Article 8. Financial Responsibility
Article 9. Lender Liability
Article 10. Operator Training
Article 11. Reserved
Article 12. Permits and Variances
Article 13. Enforcement

ARTICLE 1
SCOPE AND INSTALLATION REQUIREMENTS FOR PARTIALLY EXCLUDED UST SYSTEMS

§ 50101 to § 50109. [Reserved]
§ 50110. Applicability
§ 50111. Installation requirements for partially excluded UST systems

§ 50112. Definitions
§ 50113. Installation requirements for partially excluded UST systems--codes of practice
§ 50114 to § 50119. [Reserved.]

§ 50101 to § 50109. [Reserved]

§ 50110. Applicability.

(a) The requirements of this chapter apply to all owners and operators of an UST system as defined in § 50112 except as otherwise provided in this section.

(1) Airport hydrant fuel distribution systems, UST systems with field-constructed tanks, and UST systems that store fuel solely for use by emergency power generators must meet the requirements of this chapter as follows:

(A) Airport hydrant fuel distribution systems and UST systems with field-constructed tanks must meet all applicable requirements of this chapter, except that those installed before October 13, 2015 must meet the applicable requirements of Articles 4, 8, 10, and 12 no later than one year after October 13, 2015.

(B) UST systems that store fuel solely for use by emergency power generators must meet all applicable requirements of this chapter except that those installed before October 13, 2015 must meet the applicable requirements of Article 4 no later than one year after October 13, 2015.

(2) Any UST system listed in subsection (c) must meet the requirements of §50111.

(b) Exclusions. The following UST systems are excluded from the requirements of this chapter:

(1) Any UST system holding hazardous wastes listed or identified under 10 Guam Code Annotated (GCA), Chapter 76, Underground Storage of Regulated Substances, or the

rules adopted thereunder, or Subtitle C of the Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances;

(2) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;

(3) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;

(4) Any UST system that contains a de minimis concentration of regulated substances; and

(5) Any emergency spill or overflow containment UST system that is expeditiously emptied after use.

(c) Partial Exclusions. Articles 2, 3, 4, 5, 7, 10, and 12 do not apply to:

(1) Wastewater treatment tank systems not covered under subsection (b)(2);

(2) Aboveground storage tanks associated with:

(A) Airport hydrant fuel distribution systems; and

(B) UST systems with field-constructed tanks;

(3) Any UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following); and

(4) Any UST system that is part of an emergency generator system at nuclear power generation facilities licensed by the Nuclear Regulatory Commission and subject to Nuclear Regulatory Commission requirements regarding design and quality criteria, including but not limited to 10 C.F.R. Part 50.

§ 50111. Installation requirements for partially excluded UST systems.

(a) Owners and operators must install an UST system listed in section 50110 (11-280.1-10)(c)(1), (3), or (4) storing regulated substances (whether of single or double wall construction) that meets the following requirements:

(1) Will prevent releases due to corrosion or structural failure

for the operational life of the UST system;

(2) Is cathodically protected against corrosion, constructed of non-corrodible material, steel clad with a non-corrodible material, or designed in a manner to prevent the release or threatened release of any stored substance; and

(3) Is constructed or lined with material that is compatible with the stored substance.

(b) Notwithstanding subsection (a), an UST system without corrosion protection may be installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life. Owners and operators must maintain records that demonstrate compliance with the requirements of this subsection for the remaining life of the tank.

§ 50112. Definitions.

When used in this Article, the following terms have the meanings given below:

(a) "Aboveground release" means any release to the surface of the land or to surface water. This includes, but is not limited to, releases from the aboveground portion of an UST system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from an UST system.

(b) "Airport hydrant fuel distribution system" (also called "airport hydrant system") means an UST system which fuels aircraft and operates under high pressure with large diameter piping that typically terminates into one or more hydrants (fill stands). The airport hydrant system begins where fuel enters one or more tanks from an external source such as a pipeline, barge, rail car, or other motor fuel carrier.

(c) "Ancillary equipment" means any devices including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST.

(d) "Belowground release" means any release to the subsurface of the land and to groundwater. This includes, but is not limited to, releases

from the belowground portions of an underground storage tank system and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.

(e) "Beneath the surface of the ground" means beneath the ground surface or otherwise covered with earthen materials.

(f) "Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

(g) "Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

(h) "Class A operator" means the individual who has primary responsibility to operate and maintain the UST system in accordance with applicable requirements established by the agency. The Class A operator typically manages resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements.

(i) "Class B operator" means the individual who has day-to-day responsibility for implementing applicable regulatory requirements established by the agency. The Class B operator typically implements in-field aspects of operation, maintenance, and associated recordkeeping for the UST system.

(j) "Class C operator" means the individual responsible for initially addressing emergencies presented by a spill or release from an UST system. The Class C operator typically controls or monitors the dispensing or sale of regulated substances.

(k) "Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions

likely to be encountered in the UST.

(l) "Connected piping" means all underground piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between them.

(m) "Consumptive use" with respect to heating oil means consumed on the premises.

(n) "Containment sump" means a liquid-tight container that protects the environment by containing leaks and spills of regulated substances from piping, dispensers, pumps, and related components in the containment area. Containment sumps may be single walled or secondarily contained and located at the top of tank (tank top or submersible turbine pump sump), underneath the dispenser (under-dispenser containment sump), or at other points in the piping run (transition or intermediate sump).

(o) "Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

(p) "Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system (e.g., tank from piping).

(q) "Dispenser" means equipment located aboveground that dispenses regulated substances from the UST system.

(r) "Dispenser system" means the dispenser and the equipment necessary to connect the dispenser to the underground storage tank

system. The equipment necessary to connect the dispenser to the underground storage tank system includes check valves, shear valves, unburied risers or flexible connectors, or other transitional components that are underneath the dispenser and connect the dispenser to the underground piping.

(s) "Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

(t) "EPA" means the United States Environmental Protection Agency.

(u) "Excavation zone" means the volume containing the tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

(v) "Existing UST system" means an UST system for which installation commenced on or before December 22, 1988.

(w) "Exposure assessment" means a determination regarding the extent of exposure of, or potential for exposure of, individuals to regulated substances from a release from an UST or tank system. An exposure assessment shall be based on factors such as the nature and extent of contamination, the existence of or potential for pathways of human exposure (including ground or surface water contamination, air emissions, dermal exposure, soil ingestion, and food chain contamination), the size of the community or communities within the likely pathways of exposure, an analysis of expected human exposure levels with respect to short-term and long-term health effects associated with identified contaminants, and any available recommended exposure or tolerance limits for the contaminants.

(x) "Farm tank" is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. Farm includes fish hatcheries, rangeland, and nurseries with growing operations.

(y) "Field-constructed tank" means a tank constructed in the field. For example, a tank constructed of concrete that is poured in the field, or a steel or fiberglass tank primarily fabricated in the field is considered field-

constructed.

(z) "Flow-through process tank" is a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

(aa) "Free product" refers to a regulated substance that is present as a non-aqueous phase liquid (e.g., liquid not dissolved in water).

(bb) "Gathering lines" means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

(cc) "Hazardous substance" means a hazardous substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended, except any substance regulated as a hazardous waste under Subtitle C of the Solid Waste Disposal Act.

(dd) "Hazardous substance UST system" means an underground storage tank system that contains a hazardous substance or any mixture of such substances and petroleum, and that is not a petroleum UST system.

(ee) "Heating oil" means petroleum that is No. 1, No. 2, No. 4—light, No. 4—heavy, No. 5—light, No. 5—heavy, and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

(ff) "Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

(gg) "Liquid trap" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

(hh) "Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing product.
(ii) "Motor fuel" means a complex blend of hydrocarbons typically used in the operation of a motor engine, such as motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any blend containing one or more of these substances (e.g., motor gasoline blended with alcohol).
(jj) "Noncommercial purposes" with respect to motor fuel means not for resale.
(kk) "On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used.
(ll) "Operational life" refers to the period beginning when installation of the tank system has commenced until the time the tank system is properly closed under Article 7.
(mm) "Operator" means any person in control of, or having responsibility for, the daily operation of the UST system.
(nn) "Overfill release" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.
(oo) "Owner" means:

1. In the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use, or dispensing of regulated substances; and
2. In the case of any UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use.

(pp) "Permit" means written authorization, as provided for in 10 GCA, Chapter 76, § 76117, from the Administrator to install or operate an UST or tank system. A permit authorizes owners or operators to install and operate an UST or tank system in a manner, or to do an act, not forbidden by 10 GCA Chapter 76, or by this chapter, but requiring review by the Administrator.
(qq) "Person" means an individual, trust, estate, firm, joint stock

company, corporation (including a government corporation), partnership, association, commission, consortium, joint venture, commercial entity, the state or a county, the United States government, federal agency, interstate body, or any other legal entity.

(rr) "Petroleum" means petroleum, including crude oil or any fraction thereof, that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

(ss) "Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(tt) "Pipe" or "piping" means a hollow cylinder or tubular conduit that is constructed of non-earthen materials.

(uu) "Pipeline facilities" (including gathering lines) means pipe rights-of-way and any associated equipment, facilities, or buildings.

(vv) "Regulated substance" means hazardous substances, petroleum, and any other substance designated by the agency that, when released into the environment, may present substantial danger to human health, welfare, or the environment. The term regulated substance includes but is not limited to petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(ww) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an UST system into groundwater, surface water, or subsurface soils.

(xx) "Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or a leak has occurred into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

(yy) "Repair" means to restore to proper operating condition a tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment or other UST system component that has caused a release of product from the UST system or has failed to function properly.

(zz) "Replaced" means

(1) For an underground storage tank – to remove an underground storage tank and install another underground storage tank; or

(2) For connected piping – to remove 50 percent or more of connected piping and install other piping, excluding connectors, connected to a single underground storage tank. For underground storage tanks with multiple piping runs, this definition applies independently to each piping run.

(aaa) "Residential tank" is a tank located on property used primarily for dwelling purposes.

(bbb) "Secondary containment" or "secondarily contained" means a release prevention and release detection system for a tank or piping. This system has an inner and outer barrier with an interstitial space that is monitored for leaks. This term includes containment sumps when used for interstitial monitoring of piping.

(ccc) "Septic tank" is a water-tight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

(ddd) "Storm water collection system" or "wastewater collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

(eee) "Surface impoundment" is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

(fff) "Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials (e.g., concrete, steel, plastic) that provide structural support.

(ggg) "Temporary closure" or "temporarily closed" means that owners and operators do not deposit regulated substances into the UST or tank system nor dispense regulated substances from the UST or tank system for sixty days or longer, except for UST systems that store fuel solely for use by emergency power generators and UST systems with field-constructed tanks. For UST systems that store fuel solely for use by emergency power generators and UST systems with field-constructed tanks, "temporary closure" or "temporarily closed" means that the UST or tank system is empty, as defined in section 50170(a)(11-280.1-70(a)), and owners and operators do not deposit regulated substances into the UST or tank system for sixty (60) calendar days or longer.

(hhh) "Under-dispenser containment" or "UDC" means containment underneath a dispenser system designed to prevent leaks from the dispenser and piping within or above the UDC from reaching soil, groundwater, and surface water.

(iii) "Underground area" means an underground room, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

(jjj) "Underground release" means any belowground or below water release.

(kkk) "Underground storage tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is ten (10%) percent or more beneath the surface of the ground. This term does not include any:

(1) Farm or residential tank of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes;

(2) Tank used for storing heating oil for consumptive use on the premises where stored;

(3) Septic tank;

(4) Pipeline facility (including gathering lines):

(A) Which is regulated under 49 U.S.C. chapter 601; or

(B) Which is an intrastate pipeline facility regulated under state laws as provided in 49 U.S.C. chapter 601, and which is determined by the Secretary of Transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

(5) Surface impoundment, pit, pond, or lagoon;

(6) Storm water or wastewater collection system;

(7) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

(8) Storage tank situated in an underground area (such as a basement, cellar, mine working, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

The term underground storage tank or UST does not include any pipes connected to any tank which is described in paragraphs (1) to (8).

(jjj) "Upgrade" means the addition or retrofit of some systems such as cathodic protection, lining, or spill and overfill controls to improve the ability of an underground storage tank system to prevent the release of product.

(kkk) "UST system" or "tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

(lll) "Variance" means a special written authorization from the Administrator to own, install, or operate an UST or tank system in a manner deviating from, or to do an act that deviates from, the requirements of this chapter that are more stringent than 40 C.F.R. Part 280.

(mmm) "Wastewater treatment tank" means a tank that is designed to receive and treat an influent wastewater through physical, chemical, or biological methods.

§50113. Installation requirements for partially excluded UST systems--codes of practice.

(a) The following current codes of practice may be used as guidance for complying with § 50111:

(1) NACE International Standard Practice SP 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection";

(2) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems";

(3) American Petroleum Institute Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; or

(4) Steel Tank Institute Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems".

§ 50114 to § 50119. [Reserved.]

ARTICLE 2
UST SYSTEMS: DESIGN, CONSTRUCTION, AND INSTALLATION

§ 50120. Performance Standards for UST Systems
§ 50121. Upgrading of UST Systems
§ 50122. [Reserved.]
§ 50123. Tank and Piping Design for Hazardous Substances UST System
§ 50124. Secondary Containment Design
§ 50125. Under-Dispenser Containment
§ 50126. Performance Standards and Design for UST System – Code of Practice
§ 50127 to § 50129. [Reserved.]

§ 50120. Performance Standards for UST Systems.

(a) In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, owners and operators of UST systems must meet all applicable requirements of this Article. UST systems must meet the requirements of this section as follows:

(1) UST systems installed after December 22, 1988, other than airport hydrant fuel distribution systems and UST systems with field-constructed tanks, must meet the requirements of this section, except as specified in this Article.

(2) Airport hydrant fuel distribution systems and UST systems with field-constructed tanks installed after October 13, 2015 must meet the requirements of this section.

(b) Tanks. Each tank must be properly designed, constructed, and installed, and any portion underground that routinely contains product must be protected from corrosion, in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

(1) The tank is constructed of fiberglass-reinforced plastic; or

(2) The tank is constructed of steel and cathodically protected in the following manner:

(A) The tank is coated with a suitable dielectric material;

(B) Field-installed cathodic protection systems are designed by a corrosion expert;

(C) Impressed current systems are designed to allow determination of current operating status as required in § 50131(3); and

(D) Cathodic protection systems are operated and maintained in accordance with § 50131 or according to guidelines established by the agency; or

(3) The tank is constructed of steel and clad or jacketed with a non-corrodible material; or

(4) The tank is constructed of metal without additional corrosion protection measures provided that:

(A) The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it

to have a release due to corrosion during its operating life; and

(B) Owners and operators maintain records that demonstrate compliance with the requirements of subparagraph (A) for the remaining life of the tank; or

(5) The tank construction and corrosion protection are determined by the agency to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than paragraphs (1) to (4).

(c) Piping. The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, installed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

(1) The piping is constructed of a non-corrodible material; or

(2) The piping is constructed of steel and cathodically protected in the following manner:

(A) The piping is coated with a suitable dielectric material;

(B) Field-installed cathodic protection systems are designed by a corrosion expert;

(C) Impressed current systems are designed to allow determination of current operating status as required in § 50131(3); and

(D) Cathodic protection systems are operated and maintained in accordance with § 50131 or guidelines established by the agency; or

(3) The piping is constructed of metal without additional corrosion protection measures provided that:

(A) The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and

(B) Owners and operators maintain records that demonstrate compliance with the requirements of subparagraph (A) for the remaining life of the piping; or

(4) The piping construction and corrosion protection are determined by the agency to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in paragraphs (1) to (3).

(d) Spill and overfill prevention equipment.

(1) Except as provided in paragraphs (2) and (3), to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use the following spill and overfill prevention equipment:

(A) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin); and

(B) Overfill prevention equipment that will:

(i) Automatically shut off flow into the tank when the tank is no more than ninety-five (95%) percent full;

(ii) Alert the transfer operator when the tank is no more than ninety (90%) percent full by restricting the flow into the tank or triggering a high-level alarm; or

(iii) Restrict flow thirty (30) minutes prior to overfilling, alert the transfer operator with a high-level alarm one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.

(2) Owners and operators are not required to use the spill and overfill prevention equipment specified in paragraph (1) if:

(A) Alternative equipment is used that is determined by the agency to be no less protective of human health and the environment than the equipment specified in paragraph (1)(A) or (B); or

(B) The UST system is filled by transfers of no more than twenty-five (25) gallons at one time.

(3) Flow restrictors used in vent lines may not be used to comply with paragraph (1)(B) when overfill prevention is installed or replaced after October 13, 2015.

(4) Overfill prevention methods that rely on the use of alarms must have the alarms clearly labeled "overfill alarm" and located where the delivery person can clearly see and hear the alarm in order to immediately stop delivery of the product.

(5) Spill and overfill prevention equipment must be periodically tested or inspected in accordance with § 50135.

(e) Installation. The UST system must be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions.

(f) Certification of installation. All owners and operators must ensure that one or more of the following methods of certification, testing, or inspection is used to demonstrate compliance with subsection (e) by providing a certification of compliance on the "Certification of Underground Storage Tank Installation" form prescribed by the Administrator and in accordance with § 501325(d).

(1) The installer has been certified by the tank and piping manufacturers;

(2) The installer has been certified or licensed by the agency;

(3) The installation has been inspected and certified by a

licensed professional engineer with education and experience in UST system installation;

(4) The installation has been inspected and approved by the agency;

(5) All work listed in the manufacturer's installation checklists has been completed and the checklists maintained; or

(6) The owner and operator have complied with another method for ensuring compliance with subsection (e) that is determined by the agency to be no less protective of human health and the environment.

(g) Secondary containment.

(1) UST systems installed after April 11, 2016, other than airport hydrant fuel distribution systems and UST systems with field-constructed tanks, must be provided with secondary containment that meets the requirements of § 50124, except for suction piping that meets the requirements of § 50141(b)(6).

(2) Airport hydrant fuel distribution systems and UST systems with field-constructed tanks must be provided with secondary containment that meets the requirements of § 50124, except for:

(A) Suction piping that meets the requirements of § 50141(b)(6);

(B) Piping associated with UST systems with field constructed tanks greater than 50,000 gallons; and

(C) Piping associated with airport hydrant systems.

§ 50121. Upgrading of UST Systems.

(a) All UST systems must comply with one of the following requirements:

(1) UST system performance standards in § 50120(b) to (d);

(2) For airport hydrant fuel distribution systems and UST systems with field-constructed tanks installed on or before October 13, 2015:

(A) The system performance standards in §50120(b) and

(c); and

(B) Not later than October 13, 2018, the system performance standards under § 50120(d); or

(3) Closure requirements under Article 7.

§ 50122. [Reserved.]

§ 50123. Tank and Piping Design for Hazardous Substances UST System.

Owners and operators of hazardous substance UST systems must provide secondary containment for tanks and underground piping that meets the requirements of § 50124

§ 50124. Secondary Containment Design.

(a) Secondary containment systems must be designed, constructed, and installed to:

(1) Contain regulated substances leaked from the primary containment until they are detected and removed;

(2) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

(3) Be checked for evidence of a release at least every thirty (30) calendar days.

(b) Double-walled tanks must be designed, constructed, and installed to:

(1) Contain a leak from any portion of the inner tank within the outer wall; and

(2) Detect the failure of the inner wall.

(c) External liners (including vaults) must be designed, constructed, and installed to:

(1) Contain one hundred (100%) percent of the capacity of the largest tank within its boundary;

(2) Prevent precipitation and groundwater intrusion from interfering with the ability to contain or detect a leak or

release of regulated substances; and

(3) Surround the UST completely to effectively prevent lateral and vertical migration of regulated substances.

§ 50125. Under-Dispenser Containment.

(a) Dispenser systems installed on or after April 11, 2016, must have under-dispenser containment that meets the requirements in this subsection. Under-dispenser containment requirement must:

A. Be liquid-tight on its sides, bottom, and at any penetrations;

B. Be compatible with the substance conveyed by the piping;

C. Allow for visual inspection and access to the components in the containment system; and

D. Be monitored for leaks from the dispenser system with a sensing device that signals the operator of the presence of regulated substances.

§ 50126. Performance Standards and Design for UST System - Code of Practice.

(a) The following current codes of practice may be used to comply with § 50120(b)(1):

(1) Underwriters Laboratories Standard 1316, "Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures"; or

(2) Underwriter's Laboratories of Canada S615, "Standard for Reinforced Plastic Underground Tanks for Flammable and Combustible Liquids".

(b) The following current codes of practice may be used to comply with § 50120(b)(2):

(1) Steel Tank Institute "Specification STI–P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks";

(2) Underwriters Laboratories Standard 1746, "External

Corrosion Protection Systems for Steel Underground Storage Tanks";

(3) Underwriters Laboratories of Canada S603, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids", and S603.1, "Standard for External Corrosion Protection Systems for Steel Underground Tanks for Flammable and Combustible Liquids", and S631, "Standard for Isolating Bushings for Steel Underground Tanks Protected with External Corrosion Protection Systems";

(4) Steel Tank Institute Standard F841, "Standard for Dual Wall Underground Steel Storage Tanks"; or

(5) NACE International Standard Practice SP 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection", and Underwriters Laboratories Standard 58, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids".

(c) The following current codes of practice may be used to comply with § 50120(b)(3):

(1) Underwriters Laboratories Standard 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks";

(2) Steel Tank Institute ACT–100® Specification F894, "Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks";

(3) Steel Tank Institute ACT–100–U® Specification F961, "Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks"; or

(4) Steel Tank Institute Specification F922, "Steel Tank Institute Specification for Permatank®".

(d) The following current codes of practice may be used to comply with § 50120(c)(1):

(1) Underwriters Laboratories Standard 971, "Nonmetallic Underground Piping for Flammable Liquids"; or

(2) Underwriters Laboratories of Canada Standard S660, "Standard for Nonmetallic Underground Piping for

Flammable and Combustible Liquids".

(e) The following current codes of practice may be used to comply with § 50120(c)(2):

(1) American Petroleum Institute Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems";

(2) Underwriters Laboratories Subject 971A, "Outline of Investigation for Metallic Underground Fuel Pipe";

(3) Steel Tank Institute Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems";

(4) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems"; or

(5) NACE International Standard Practice SP 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection".

(f) Tank and piping system installation practices and procedures described in the following current codes of practice may be used to comply with the requirements of § 50120(e):

(1) American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage System";

(2) Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems"; or

(3) National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code" and Standard 30A, "Code for Motor Fuel Dispensing Facilities and Repair Garages".

(g) When designing, constructing, and installing airport hydrant systems and UST systems with field-constructed tanks, owners and operators may use military construction criteria, such as Unified Facilities Criteria (UFC) 3–460–01, "Petroleum Fuel Facilities".

§ 50127 to § 50129. [Reserved.]

ARTICLE 3
GENERAL OPERATING REQUIREMENTS

§ 50130. Spill and Overfill Control
§ 50131. Operation and Maintenance of Corrosion Protection
§ 50132. Compatibility
§ 50133. Repairs Allowed
§ 50134. Notification, Reporting, and Recordkeeping
§ 50135. Periodic Testing of Spill Prevention Equipment and Containment Sumps Used for Interstitial Monitoring of Piping and Periodic Inspection of Overfill Prevention Equipment
§ 50136. Periodic Operation and Maintenance Walkthrough Inspections
§ 50137. Periodic Inspection and Maintenance of Under-Dispenser Containment Sensing Devices
§ 50138. General Operating Requirement – Codes of Practice
§ 50139. [Reserved.]

§ 50130. Spill and Overfill Control.

(a) Owners and operators must ensure that releases due to spilling or overfilling do not occur. The owner and operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.
(b) The owner and operator must report, investigate, and clean up any spills and overfills in accordance with § 50153.

§ 50131. Operation and Maintenance of Corrosion Protection.

All owners and operators of metal UST systems with corrosion protection must comply with the following requirements to ensure that releases due

to corrosion are prevented until the UST system is permanently closed or undergoes a change-in-service pursuant to § 50171:

(1) All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.

(2) All UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

(A) Frequency. All cathodic protection systems must be tested within six (6) months of installation and at least every three (3) years thereafter; and

(B) Inspection criteria. The criteria that are used to determine that cathodic protection is adequate as required by this section must be in accordance with a code of practice developed by a nationally recognized association.

(3) UST systems with impressed current cathodic protection systems must also be inspected every sixty (60) calendar days to ensure the equipment is operating properly.

(4) For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained, in accordance with § 50134, to demonstrate compliance with the performance standards in this section. These records must provide the following:

(A) The results of the last three (3) inspections required in paragraph (3); and

(B) The results of testing from the last two (2) inspections required in paragraph (2).

§ 50132. Compatibility.

(a) Owners and operators must use an UST system made of or lined with

materials that are compatible with the substance stored in the UST system.
(b) Owners and operators must notify the agency at least thirty (30) days prior to switching to a regulated substance containing greater than ten (10%) percent ethanol, greater than twenty (20%) percent biodiesel, or any other regulated substance identified by the agency. In addition, owners and operators with UST systems storing these regulated substances must meet one of the following:

(1) Demonstrate compatibility of the UST system (including the tank, piping, containment sumps, pumping equipment, release detection equipment, spill equipment, and overfill equipment). Owners and operators may demonstrate compatibility of the UST system by using one of the following options:

(A) Certification or listing of UST system equipment or components by a nationally recognized, independent testing laboratory for use with the regulated substance stored; or

(B) Equipment or component manufacturer approval. The manufacturer's approval must be in writing, indicate an affirmative statement of compatibility, specify the range of biofuel blends the equipment or component is compatible with, and be from the equipment or component manufacturer; or

(2) Use another option determined by the agency to be no less protective of human health and the environment than the options listed in paragraph (1).

(c) Owners and operators must maintain records in accordance with § 50134(d) documenting compliance with subsection (b) for as long as the UST system is used to store the regulated substance.

§ 50133. Repairs Allowed.

(a) Owners and operators of UST systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the

following requirements:

(1) Repairs to UST systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory;

(2) Repairs to fiberglass-reinforced plastic tanks may be made by the manufacturer's authorized representatives or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory;

(3) Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. Non-corrodible pipes and fittings may be repaired in accordance with the manufacturer's specifications;

(4) Prior to the return to use of a repaired UST system, any repaired USTs must pass a tank tightness test in accordance with § 50143(3);

(5) Prior to the return to use of a repaired UST system, any repaired piping that routinely contains product must pass a line tightness test in accordance with § 50144(2);

(6) Prior to return to use of a repaired UST system, repairs to secondary containment areas of tanks and piping used for interstitial monitoring, containment sumps used for interstitial monitoring of piping, and containment walls must have the secondary containment tested for integrity using vacuum, pressure, or liquid methods in accordance with requirements developed by the manufacturer, a code of practice developed by a nationally recognized association or independent testing laboratory, or requirements established by the agency;

(7) Within six (6) months following the repair of any cathodically protected UST system, the cathodic protection system must be tested in accordance with § 50131(2) and(3) to ensure that it is operating properly; and

(8) Prior to the return to use of repaired spill or overfill prevention equipment, the repaired spill or overfill prevention equipment must be tested or inspected, as

appropriate, in accordance with § 50135 to ensure it is operating properly.

(b) UST system owners and operators must maintain records, in accordance with § 50134, of each repair until the UST system is permanently closed or undergoes a change-in-service pursuant to § 50171.

§ 50134. Notification, Reporting, and Recordkeeping.

(a) Notification. Owners and operators shall notify the agency of any of the following changes in information relating to an UST or tank system by submitting the "Notification for Underground Storage Tanks" form prescribed by the Administrator:

(1) Planned permanent closure or change-in-service, scheduled excavation work for permanent closure or change-in-service, or completed closure or change-in-service;
(2) Temporary closure or the return to currently-in-use status;
(3) Changes in product dispensing method, dispenser, or under dispenser containment;
(4) Changes in financial responsibility mechanism;
(5) Changes in leak detection method;
(6) Changes in spill and overfill prevention method;
(7) Changes in piping;
(8) Changes in type of regulated substances stored;
(9) Changes in corrosion protection mechanism; and
(10) Installation of or changes in secondary containment.

(b) Timing of notification. Owners and operators shall submit the notifications required in subsection (a) within thirty (30) calendar days following any of the changes requiring notification, except that:

(1) Notification of planned permanent closure or change-in-service must be received by the agency at least thirty (30) calendar days before commencement of excavation work for closure or change-in-service;
(2) Notification of scheduled excavation work for permanent closure or change-in-service must be received by the agency at least seven (7) calendar days before the scheduled work

date;

(3) Notification of change in type of regulated substance stored to a regulated substance containing greater than ten (10%) percent ethanol or greater than twenty (20%) percent biodiesel must be received by the agency at least thirty (30) calendar days before the change; and

(4) Notification of temporary closure must be received by the agency within thirty (30) calendar days of the UST system having met the definition of temporary closure in § 50112.

(c) Reporting. Owners and operators must submit the following information to the agency:

(1) Reports of all releases including suspected releases § 50150 and § 50152, spills and overfills § 50153, and confirmed releases § 50161;

(2) Release response actions planned or taken, including initial abatement measures § 50162, initial site characterization § 50163, free product removal § 50164, investigation of soil and groundwater cleanup § 50165, and corrective action plan § 50166.

(3) Quarterly release response reports § 50165.2;

(4) Current evidence of financial responsibility as required in § 501110; and

(5) Notice of changes in Designated Class A or B Operators § 501241(c).

(d) Recordkeeping. Owners and operators must maintain the following information:

(1) A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used § 50120(b)(4); § 50120(c)(3);

(2) Documentation of operation of corrosion protection equipment § 50131(4);

(3) Documentation of compatibility for UST systems § 50132(c);

(4) Documentation of UST system repairs § 50133(b);

(5) Documentation of compliance for spill and overfill prevention equipment and containment sumps used for

interstitial monitoring of piping § 50135(b);

(6) Documentation of periodic walkthrough inspections § 50136(b);

(7) Documentation of compliance with under-dispenser containment sensing device requirements § 50137(b);

(8) Documentation of compliance with release detection requirements § 50145;

(9) Results of the site investigation conducted at permanent closure or change-in-service § 50174;

(10) Documentation of operator training § 501245;

(11) Permits or variances or both, including all documentation, as specified in § 501334(a); and

(12) Evidence of current financial assurance mechanisms used to demonstrate financial responsibility § 501111.

(e) Availability and maintenance of records.

(1) Owners and operators must keep the required records at the UST site or an alternative location approved by the agency.

(2) Owners and operators must make the records immediately available for inspection by the agency at the UST site.

(3) Permanent closure records required under § 50174 may be maintained or submitted to the agency as provided in § 50174.

(f) Owners and operators of UST systems must cooperate fully with inspections, monitoring, and testing conducted by the agency, as well as requests by the agency for document submission, testing, and monitoring by the owner or operator pursuant to 10 GCA, Chapter 76.

§ 50135. Periodic Testing of Spill Prevention Equipment and Containment Sumps Used for Interstitial Monitoring of Piping and Periodic Inspection of Overfill Prevention Equipment.

(a) Owners and operators of UST systems with spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping must meet these requirements by October 13, 2018 to ensure the equipment is operating properly and will prevent releases to

the environment:

(1) Spill prevention equipment (such as a catchment basin, spill bucket, or other spill containment device) must prevent releases to the environment by meeting one of the following:

(A) The equipment is double walled and the integrity of both walls is periodically monitored at a frequency not less than once every thirty (30) calendar days. Owners and operators must begin meeting the requirements of subparagraph (B) and conduct a test within thirty (30) calendar days of discontinuing periodic monitoring of this equipment; or

(B) The spill prevention equipment is tested at least once every three hundred sixty-five (365) calendar days to ensure the equipment is liquid tight by using vacuum, pressure, or liquid testing in accordance with one of the following criteria:

(i) Requirements developed by the manufacturer. (Note: Owners and operators may use this option only if the manufacturer has developed requirements.);

(ii) Code of practice developed by a nationally recognized association or independent testing laboratory; or

(iii) Requirements determined by the agency to be no less protective of human health and the environment than the requirements listed in clauses (i) and (ii).

(2) Containment sumps used for interstitial monitoring of piping must prevent releases to the environment by meeting one of the following:

(A) The equipment is double walled and the integrity of both walls is periodically monitored at a frequency not less than annually. Owners and operators must begin meeting the requirements of subparagraph (B) and conduct a test within thirty (30) calendar days of

discontinuing periodic monitoring of this equipment; or

(B) The containment sumps used for interstitial monitoring of piping are tested at least once every three (3) years to ensure the equipment is liquid tight by using vacuum, pressure, or liquid testing in accordance with one of the criteria in paragraph (1)(B)(i) to (iii).

(3) Overfill prevention equipment must be inspected at least once every three years. At a minimum, the inspection must ensure that overfill prevention equipment is set to activate at the correct level specified in § 50120(d) and will activate when regulated substance reaches that level. Inspections must be conducted in accordance with one of the criteria in paragraph (1)(B)(i) to (iii).

(b) Owners and operators must maintain records as follows (in accordance with § 50134 for spill prevention equipment, containment sumps used for interstitial monitoring of piping, and overfill prevention equipment:

(1) All records of testing or inspection must be maintained for three (3) years; and

(2) For spill prevention equipment not tested every three hundred sixty-five (365) calendar days and containment sumps used for interstitial monitoring of piping not tested every three (3) years, documentation showing that the prevention equipment is double walled and the integrity of both walls is periodically monitored must be maintained for as long as the equipment is periodically monitored.

§ 50136. Periodic Operation and Maintenance Walkthrough Inspections.

(a) To properly operate and maintain UST systems, not later than October 13, 2018, owners and operators must conduct walkthrough inspections that, at a minimum, check the following equipment as specified below:

(1) Every thirty (30) calendar days:

(A) Spill prevention equipment:

(i) Visually check for damage;

(ii) Remove liquid or debris;

(iii) Check for and remove obstructions in the fill pipe;

(iv) Check the fill cap to make sure it is securely on the fill pipe; and

(v) For double walled spill prevention equipment with interstitial monitoring, check for a leak in the interstitial area; and

(B) Release detection equipment:

(i) Check to make sure the release detection equipment is operating with no alarms or other unusual operating conditions present; and

(ii) Ensure records of release detection testing are reviewed and current;

(2) Annually:

(A) Containment sumps:

(i) Visually check for damage, leaks to the containment area, or releases to the environment;

(ii) Remove liquid (in contained sumps) or debris; and

(iii) For double walled sumps with interstitial monitoring, check for a leak in the interstitial area; and

(B) Hand held release detection equipment: Check devices such as tank gauge sticks or groundwater bailers for operability and serviceability;

(3) For UST systems receiving deliveries at intervals greater than every thirty (30) calendar days, spill prevention equipment may be checked in accordance with paragraph (1)(A) prior to each delivery; and

(4) For airport hydrant systems, at least once every thirty (30) days if confined space entry according to the Occupational Safety and

Health Administration is not required or at least annually if confined space entry is required (see 29 C.F.R. Part 1910):

A. Hydrant pits:
   (i) Visually check for any damage;
   (ii) Remove any liquid or debris; and
   (iii) Check for any leaks; and

B. Hydrant piping vaults: Check for any hydrant piping leaks.

(b) Owners and operators must maintain records, in accordance with § 50134, of operation and maintenance walkthrough inspections for three (3) years. Records must include a list of each area checked, whether each area checked was acceptable or needed action taken, a description of actions taken to correct an issue, and delivery records if spill prevention equipment is checked less frequently than every thirty (30) calendar days due to infrequent deliveries.

§ 50137. Periodic Inspection and Maintenance of Under-Dispenser Containment Sensing Devices.

(a) Sensing devices for under-dispenser containment required by § 50125 must:

(1) Be operated and maintained in accordance with one of the following:
   (A) The manufacturer's instructions;
   (B) A code of practice developed by a nationally recognized association or independent testing laboratory; or
   (C) Requirements determined by the agency to be no less protective of human health and the environment than those in subparagraphs (A) and (B).

(2) Be inspected for proper operation, and electronic and mechanical components tested, at least annually.

(b) UST system owners and operators must maintain records in accordance with § 50134 demonstrating compliance with subsection (a). Written documentation of all inspection, testing, and maintenance must be maintained for at least three (3) years. All records that the UDC sensor

and connected equipment are designed to produce must be maintained for at least three (3) years after the record is generated.

§ 50138. General Operating Requirements - Codes of Practice.

(a) The following current codes of practice may be used to comply with § 50130(a):

(1) the transfer procedures described in National Fire Protection Association Standard 385;

(2) "Standard for Tank Vehicles for Flammable and Combustible Liquids" or American Petroleum Institute Recommended Practice 1007;

(3) "Loading and Unloading of MC 306/DOT 406 Cargo Tank Motor Vehicles"; or

(4) Further guidance on spill and overfill prevention appears in American Petroleum Institute Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets".

(b) The following current codes of practice may be used to comply with § 50131(2):

(1) NACE International Test Method TM 0101, "Measurement Techniques Related to Criteria for Cathodic Protection of Underground Storage Tank Systems";

(2) NACE International Test Method TM0497, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems";

(3) Steel Tank Institute Recommended Practice R051, "Cathodic Protection Testing Procedures for STI–P3® USTs";

(4) NACE International Standard Practice SP 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection"; or

(5) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems".

(c) The following current code of practice may be useful in complying with § 50132:

(1) American Petroleum Institute Recommended Practice 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Filling Stations".

(d) The following current codes of practice may be used to comply with § 50133(a)(1):

(1) National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code";

(2) American Petroleum Institute Recommended Practice RP 2200, "Repairing Crude Oil, Liquified Petroleum Gas, and Product Pipelines";

(3) American Petroleum Institute Recommended Practice RP 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks";

(4) National Fire Protection Association Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair";

(5) National Leak Prevention Association Standard 631, Chapter A, "Entry, Cleaning, Interior Inspection, Repair, and Lining of Underground Storage Tanks";

(6) Steel Tank Institute Recommended Practice R972, "Recommended Practice for the Addition of Supplemental Anodes to STI-P3® Tanks";

(7) NACE International Standard Practice SP 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection"; or

(8) Fiberglass Tank and Pipe Institute Recommended Practice T-95-02, "Remanufacturing of Fiberglass Reinforced Plastic (FRP) Underground Storage Tanks".

(e) The following current codes of practice may be used to comply with § 50133(a)(6):

(1) Steel Tank Institute Recommended Practice R012, "Recommended Practice for Interstitial Tightness Testing of Existing Underground Double Wall Steel Tanks";

(2) Fiberglass Tank and Pipe Institute Protocol, "Field Test Protocol for Testing the Annular Space of Installed

Underground Fiberglass Double and Triple-Wall Tanks with Dry Annular Space"; or

(3) Petroleum Equipment Institute Recommended Practice RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities".

(f) The following current code of practice may be used to comply with § 50135(a)(1),(2),(3) and 50137(a)(1)(B):

(1) Petroleum Equipment Institute Publication RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities".

§ 50139. [Reserved.]

ARTICLE 4
RELEASE DETECTION

§ 50140. General Requirements for all UST Systems
§ 50141. Requirements for Petroleum UST Systems
§ 50142. Requirements for Hazardous Substance UST Systems
§ 50143. Methods of Release Detection for Tanks
§ 50144. Methods of Release Detection for Piping
§ 50145. Release Detection Recordkeeping
§ 50146. Release Detection – Code of Practice
§ 50147 to § 50149. [Reserved.]

§ 50140. General Requirements for all UST Systems.

(a) Owners and operators of UST systems must provide a method, or combination of methods, of release detection that:

(1) Can detect a release from any portion of the tank and the connected underground piping that routinely contains product;

(2) Utilizes equipment compatible with the regulated

substances being stored;

(3) Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions;

(4) Is operated and maintained, and electronic and mechanical components are tested for proper operation, in accordance with one of the following: manufacturer's instructions; a code of practice developed by a nationally recognized association or independent testing laboratory; or requirements determined by the agency to be no less protective of human health and the environment than the requirements of paragraphs (a)(1) to (3) of this section. All maintenance and service of the release detection equipment must be conducted by a technician with current certification or training appropriate to the equipment serviced. A test of the proper operation must be performed at least every three hundred sixty-five (365) calendar days, or in a time frame recommended by the equipment manufacturer, whichever is more frequent. Beginning October 13, 2018, as applicable to the facility, the test must cover at a minimum the following components and criteria:

(A) Automatic tank gauge and other controllers: test alarm; verify system configuration; test battery backup;

(B) Probes and sensors: inspect for residual buildup; ensure floats move freely; ensure shaft is not damaged; ensure cables are free of kinks and breaks; test alarm operability and communication with controller;

(C) Automatic line leak detector: test operation to meet criteria in § 50144(1) by simulating a leak;

(D) Vacuum pumps and pressure gauges: ensure proper communication with sensors and controller; and

(E) Hand-held electronic sampling equipment associated with groundwater and vapor monitoring: ensure proper operation; and

(5) Meets the performance requirements in § 50143 or § 50144, as applicable, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, the methods listed in § 50143 (2), (3), (4), (8), (9), and (10) and §50144(1), (2), and (4) must be capable of detecting the leak rate or quantity specified for that method in the corresponding section of the rule with a probability of detection of 0.95 and a probability of false alarm of 0.05.

(b) When a release detection method operated in accordance with the performance standards in § 50143 or § 50144 indicates a release may have occurred, owners and operators must notify the agency in accordance with Article 5.

(c) Any UST system that cannot apply a method of release detection that complies with the requirements of this Article must complete the change-in-service or closure procedures in Article 7.

§ 50141. Requirements for Petroleum UST Systems.

(a) Tanks. Owners and operators of petroleum UST systems must provide release detection for tanks as follows:

(1) UST systems other than airport hydrant fuel distribution systems and UST systems with field-constructed tanks:

(A) Tanks installed on or before April 11, 2016, must be monitored for releases at least every thirty (30) calendar days using one of the methods listed in § 50143(4) to (9), except that:

(i) UST systems that meet the performance standards in § 50120, and the monthly inventory control requirements in § 50143(1) or (2), may use tank tightness testing (conducted in accordance with § 50143(3) at least every five (5) years until ten (10) years after the tank was installed; and

(ii) Tanks with capacity of 550 gallons or less and

tanks with a capacity of 551 to 1,000 gallons that meet the tank diameter criteria in § 50143(2) may use manual tank gauging (conducted in accordance with § 50143(2).

(B) Tanks installed after April 11, 2016 must be monitored for releases at least every thirty (30) calendar days in accordance with § 50143(7).

(2) Airport hydrant fuel distribution systems and UST systems with field-constructed tanks with a capacity less than or equal to 50,000 gallons:

(A) Tanks installed before October 13, 2015 must be monitored for releases at least every thirty (30) calendar days using one of the methods listed in § 50143(4) to (9), except that:

(i) UST systems that meet the performance standards in § 50120 (section 11-280.1-20, and the monthly inventory control requirements in § 50143(1) or (2), may use tank tightness testing (conducted in accordance with § 50143(3) at least every five (5) years until ten (10) years after the tank was installed; and

(ii) Tanks with capacity of 550 gallons or less and tanks with a capacity of 551 to 1,000 gallons that meet the tank diameter criteria in § 50143(2) may use manual tank gauging (conducted in accordance with § 50143(2).

(B) Tanks installed on or after October 13, 2015 must be monitored for releases at least every thirty (30) calendar days in accordance with § 50143(7).

(3) UST systems with field-constructed tanks with a capacity greater than 50,000 gallons:

(A) Tanks installed before October 13, 2015 must be monitored for releases at least every thirty (30) calendar days using one of the methods listed in § 50143(4), (7), (8), and (9) or use one or a combination

of the methods of release detection listed in § 50143(10); and

(B) Tanks installed on or after October 13, 2015 must be monitored for releases at least every thirty (30) calendar days in accordance with § 50143(7).

(b) Piping. Underground piping that routinely contains regulated substances must be monitored for releases as follows:

(1) Piping installed on or before April 11, 2016, for UST systems other than airport hydrant fuel distribution systems and UST systems with field-constructed tanks, must meet one of the following:

(A) Pressurized piping. Underground piping that conveys regulated substances under pressure must:

(i) Be equipped with an automatic line leak detector conducted in accordance with § 50144(1); and

(ii) Have an annual line tightness test conducted in accordance with § 50144(2) or have monthly monitoring conducted in accordance with § 50144(3).

(B) Suction piping. Underground piping that conveys regulated substances under suction must:

(i) Have a line tightness test conducted at least every three (3) years and in accordance with § 50144(2);

(ii) Use a monthly monitoring method conducted in accordance with § 50144(3); or

(iii) Meet the standards in paragraph (6)(A) to (E).

(2) Piping installed or replaced after April 11, 2016, for UST systems other than airport hydrant fuel distribution systems and UST systems with field-constructed tanks, must meet one of the following:

(A) Pressurized piping. Underground piping that conveys regulated substances under pressure must:

(i) Be monitored for releases at least every thirty

(30) calendar days in accordance with § 50143(7); and

(ii) Be equipped with an automatic line leak detector in accordance with § 50144(1).

(B) Suction piping. Underground piping that conveys regulated substances under suction must:

(i) Be monitored for releases at least every thirty (30) calendar days in accordance with § 50143(7); or

(ii) Meet the standards in paragraph (6)(A) to (E).

(3) Piping installed on or after October 13, 2015, for UST systems other than airport hydrant fuel distribution systems and UST systems with field-constructed tanks, must meet the technical specifications in paragraph (2)(A) or (B).

(4) Piping for UST systems with field-constructed tanks with a capacity less than or equal to 50,000 gallons and not part of an airport hydrant fuel distribution system:

(A) Piping installed before October 13, 2015 must meet the technical specifications in paragraph (1)(A) or (B).

(B) Piping installed on or after October 13, 2015 must meet the technical specifications in paragraph (2)(A) or (B).

(5) Piping for airport hydrant fuel distribution systems and UST systems with field-constructed tanks with a capacity greater than 50,000 gallons must meet one of the following:

(A) Pressurized piping. Underground piping that conveys regulated substances under pressure must:

(i) Be equipped with an automatic line leak detector conducted in accordance with § 50144(1); and

(ii) Have an annual line tightness test conducted in

accordance with § 50144(2) or have monthly monitoring conducted in accordance with any of the methods in § 50143(7) to (9) designed to detect a release from any portion of the underground piping that routinely contains regulated substances; or

(iii) Use one or a combination of the methods of release detection listed in § 50144(4).

(B) Suction piping. Underground piping that conveys regulated substances under suction must:

(i) Have a line tightness test conducted at least every three (3) years and in accordance with § 50144(2);

(ii) Use a monthly monitoring method conducted in accordance with § 50143(7) to (9) designed to detect a release from any portion of the underground piping that routinely contains regulated substances;

(iii) Use one or a combination of the methods of release detection listed in § 50144(4); or

(iv) Meet the standards in paragraph (6)(A) to (E).

(6) No release detection is required for suction piping that is designed and constructed to meet the following standards:

(A) The below-grade piping operates at less than atmospheric pressure;

(B) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

(C) Only one check valve is included in each suction line;

(D) The check valve is located directly below and

as close as practical to the suction pump; and

(E) A method is provided that allows compliance with subparagraphs (B) to (D) to be readily determined.

§ 50142. Requirements for Hazardous Substance UST Systems.

Owners and operators of hazardous substance UST systems must monitor these systems in accordance with § 50143(7) at least every thirty (30) calendar days. In addition, underground piping that conveys hazardous substances under pressure must be equipped with an automatic line leak detector in accordance with § 50144(1).

§ 50143. Methods of Release Detection for Tanks.

Each method of release detection for tanks used to meet the requirements of § 50140 to § 50142 must be conducted in accordance with the following:

(1) Inventory control. Product inventory control (or another test of equivalent performance) must be conducted monthly to detect a release of at least one (1%) percent of flow-through plus one hundred thirty (130) gallons on a monthly basis in the following manner:

(A) Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank are recorded each operating day;

(B) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;

(C) If a manual measuring device is used (e.g., a gauge stick), the measurements must be made through a drop tube that extends to within one foot of the tank bottom. Level measurements shall be to the nearest one-eighth of an inch;

(D) The regulated substance inputs are reconciled with

delivery receipts by measurement of the tank inventory volume before and after delivery;

(E) Deliveries are made through a drop tube that extends to within one foot of the tank bottom;

(F) Product dispensing is metered and recorded within the state standards for meter calibration or an accuracy of six cubic inches for every five (5) gallons of product withdrawn, and the meter is calibrated every three hundred sixty-five (365) calendar days; and

(G) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month.

(2) Manual tank gauging. Manual tank gauging must meet the following requirements:

(A) Tank liquid level measurements are taken at the beginning and ending of a period using the appropriate minimum duration of test value in the table below during which no liquid is added to or removed from the tank;

(B) If a manual measuring device is used (e.g., a gauge stick), the measurements must be made through a drop tube that extends to within one foot of the tank bottom. Level measurements shall be to the nearest one-eighth of an inch;

(C) Level measurements are based on an average of two (2) consecutive stick readings at both the beginning and ending of the period;

(D) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;

(E) A release is suspected and subject to the requirements of Article 5 if the variation between beginning and ending measurements

exceeds the weekly or monthly standards in the following table:

Nominal tank capacity	Minimum duration of test	Weekly standard (one test)	Monthly standard (four test average)
550 gallons or less	36 hours	10 gallons	5 gallons
551–1,000 gallons (when tank diameter is 64 inches)	44 hours	9 gallons	4 gallons
551–1,000 gallons (when tank diameter is 48 inches)	58 hours	12 gallons	6 gallons
551–1,000 gallons (also requires periodic tank tightness testing)	36 hours	13 gallons	7 gallons
1,001–2,000 gallons (also requires periodic tank tightness testing)	36 hours	26 gallons	13 gallons

(F) Tanks of five hundred fifty (550) gallons or less nominal capacity and tanks with a nominal capacity of five hundred fifty-one (551) to one thousand (1,000) gallons that meet the tank diameter criteria in the table in subparagraph (E) may use manual tank gauging as the sole method of release detection. All other tanks with a nominal capacity of five hundred fifty-one (551) to two thousand (2,000) gallons may use manual tank gauging in place of inventory control in paragraph (1), combined with tank tightness testing as indicated in the table. Tanks of greater than two thousand (2,000) gallons nominal capacity may not use this method to meet the requirements of this Article.

(3) Tank tightness testing. Tank tightness testing (or another test of equivalent performance) must be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

(4) Automatic tank gauging. Equipment for automatic

tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:

(A) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product;

(B) The automatic tank gauging equipment must meet the inventory control (or other test of equivalent performance) requirements of paragraph (1); and

(C) The test must be performed with the system operating in one of the following modes:

(i) In-tank static testing conducted at least once every thirty (30) calendar days; or

(ii) Continuous in-tank leak detection operating on an uninterrupted basis or operating within a process that allows the system to gather incremental measurements to determine the leak status of the tank at least once every thirty (30) calendar days.

(5) Vapor monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:

(A) The materials used as backfill are sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area;

(B) The stored regulated substance, or a tracer compound placed in the tank system, is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the

event of a release from the tank;

(C) The measurement of vapors by the monitoring device is not rendered inoperative by the groundwater, rainfall, or soil moisture or other known interferences so that a release could go undetected for more than thirty (30) calendar days;

(D) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;

(E) The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system;

(F) In the UST excavation zone, the site is assessed to ensure compliance with the requirements in subparagraphs (A) to (D) and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product; and

(G) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

(6) Groundwater monitoring. Testing or monitoring for liquids on the groundwater must meet the following requirements:

(A) The regulated substance stored is immiscible in water and has a specific gravity of less than one;

(B) Groundwater is never more than twenty (20) feet from the ground surface and the hydraulic conductivity of the soils between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands,

coarse silts or other permeable materials);

(C) The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;

(D) Monitoring wells shall be sealed from the ground surface to the top of the filter pack;

(E) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;

(F) The continuous monitoring devices or manual methods used can detect the presence of at least one-eighth of an inch of free product on top of the groundwater in the monitoring wells;

(G) Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in subparagraphs (A) to (E) and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and

(H) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

(7) Interstitial monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed, and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

(A) For double walled UST systems, the sampling

or testing method can detect a leak through the inner wall in any portion of the tank that routinely contains product;

(B) For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a leak between the UST system and the secondary barrier;

(i) The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (at least 10^{-6} cm/sec for the regulated substance stored) to direct a leak to the monitoring point and permit its detection;

(ii) The barrier is compatible with the regulated substance stored so that a leak from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;

(iii) For cathodically protected tanks, the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system;

(iv) The groundwater, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than thirty (30) calendar days;

(v) The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a twenty-five-year flood plain, unless the barrier and monitoring designs are for use under such conditions; and,

(vi) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

(C) For tanks with an internally fitted liner, an automated device can detect a leak between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.

(8) Statistical inventory reconciliation. Release detection methods based on the application of statistical principles to inventory data similar to those described in paragraph (1) must meet the following requirements:

(A) Report a quantitative result with a calculated leak rate;

(B) Be capable of detecting a leak rate of 0.2 gallon per hour or a release of one hundred fifty (150) gallons within thirty (30) calendar days; and

(C) Use a threshold that does not exceed one-half the minimum detectible leak rate.

(9) Other methods. Any other type of release detection method, or combination of methods, can be used if:

(A) It can detect a 0.2 gallon per hour leak rate or a release of one hundred fifty (150) gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05; or

(B) The owner and operator can demonstrate to the agency that the method can detect a release as effectively as any of the methods allowed in paragraphs (3) to (8), and the agency approves the method. In comparing methods, the agency shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator must comply with any conditions imposed by the agency on its use to ensure the

protection of human health and the environment.

(10) Methods of release detection for field-constructed tanks. One or a combination of the following methods of release detection for tanks may be used when allowed by § 50141.

(A) Conduct an annual tank tightness test that can detect a 0.5 gallon per hour leak rate;

(B) Use an automatic tank gauging system to perform release detection at least every thirty (30) calendar days that can detect a leak rate less than or equal to one (1) gallon per hour. This method must be combined with a tank tightness test that can detect a 0.2 gallon per hour leak rate performed at least every three (3) years;

(C) Use an automatic tank gauging system to perform release detection at least every thirty (30) calendar days that can detect a leak rate less than or equal to two (2) gallons per hour. This method must be combined with a tank tightness test that can detect a 0.2 gallon per hour leak rate performed at least every two (2) years;

(D) Perform vapor monitoring (conducted in accordance with paragraph (5) for a tracer compound placed in the tank system) capable of detecting a 0.1 gallon per hour leak rate at least every two (2) years;

(E) Perform inventory control (conducted in accordance with Department of Defense Directive 4140.25, ATA Airport Fuel Facility Operations and Maintenance Guidance Manual, or equivalent procedures) at least every thirty (30) calendar days that can detect a leak equal to or less than 0.5 percent of flow-through; and

(i) Perform a tank tightness test that can detect a 0.5 gallon per hour leak rate at least every two (2) years; or

(ii) Perform vapor monitoring or groundwater monitoring (conducted in accordance with

paragraph (5) or (6), respectively, for the stored regulated substance) at least every thirty (30) calendar days; or

(F) Another method approved by the agency if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in subparagraphs (A) to (E). In comparing methods, the agency shall consider the size of release that the method can detect and the frequency and reliability of detection.

§ 50144. Methods of Release Detection for Piping.

Each method of release detection for piping used to meet the requirements of § 50140 to § 50142 must be conducted in accordance with the following:

(1) Automatic line leak detectors. Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping may be used only if they detect leaks of three (3) gallons per hour at ten (10) pounds per square inch line pressure within one hour. An annual test of the operation of the leak detector must be conducted in accordance with § 50140(a)(4).

(2) Line tightness testing. A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure.

(3) Applicable tank methods. Any of the methods in § 50143(5) to (9) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

(4) Methods of release detection for piping associated with airport hydrant systems and field-constructed tanks. One or a combination of the following methods of release detection for piping may be used when allowed by § 50141.

(A) (i) Perform a semiannual or annual line tightness test at or above the piping

operating pressure in accordance with the table below.

MAXIMUM LEAK DETECTION RATE PER TEST SECTION VOLUME

Test section volume (gallons)	Semiannual test—leak detection rate not to exceed (gallons per hour)	Annual test—leak detection rate not to exceed (gallons per hour)
<50,000	1.0	0.5
≥50,000 to <75,000	1.5	0.75
≥75,000 to <100,000	2.0	1.0
≥100,000	3.0	1.5

(ii) Piping segment volumes ≥100,000 gallons not capable of meeting the maximum 3.0 gallon per hour leak rate for the semiannual test may be tested at a leak rate up to 6.0 gallons per hour according to the following schedule:

PHASE IN FOR PIPING SEGMENTS ≥100,000 GALLONS IN VOLUME

First test	Not later than three years after the effective date of these rules (may use up to 6.0 gph leak rate).
Second test	Between three and six years after the effective date of these rules (may use up to 6.0 gph leak rate).
Third test	Between six and seven years after the effective date of these rules (must use 3.0 gph for leak rate).
Subsequent tests..	Not later than seven years after the effective date of these rules, begin using semiannual or annual line testing according to the Maximum Leak Detection Rate Per Test Section Volume table above.

(B) Perform vapor monitoring (conducted in accordance with § 50143(5) for a tracer compound placed in the tank system) capable of detecting a 0.1 gallon per hour leak rate at least every two (2) years;

(C) Perform inventory control (conducted in accordance

with Department of Defense Directive 4140.25, ATA Airport Fuel Facility Operations and Maintenance Guidance Manual, or equivalent procedures) at least every thirty (30) calendar days that can detect a leak equal to or less than 0.5 percent of flow-through; and

(i) Perform a line tightness test (conducted in accordance with subparagraph (A) using the leak rates for the semiannual test) at least every two (2) years; or

(ii) Perform vapor monitoring or groundwater monitoring (conducted in accordance with § 50143(5) or (6), respectively, for the stored regulated substance) at least every thirty (30) calendar days; or

(D) Another method approved by the agency if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in subparagraphs (A) to (C). In comparing methods, the agency shall consider the size of release that the method can detect and the frequency and reliability of detection.

§ 50145. Release Detection Recordkeeping.

All UST system owners and operators must maintain records in accordance with § 50134 demonstrating compliance with all applicable requirements of this subchapter. These records must include the following:

(1) All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, must be maintained for the operating life of the UST system. Records of site assessments required under § 50143(5)(F) and (6)(G) must be

maintained for as long as the methods are used. Records of site assessments developed after October 13, 2015, must be signed by a professional engineer or professional geologist, or equivalent licensed professional with experience in environmental engineering, hydrogeology, or other relevant technical discipline acceptable to the agency;

(2) The results of any sampling, testing, or monitoring must be maintained for at least three (3) years, except as follows:

(A) The results of annual operation tests conducted in accordance with § 50140(a)(4) must be maintained for three (3) years. At a minimum, the results must list each component tested, indicate whether each component tested meets criteria in § 50140(a)(4) or needs to have action taken, and describe any action taken to correct an issue;

(B) The results of tank tightness testing conducted in accordance with § 50143(3) must be retained until the next test is conducted; and

(C) The results of tank tightness testing, line tightness testing, and vapor monitoring using a tracer compound placed in the tank system conducted in accordance with § 50143(10) or § 50144(4) must be retained until the next test is conducted;

(3) All records that the equipment being utilized to monitor or maintain the UST system is designed to produce must be maintained for at least three (3) years after the record is generated; and

(4) Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site must be maintained for at least three (3) years. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained for five (5) years from the date of installation.

§ 50146. Release Detection - Code of Practice.

The following current code of practice may be used to comply with § 50140(a)(4):

(1) Petroleum Equipment Institute Publication RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities"; and

(2) Practices described in the American Petroleum Institute Recommended Practice RP 1621, "Bulk Liquid Stock Control at Retail Outlets" may be used, where applicable, as guidance in meeting the requirements of § 50143(1).

§ 50147 to § 50149. [Reserved;]

ARTICLE 5
RELEASE REPORTING, INVESTIGATION, AND CONFIRMATION

§ 50150. Reporting of Suspected Release
§ 50151. Investigation of Off-site Impacts
§ 50152. Release Investigation and Confirmation Steps
§ 50153. Reporting and Cleanup of Spills and Overfill
§ 50154 to § 50159. [Reserved.]

§ 50150. Reporting of Suspected Release.

Owners and operators of UST systems must notify the agency within twenty-four (24) hours and follow the procedures in § 50152 for any of the following conditions:

(1) The discovery by any person of evidence of released regulated substances at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface water).

(2) Unusual UST or tank system operating conditions observed

or experienced by owners and operators (such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST system, an unexplained presence of water in the tank, or liquid in the interstitial space of secondarily contained systems), unless:

(A) The system equipment or component is found not to be releasing regulated substances to the environment;

(B) Any defective system equipment or component is immediately repaired or replaced; and

(C) For secondarily contained systems, except as provided for in § 50143(7)(B)(iv), any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed.

(3) Monitoring results, including investigation of an alarm, from a release detection method required under § 50141 and § 50142 that indicate a release may have occurred unless:

(A) The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result;

(B) The leak is contained in the secondary containment and:

(i) Except as provided for in § 50143(7)(B)(iv), any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed; and

(ii) Any defective system equipment or component is immediately repaired or replaced;

(C) In the case of inventory control described in § 50143(1), a second month of data does not confirm the initial result or the investigation determines no release has occurred; or

(D) The alarm was investigated and determined to be a non-release event (for example, from a power surge or caused by filling the tank during release detection testing).

§ 50151. Investigation of Off-site Impacts.

When required by the agency, owners and operators of UST systems must follow the procedures in § 50152 to determine if the UST system is the source of off-site impacts. These impacts include the discovery of regulated substances (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface and drinking waters) that has been observed by the agency or brought to the agency's attention by any person.

§ 50152. Release Investigation and Confirmation Steps.

(a) Unless release response action is initiated in accordance with Article 6, owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under § 50150 within seven (7) calendar days following the discovery of the suspected release, unless a written request for extension of time is granted by the Administrator.

(b) Investigations and confirmations required in subsection (a) must use the following steps or another procedure approved by the agency:

(1) System test. Owners and operators must conduct tests (according to the requirements for tightness testing in § 50143(3) and § 50144(2) or, as appropriate, secondary containment testing described in § 50133(a)(6).

(A) The test must determine whether:

(i) A leak exists in that portion of the tank that routinely contains product, or the attached delivery piping; or

(ii) A breach of either wall of the secondary

containment has occurred.

(B) If the system test confirms a leak into the interstice or a release, owners and operators must repair, replace, or close the UST system. In addition, owners and operators must begin release response action in accordance with Article 6 if the test results for the system, tank, or delivery piping indicate that a release exists.

(C) Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate that a release exists and if environmental contamination is not the basis for suspecting a release.

(D) Owners and operators must conduct a site assessment as described in paragraph (2) if the test results for the system, tank, and delivery piping do not indicate that a release exists but environmental contamination is the basis for suspecting a release.

(2) Site assessment. Owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill and surrounding soil, the depth and flow of groundwater, and other factors as appropriate for identifying the presence and source of the release.

(A) If the test results for the excavation zone or the UST site indicate that a release has occurred, owners and operators must begin release response action in accordance with Article 6;

(B) If the test results for the excavation zone or the UST site do not indicate that a release has occurred, further investigation is not

required.

(c) If it is determined that a release has not occurred, owners and operators must report the results of the investigation in writing to the agency within thirty (30) calendar days following discovery of the suspected release. The report shall include, but not be limited to, results of the tests required by subsection (b) as well as performance claims pursuant to § 50140(a)(5).

§ 50153. Reporting and Cleanup of Spills and Overfill.

(a) Owners and operators of UST systems must contain and immediately clean up all spills and overfills in a manner which is protective of human health and the environment as set forth in § 50165.3.

(b) Owners and operators must notify the agency within twenty-four (24) hours and begin release response action in accordance with Article 6 in the following cases:

(1) Spill or overfill of petroleum that results in a release to the environment that exceeds twenty-five (25) gallons or that causes a sheen on nearby surface waters; and

(2) Spill or overfill of a hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity under CERCLA (40 CFR part 302).

(c) Owners and operators of UST systems must contain and immediately clean up a spill or overfill of petroleum that is less than twenty-five (25) gallons or a spill or overfill of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within twenty-four (24) hours, then the owners and operators must immediately notify the agency of the incident and continue cleaning up the spill or overfill. Owners and operators must also complete and submit to the agency a written report of the actions taken in response to the spill or overfill within twenty (20) calendar days.

(d) An owner or operator must submit the appropriate forms listed in § 501111(b) documenting current evidence of financial responsibility to the Administrator within thirty (30) days after identifying a release from an underground storage tank or tank system required to be reported under

this section.

§ 50154 to § 50159. [Reserved.]

ARTICLE 6
RELEASE RESPONSE ACTION

§ 50160. General
§ 50161. Immediate Response Action
§ 50161.1. Posting of Signs
§ 50162. Initial Abatement Measures and Site Assessment
§ 50163. Initial Site Characterization
§ 50164. Free Product Removal
§ 50165. Investigation for Soil and Groundwater Cleanup
§ 50165.1. Notification of Confirmed Release
§ 50165.2. Release Response Reporting
§ 50165.3. Site Cleanup Criteria
§ 50166. Corrective Action
§ 50167. Public Participation for Corrective Action Plans
§ 50168 to § 50169. [Reserved.]

§ 50160. General.

Owners and operators of petroleum or hazardous substance UST systems must, in response to a confirmed release from the UST system, comply with the requirements of this Article, except for USTs excluded under § 50110(b) and UST systems subject to RCRA Subtitle C corrective action requirements under section 3004(u) of the Resource Conservation and Recovery Act, as amended.

§ 50161. Immediate Response Action.

(a) Upon confirmation of a release in accordance with § 50152 or after a release from the UST system is identified in any other manner, owners

and operators must perform the following response actions within twenty-four (24) hours:

(1) Report the release to the agency by telephone;

(2) Take necessary actions to prevent any further release of the regulated substance into the environment, including removal of as much of the regulated substance from the UST or tank system as possible;

(3) Identify and mitigate any safety hazards (such as fire, explosion, and vapor hazards) posed by the release of the regulated substance; and

(4) Take necessary action to minimize the spread of contamination.

(b) Within seven (7) days of confirmation, owners and operators must submit to the agency a written notice of confirmation. The notice shall include, but not be limited to, the following information: source of the release, method of discovery and confirmation, estimated quantity of substance released, type of substance released, immediate hazards, release impact, migration pathways, and actions taken.

(c) An owner or operator must submit the appropriate forms listed in § 501111(b) documenting current evidence of financial responsibility to the Administrator within thirty (30) calendar days after identifying a release from an underground storage tank or tank system required to be reported under this section.

§ 50161.1. Posting of Signs.

(a) If the agency determines that posting of signs is appropriate, owners and operators shall post signs around the perimeter of the site informing passersby of the potential hazards. In this instance, "site" means an area where contamination poses an immediate health risk or an area where contaminated media is exposed to the surface.

(b) Signs shall be placed at each entrance to the site and at other locations in sufficient numbers to be seen from any approach to the site.

(c) Signs shall be legible and readable from a distance of at least twenty-five (25) feet. The sign legend shall read, "Caution Petroleum/Hazardous

Substance Contamination - Unauthorized Personnel Keep Out". Other sign legends may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the site and that entry onto the site may be dangerous. A contact person and telephone number shall be listed on the sign.

(d) The sign may be removed upon determination by the agency that no further release response action is necessary or that posting of signs is no longer appropriate.

§ 50162. Initial Abatement Measures and Site Assessment.

(a) Unless directed to do otherwise by the agency, owners and operators must perform the following abatement measures:

(1) Continue to remove as much of the regulated substance from the UST system as is necessary to prevent further release to the environment;

(2) Visually inspect the area around the UST or tank system for evidence of any aboveground releases or exposed belowground releases and continue to take necessary actions to minimize the spread of contamination and to prevent further migration of the released substance into surrounding soils, air, surface water, and groundwater;

(3) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);

(4) Remedy hazards (such as dust and vapors and the potential for leachate generation) posed by contaminated soils and debris that are excavated or exposed as a result of release confirmation, site investigation, abatement, or release response action activities;

(5) Conduct an assessment of the release by measuring for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with the

site assessment required by § 50152(b) or the site assessment required for change-in-service or permanent closure in § 50172(a). In selecting sample types, sample locations, and measurement methods, the owner and operator must consider the nature of the stored substance, the type of backfill and surrounding soil, depth and flow of groundwater and other factors as appropriate for identifying the presence and source of the release;

(6) Investigate to determine the possible presence of free product, and begin free product removal in accordance with § 50164;

(7) Remove or remediate contaminated soil at the site to the extent necessary to prevent the spread of free product; and

(8) If any of the remedies in this section include treatment or disposal of contaminated soils, owners or operators must comply with all applicable local, state, and federal requirements.

(b) Within twenty (20) calendar days after release confirmation, or within another reasonable period of time determined by the agency, owners and operators must submit a report to the agency summarizing the initial abatement steps taken under subsection (a) and any resulting information or data.

§ 50163. Initial Site Characterization.

(a) Owners and operators must assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in § 50160 and § 50161. This information must include, but is not necessarily limited to the following:

(1) Data on the nature and estimated quantity of release;

(2) Data from available sources and all previous site investigations concerning the following factors: surrounding populations, water quality, use and approximate locations of wells potentially affected by the release, subsurface soil

conditions, locations of subsurface sewers, climatological conditions, and land use;

(3) Results of the site assessment required under § 50162(a)(5); and

(4) Results of the free product investigations required under § 50162(a)(6), to be used by owners and operators to determine whether free product must be recovered under § 50164.

(b) Within forty-five (45) calendar days of release confirmation, or another reasonable period of time determined by the agency, owners and operators must submit the information collected in compliance with subsection (a) to the agency in a manner that demonstrates its applicability and technical adequacy.

§ 50164. Free Product Removal.

(a) At sites where investigations under § 50162(a)(6) indicate the presence of free product, owners and operators must remove free product to the maximum extent practicable as determined by the agency while continuing, as necessary, any actions initiated under §§ 50161 to 50163, or preparing for actions required under §§ 50165 to 50166. In meeting the requirements of this section, owners and operators must:

(1) Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery byproducts in compliance with applicable local, state, and federal regulations;

(2) Use abatement of free product migration as a minimum objective for the design of the free product removal system;

(3) Handle any flammable products in a safe and competent manner to prevent fires or explosions; and

(4) Prepare and submit to the agency, within forty-five (45) calendar days after confirming a release, a free product removal report that provides at least the following

information:

(A) The name of the person responsible for implementing the free product removal measures;

(B) The estimated quantity, type, and thickness of free product observed or measured in wells, boreholes, and excavations;

(C) The type of free product recovery system used;

(D) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;

(E) The type of treatment applied to, and the effluent quality expected from, any discharge;

(F) All actions already performed or currently underway to remove free product, including steps that have been or are being taken to obtain necessary permits for any discharge;

(G) The disposition of the recovered free product; and

(H) Schedule for completion of free product removal.

(b) Owners and operators shall initiate free product removal as soon as practicable but no later than thirty (30) calendar days following confirmation of a release, or sooner if directed by the agency.

§ 50165. Investigation for Soil and Groundwater Cleanup.

(a) In order to determine the full extent and location of soils contaminated by the release and the presence and concentrations of dissolved product contamination in the groundwater and surface water, owners and operators must conduct investigations of the release, the release site, and the surrounding area possibly affected by the release if any of the

following conditions exist:

(1) There is evidence that groundwater wells have been affected by the release (e.g., as found during release confirmation or previous release response actions);

(2) Free product is found to need recovery in compliance with § 50164;

(3) There is evidence that contaminated soils may be in contact with groundwater (e.g., as found during conduct of the initial response measures or investigations required under §§ 50160 to 50164; and

(4) The agency requests an investigation, based on the potential effects of contaminated soil or groundwater on nearby surface water and groundwater resources.

(b) Owners and operators must include information collected in accordance with this section with each quarterly report required pursuant to § 50165.2.

§ 50165.1. Notification of Confirmed Release.

(a) Within ninety (90) calendar days following confirmation of a release, the owner and operator shall notify those members of the public directly affected by the release in writing of the release and the proposed response to the release, including a historical account of actions performed since the discovery of the release. Members of the public directly affected by the release shall include:

(1) Persons who own, hold a lease for, or have easements at, any property on which the regulated substance released from the UST was discovered; and

(2) Other persons identified by the director.

(b) The owner and operator shall send a letter to all members of the public directly affected by the release. Model language for the letter shall be provided by the agency and shall include at least the following information:

(1) Name and address of the UST or UST system;

(2) Statement that a release of regulated substance has been

confirmed at the UST or UST system;

(3) Name of a contact person at the agency; and

(4) Reference to an attached factsheet pursuant to subsection (c).

(c) The letter to the members of the public directly affected by the release shall include a factsheet which contains the following information:

(1) Name and address of the UST or UST system;

(2) Name and address of the owner and operator of the UST or UST system;

(3) Name, address, and telephone contact of the party performing the cleanup activities;

(4) Date of the confirmed release;

(5) Nature and extent of the confirmed release;

(6) Summary of measures taken to assess the release and extent of contamination; and

(7) Summary of the proposed response to the release.

(d) The factsheet shall be updated on a quarterly basis and sent to all members of the public directly affected by the release. If additional members of the public directly affected by the release are identified in the course of release response actions, then the owner and operator shall provide those persons with all previous and future letters and factsheets.

(e) The owner and operator shall include in the quarterly report required pursuant to § 50165.2 the following information:

(1) Copy of the letter pursuant to subsection (b);

(2) List of the members of the public directly affected by the release and to whom the letter was sent; and

(3) Copies of the factsheet and amended factsheets pursuant to subsections (c) and (d).

§ 50165.2. Release Response Reporting.

(a) No later than ninety (90) calendar days following the confirmation of a release, owners and operators must submit to the agency a written report in the format specified by the agency. The report must include:

(1) All release response actions taken pursuant to this

Article during the first ninety-day (90) period (first quarter); and

(2) A plan for future release response actions to be taken.

(b) Beginning one hundred eighty (180) calendar days following confirmation of a release, owners and operators must submit to the agency written quarterly progress reports and an electronic copy of the written report in a format specified by the agency. The reports must document:

(1) All response actions taken pursuant to this subchapter after the last reported date;

(2) A plan for future release response actions to be taken; and

(3) Information required pursuant to § 50165.1.

(c) Quarterly progress reports are not required if:

(1) Response actions have met the requirements of § 50165.3; and

(2) A final quarterly report has been submitted.

§ 50165.3. Site Cleanup Criteria.

(a) Owners and operators must remediate soil, surface water, and groundwater, and materials contaminated by releases from USTs or tank systems in a manner that is protective of human health and the environment and achieves cleanup as described in subsection (b).

(b) Owners and operators must remediate contaminated soil, groundwater, and surface water at the site to residual concentrations that meet one of the following criteria:

(1) Default Tier 1 Screening Levels as presented in Table 1 in subsection (e); or

(2) Site-specific action levels as approved by the agency. Owners and operators should consult with the agency on how the standards in this paragraph can be met. Site-specific action levels must take into account the following factors:

(A) For systemic toxicants, acceptable levels shall represent concentration levels to which the human

population may be exposed without adverse effect during a lifetime or part of a lifetime, and incorporating an adequate margin of safety;

(B) For known or suspected carcinogens, acceptable levels are generally concentration levels in soil, groundwater and vapor that represent an excess upper bound lifetime cancer risk to an individual of between 10^{-4} and 10^{-6} using information on the relationship between dose and response. The 10^{-6} excess risk level shall be used as the point of departure for determining acceptable levels for alternatives when chemical-specific state or federal requirements are not available or are not sufficiently protective because of the presence of multiple contaminants at the site or multiple pathways of exposure;

(C) Impacts to ecological receptors, including but not limited to plants and animals; and

(D) Other applicable requirements, including but not limited to nuisance concerns for odor and taste, if applicable.

(c) The agency may require the owners and operators to modify cleanup activities being performed at a site if the agency determines that the activities are not being carried out in accordance with this subchapter, or are not achieving cleanup levels that are protective of human health and the environment. The agency may impose modifications to cleanup activities by written notice to the owners and operators, and the owners and operators must implement necessary changes to the cleanup activities in response to the agency's notice by a time schedule established by the agency.

(d) A schedule for estimated completion of site cleanup shall be included in each fourth quarter report required pursuant to § 50165.2(b).

(e) The figure labeled "Table 1. Tier 1 Screening Levels of Soil and Groundwater" is made a part of this subsection.

Table 1. Tier 1 Screening Levels for Soil and Groundwater

Contaminant	DRINKING WATER SOURCE THREATENED				DRINKING WATER SOURCE NOT THREATENED			
	Groundwater (ug/l)	Basis[1]	Soil (mg/kg)	Basis[2]	Groundwater (ug/l)	Basis[3]	Soil (mg/kg)	Basis[2]
Acenaphthene	15	-	120	L/VI	15	-	40	L/VI
Benzene	5.0	DWP	0.30	L	71	CAT	0.77	VI
Benzo(a)pyrene	0.05	-	3.6	DE	0.05	-	3.6	DE
Dichloroethylene, cis 1,2-	70	DWP	0.36	VI	620	CAT	0.36	VI
Dichloroethylene, trans 1,2-	100	DWP	3.6	VI	560	CAT	3.6	VI
Ethylbenzene	7.3	CAT	0.90	L	7.3	CAT	0.90	L
Fluoranthene	0.05	-	87	L	0.05	-	87	L
Lead	2.5	CAT	200	DE	2.5	CAT	200	DE
Methyl Tert Butyl Ether (MTBE)	5.0	DWS	0.028	L	730	CAT	2.3	VI
Naphthalene	12	CAT	3.1	L	12	CAT	3.1	L
Polychlorinated Biphenyls (PCBs)	0.014	-	1.2	DE	0;014	-	1.2	DE
Tetrachloethylene (PCE)	5.0	DWP	0.098	VI	53	CAT	0.098	VI
Toluene	9.8	CAT	0.78	L	9.8	CAT	0.78	L
TPH-gasolines	300	DWP	100	GC	500	CAT	100	GC
TPH-middle distillates	400	DWP	220	DE	640	CAT	220	DE
TPH-residual fuels	500	DWS	500	GC	640	CAT	500	GC
Trichloroethylene	5.0	DWP	0.089	VI	47	CAT	0.089	VI
Vinyl Chloride	2.0	DWP	0.036	VI	18	VI	0.036	VI
Xylenes	13	CAT	1.4	L	13	CAT	1.4	L

Notes to Table 1.

1. Drinking water screening levels are the lowest of screening levels for: drinking water primary maximum contaminant levels based on toxicity ("DWP"), drinking water secondary maximum contaminant levels based on taste and odor concerns ("DWS"), vapor intrusion ("VI"), and chronic aquatic toxicity ("CAT").

2. Soil screening levels are the lowest of screening levels for: direct exposure ("DE"), vapor intrusion ("VI"), leaching ("L"), and gross contamination ("GC").

3. Non-drinking water screening levels are the lowest of screening levels vapor intrusion ("VI"), chronic aquatic toxicity ("CAT"), and gross contamination ("GC").

§ 50166. Corrective Action.

(a) The agency may require that the owner and operator submit a written corrective action plan for responding to a release, if one or more of the following minimum threshold criteria is met:

(1) Actual or probable release to groundwater which is a drinking water supply;
(2) Actual or probable release to surface water which is a drinking water supply;
(3) Actual or probable release to air that poses a threat to public health;
(4) Actual or probable release to and extensive contamination of soil that poses a direct contact hazard due to uncontrolled access;
(5) Actual or probable existence of uncontrolled regulated substances that pose a direct contact hazard due to uncontrolled access;
(6) Actual or probable adverse impact to natural resources;
(7) Actual or probable imminent danger of fire or explosion; or

(8) A determination by the Administrator that a release poses a substantial endangerment to public health or welfare, the environment, or natural resources.

(b) If a plan is required, owners and operators must submit the plan to the agency in a format established by the agency within thirty (30) calendar days of the agency's request, unless an extension of time is granted by the agency.

(c) Corrective action plans which are required to be submitted to the agency shall be subject to the review and discretionary approval of the agency in accordance with the procedures set forth in this section. Owners and operators are responsible for submitting a corrective action plan that provides for adequate protection of human health and the environment as determined by the agency and must make necessary modifications to the plan when directed to do so by the agency.

(d) The agency will approve the corrective action plan only after ensuring that implementation of the plan will adequately protect human health, safety, and the environment. In making this determination, the agency will consider the following factors as appropriate:

(1) Physical and chemical characteristics of the regulated substance, including its toxicity, persistence, and potential for migration;

(2) Hydrogeologic characteristics of the facility and the surrounding area;

(3) Proximity, quality, and current and future uses of nearby surface water and groundwater;

(4) Potential effects of residual contamination on nearby surface water and groundwater;

(5) An exposure assessment; and

(6) All other information assembled in compliance with this subchapter.

(e) The public participation procedures set forth in § 50167 apply to all corrective action plans submitted under this section.

(f) Upon approval of a corrective action plan, owners and operators must implement the plan, including any modifications to the plan made by the agency. Owners and operators must monitor, evaluate, and report

quarterly to the agency the results of implementing the corrective action plan pursuant to this section and § 50165.2.

(g) Owners and operators who have been requested by the agency to submit a corrective action plan are encouraged to begin cleanup of contaminated soils, surface water, groundwater, and materials before the plan is approved by the agency provided that they:

(1) Notify the agency of their intention to begin cleanup;

(2) Ensure that cleanup measures undertaken are consistent with the cleanup actions required pursuant to § 50165.3;

(3) Comply with any conditions imposed by the agency, including halting cleanup or mitigating adverse consequences from cleanup activities; and

(4) Incorporate self-initiated cleanup measures in the corrective action plan that is submitted to the agency for approval.

§ 50167. Public Participation for Corrective Action Plans.

(a) The agency shall conduct public participation activities in accordance with subsections (c) through (h) when:

(1) A corrective action plan required pursuant to § 50166(a) has been submitted and the agency has made a tentative decision concerning the proposed plan; or

(2) Implementation of any previously approved corrective action plan has not achieved the cleanup levels established in the plan and termination of the plan is under consideration by the agency.

(b) The agency will provide notice to the public of the release and the applicable response as required in subsections (c) and (d). Costs for all public participation activities described in subsections (c) through (h) shall be borne by the owner and operator of the UST or UST system, including the costs of making copies of materials to the public under subsection (f).

(c) Notice to members of the public directly affected by the release, as defined in § 50165.1(a), shall be given in the form of a letter from the agency and shall include at least the following information:

(1) Name and address of the UST or UST system;

(2) Name and address of the owner and operator of the UST or UST system;
(3) Summary of the release information and the proposed or previously approved corrective action plan;
(4) The agency's tentative decision concerning the proposed corrective action plan or concerning the termination of the previously approved corrective action plan;
(5) Announcement that an informational meeting will be held in accordance with subsection (g);
(6) Request for comments on the corrective action plan and the agency's tentative decision; and
(7) Availability of information on the release and the agency's tentative decision.

(d) Notice to the general public shall be given in the form of a notice in a local newspaper and shall include at least the information required in subsection (c)(1) to (7).

(e) Comments shall be received by the agency no later than thirty (30) calendar days after the notice provided in subsections (c) and (d) or after the end of the public meeting held pursuant to subsection (g), if any, whichever occurs later.

(f) Information on the release, the proposed corrective action plan, and the agency's tentative decision on the plan shall be made available to the public for inspection upon request.

(g) Before approving a corrective action plan, the agency may conduct a public meeting to provide information and receive comments on the proposed plan. A meeting will be held if there is sufficient public interest. Public interest shall be indicated by written request to the agency.

(h) At the Administrator's discretion, a notice of final decision may be issued.

§ 50168 to § 50169. [Reserved.]

ARTICLE 7
OUT-OF-SERVICE UST SYSTEMS AND CLOSURE

§ 50170. Temporary Closure
§ 50171. Permanent Closure and Change-in-Service
§ 50172. Assessing the Site at Closure or Change-in-Service
§ 50173. Applicability to Previously Closed UST Systems
§ 50174. Closure Records
§ 50175. Closure--Code of Practice
§ 50176 - § 50189. [Reserved.]

§ 50170. Temporary Closure.

(a) When an UST system is temporarily closed, owners and operators must continue operation and maintenance of corrosion protection in accordance with § 50131, and applicable release detection in accordance with Article 4. Articles 5 and 6 must be complied with if a release is suspected or confirmed. Spill and overfill operation and maintenance testing and inspections in Article 3 are not required during temporary closure. If the UST system is empty, release detection and release detection operation and maintenance testing and inspections in Articles 3 and 4 are not required. The UST system is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remain in the system.
(b) When an UST system is temporarily closed for ninety (90) calendar days or more, owners and operators must also comply with the following requirements:

(1) Leave vent lines open and functioning; and
(2) Cap and secure all other lines, pumps, manways, and ancillary equipment.

(c) When an UST system is temporarily closed for more than twelve (12) months, owners and operators must permanently close the UST system if it does not meet the applicable design, construction, and installation requirements in Article 2, except that the spill and overfill equipment requirements do not have to be met. Owners and operators must

permanently close the substandard UST systems at the end of this twelve-month period in accordance with §§ 50171 to 50174, unless the agency provides an extension of the twelve-month temporary closure period. Owners and operators must complete a site assessment in accordance with § 50172 before such an extension can be applied for.

§ 50171. Permanent Closure and Change-in-Service.

(a) At least thirty (30) calendar days before beginning either permanent closure or a change-in-service of an UST or tank system under subsections (c) and (d), owners and operators must notify the agency in writing of their intent to permanently close or make the change-in-service, unless such action is in response to a confirmed release. The required assessment of the excavation zone under § 50172 must be performed after notifying the agency but before completion of the permanent closure or change-in-service.

(b) At least seven (7) calendar days before excavation work for a permanent closure or change-in-service, owners or operators must notify the agency of the exact date that the work will occur.

(c) To permanently close an UST or tank system, owners and operators must:

(1) Empty and clean the UST and tank system by removing all liquids and accumulated sludge;

(2) Remove the UST or tank system from the ground, fill the UST or tank system with an inert solid material, or close the tank in place in a manner approved by the agency; and

(3) Conduct a site assessment in accordance with § 50172.

(d) Continued use of an UST system to store a non-regulated substance is considered a change-in-service. Before a change-in-service, owners and operators must:

(1) Empty and clean the UST and tank system by removing all liquids and accumulated sludge; and

(2) Conduct a site assessment in accordance with § 50172.

(e) Within thirty (30) calendar days of completing a permanent closure or change-in-service, owners and operators must submit a notification to the

agency indicating completion of the closure or change-in-service.

§ 50172. Assessing the Site at Closure or Change-in-Service.

(a) Before permanent closure or a change-in-service is completed, owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the types of backfill and surrounding soil, the depth and flow of groundwater, and other factors appropriate for identifying the presence of a release.
(b) If contaminated soils, contaminated groundwater, or free product as a liquid or vapor is discovered under subsection (a), or by any other manner, owners and operators must begin release response action in accordance with Article 6.

§ 50173. Applicability to Previously Closed UST Systems.

(a) When directed by the agency, the owner and operator of an UST system permanently closed before December 22, 1988 must assess the excavation zone and close the UST system in accordance with this Article if releases from the UST may, in the judgment of the agency, pose a current or potential threat to human health and the environment.
(b) When directed by the agency, the owner and operator of an UST system with field-constructed tanks or an airport hydrant fuel distribution system permanently closed before October 13, 2015, must assess the excavation zone and close the UST system in accordance with this Article if releases from the UST may, in the judgment of the agency, pose a current or potential threat to human health and the environment.

§ 50174. Closure Records.

Owners and operators must maintain records in accordance with § 50134 that are capable of demonstrating compliance with closure requirements

under this Article. The results of the excavation zone assessment required in § 50172 must be maintained for at least three (3) years after completion of permanent closure or change-in-service in one of the following ways:

(1) By the owners and operators who took the UST system out of service;

(2) By the current owners and operators of the UST system site; or

(3) By mailing these records to the agency if they cannot be maintained at the closed facility.

§ 50175. Closure--Code of Practice.

The following current cleaning and closure procedures may be used to comply with § 50171:

(1) American Petroleum Institute Recommended Practice RP 1604, "Closure of Underground Petroleum Storage Tanks";

(2) American Petroleum Institute Standard 2015, "Safe Entry and Cleaning of Petroleum Storage Tanks, Planning and Managing Tank Entry From Decommissioning Through Recommissioning";

(3) American Petroleum Institute Recommended Practice 2016, "Guidelines and Procedures for Entering and Cleaning Petroleum Storage Tanks";

(4) American Petroleum Institute Recommended Practice RP 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks", may be used as guidance for compliance with this section;

(5) National Fire Protection Association Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair"; and

(6) National Institute for Occupational Safety and Health Publication 80–106, "Criteria for a Recommended Standard...Working in Confined Space", may be used as guidance for conducting safe closure procedures at some

tanks containing hazardous substances.

§§ 50176 to 50189. [Reserved.]

ARTICLE 8
FINANCIAL RESPONSIBILITY

§ 50190. Applicability
§ 50191. [Reserved]
§ 50192. Definition of Terms
§ 50193. Amount and Scope of Required Financial Responsibility
§ 50194. Allowable Mechanism and Combinations of Mechanisms
§ 50195. Financial Test of Self-Insurance
§ 50196. Guarantee
§ 50197. Insurance and Risk Retention Group Coverage
§ 50198. Surety Bond
§ 50199. Letter of Credit
§ 501100 to § 501101. [Reserved]
§ 501102. Trust Fund
§ 501103. Standby Trust Fund
§ 501104. Local Government Bond Rating Test
§ 501105. Local Government Financial Test
§ 501106. Local Government Guarantee
§ 501107. Local Government Fund
§ 501108. Substitution of Financial Assurance Mechanisms by Owner or Operator
§ 501109. Cancellation or Non-renewal by a Provider of Financial Assurance
§ 501110. Reporting by Owner or Operator
§ 501111. Record Keeping
§ 501112. Drawing of Financial Assurance Mechanisms
§ 501113. Release from the Requirements
§ 501114. Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance

§ 501115. Replenishment of Guarantee, Letters of Credit, or Surety Bond
§ 501116. to § 501199 [Reserved]

§ 50190. Applicability.

(a) This Article applies to owners and operators of all petroleum underground storage tank (UST) systems except as otherwise provided in this section.
(b) State and federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States are exempt from the requirements of this Article.
(c) The requirements of this Article do not apply to owners and operators of any UST system described in § 50110(b), (c)(1), (c)(3), or (c)(4).
(d) If the owner and operator of a petroleum underground storage tank system are separate persons, only one person is required to demonstrate financial responsibility; however, both parties are liable in the event of noncompliance.

§ 50191. [Reserved.]

§ 50192. Definition of Terms.

When used in this Article, the following terms have the meanings given below:

"Accidental release" means any sudden or nonsudden release of petroleum arising from operating an underground storage tank system that results in a need for release response action and/or compensation for bodily injury or property damage neither expected nor intended by the tank system owner or operator.

"Bodily injury" shall have the meaning given to this term by applicable state law; however, this term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

"Chief financial officer" in the case of local government owners and

operators, means the individual with the overall authority and responsibility for the collection, disbursement, and use of funds by the local government.

"Controlling interest" means direct ownership of at least fifty percent of the voting stock of another entity.

"Financial reporting year" means the latest consecutive twelve-month period for which any of the following reports used to support a financial test is prepared:

(1) A 10-K report submitted to the U.S. Securities and Exchange Commission;

(2) An annual report of tangible net worth submitted to Dun and Bradstreet; or

(3) Annual reports submitted to the Energy Information Administration or the Rural Utilities Service.

"Financial reporting year" may thus comprise a fiscal or a calendar year period.

"Legal defense cost" is any expense that an owner or operator or provider of financial assurance incurs in defending against claims or actions brought:

(1) By EPA or the state to require release response action or to recover the costs of release response action;

(2) By or on behalf of a third party for bodily injury or property damage caused by an accidental release; or

(3) By any person to enforce the terms of a financial assurance mechanism.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in a release from an underground storage tank system. This definition is intended to assist in the understanding of these regulations and is not intended either to limit the meaning of "occurrence" in a way that conflicts with standard insurance usage or to prevent the use of other standard insurance terms in place of "occurrence".

"Owner or operator", when the owner or operator are separate parties, refers to the party that is obtaining or has obtained financial assurances.

"Petroleum marketing facilities" include all facilities at which petroleum is produced or refined and all facilities from which petroleum is sold or transferred to other petroleum marketers or to the public.

"Property damage" shall have the meaning given this term by applicable state law. This term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage. However, such exclusions for property damage shall not include response actions associated with releases from USTs or tank systems which are covered by the policy.

"Provider of financial assurance" means an entity that provides financial assurance to an owner or operator of an underground storage tank system through one of the financial mechanisms listed in §§ 50195 through 501107, including a guarantor, insurer, risk retention group, surety, issuer of a letter of credit, issuer of a state-required mechanism, or a state.

"Substantial business relationship" means the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from and depends on existing economic transactions between the guarantor and the owner or operator.

"Substantial governmental relationship" means the extent of a governmental relationship necessary under applicable state law to make an added guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from a clear commonality of interest in the event of an UST or tank system release such as coterminous boundaries, overlapping constituencies, common groundwater aquifer, or other relationship other than monetary compensation that provides a motivation for the guarantor to provide a guarantee.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, "assets" means all existing and all probable future economic benefits

obtained or controlled by a particular entity as a result of past transactions.

"Termination" under § 50197(b)(1) and (2) means only those changes that could result in a gap in coverage as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy.

§ 50193. Amount and Scope of Required Financial Responsibility.

(a) Owners or operators of petroleum USTs or tank systems must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs or tank systems in at least the following per-occurrence amounts:

(1) For owners or operators of petroleum USTs or tank systems that are located at petroleum marketing facilities, or that handle an average of more than ten thousand gallons of petroleum per month based on annual throughput for the previous calendar year: $1,000,000; and

(2) For all other owners or operators of petroleum USTs or tank systems: $500,000.

(b) Owners or operators of petroleum USTs or tank systems must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs or tank systems in at least the following annual aggregate amounts:

(1) For owners or operators of one to one hundred petroleum USTs: $1,000,000; and

(2) For owners or operators of one hundred one or more petroleum USTs: $2,000,000.

(c) For the purposes of subsections (b) and (f) only, "a petroleum underground storage tank" or "a petroleum UST" means a single containment unit and does not mean combinations of single containment units.

(d) Except as provided in subsection (e), if the owner or

operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for:

(1) Taking corrective action;

(2) Compensating third parties for bodily injury and property damage caused by sudden accidental releases; or

(3) Compensating third parties for bodily injury and property damage caused by nonsudden accidental releases, the amount of assurance provided by each mechanism or combination of mechanisms must be in the full amount specified in subsections (a) and (b).

(e) If an owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for different petroleum underground storage tanks, the annual aggregate required shall be based on the number of tanks covered by each such separate mechanism or combination of mechanisms.

(f) Owners or operators shall review the amount of aggregate assurance provided whenever additional petroleum underground storage tanks are acquired or installed. If the number of petroleum underground storage tanks for which assurance must be provided exceeds one hundred, the owner or operator shall demonstrate financial responsibility in the amount of at least $2,000,000 of annual aggregate assurance by the anniversary of the date on which the mechanism demonstrating financial responsibility became effective. If assurance is being demonstrated by a combination of mechanisms, the owner or operator shall demonstrate financial responsibility in the amount of at least $2,000,000 of annual aggregate assurance by the first-occurring effective date anniversary of any one of the mechanisms combined (other than a financial test or guarantee) to provide assurance.

(g) The amounts of assurance required under this section exclude legal defense costs.

(h) The required per-occurrence and annual aggregate coverage amounts do not in any way limit the liability of the owner or operator.

§ 50194. Allowable Mechanism and Combinations of Mechanisms.

(a) Subject to the limitations of subsections (b) and (c):

(1) An owner or operator, including a local government owner or operator, may use any one or combination of the mechanisms listed in §§ 50195 through 501103 to demonstrate financial responsibility under this Article for one or more USTs or tank systems; and

(2) A local government owner or operator may use any one or combination of the mechanisms listed in §§ 501104 through 501107 to demonstrate financial responsibility under this subchapter for one or more USTs or tank systems.

(b) An owner or operator may use a guarantee under § 50196 or surety bond under § 50198 to establish financial responsibility only if the State Attorney General has submitted a written statement to the administrator that a guarantee or surety bond executed as described in this section is a legally valid and enforceable obligation in the State.

(c) An owner or operator may use self-insurance in combination with a guarantee only if, for the purpose of meeting the requirements of the financial test under this rule, the financial statements of the owner or operator are not consolidated with the financial statements of the guarantor.

§ 50195. Financial Test of Self-Insurance.

(a) An owner or operator, and/or guarantor, may satisfy the requirements of § 50193, Guam Administrative Rules and Regulations by passing a financial test as specified in this section. To pass the financial test of self-insurance, the owner or operator, and/or guarantor, must meet the criteria of subsection (b) or (c) based on year-end financial statements for the latest completed fiscal year.

(b) (1) The owner or operator, and/or guarantor, must have a tangible net worth of at least ten times:

(A) The total of the applicable aggregate amount required by § 50193, Guam Administrative Rules and Regulations, based on the number of underground storage tanks for which a financial test is used to

demonstrate financial responsibility to the agency, to EPA, or to a state implementing agency under a state program approved by EPA under 40 C.F.R. part 281;

(B) The sum of the RCRA subtitle C corrective action cost estimates, the current closure and post-closure care cost estimates, and amount of liability coverage for which a financial test is used to demonstrate financial responsibility to demonstrate financial responsibility to the agency under 40 C.F.R. sections 261.143 and 261.147, as incorporated and amended in section 11-261.1-1, 40 C.F.R. sections 264.101, 264.143, 264.145, and 264.147, as incorporated and amended in section 11-264.1-1, and 40 C.F.R. sections 265.143, 265.145, and 265.147, as incorporated and amended in section 11-265.1-1, to EPA under 40 C.F.R. sections 261.143, 261.147, 264.101, 264.143, 264.145, 264.147, 265.143, 265.145, and 265.147, or to a state implementing agency under a state program authorized by EPA under 40 C.F.R. part 271; and

(C) The sum of current plugging and abandonment cost estimates for which a financial test is used to demonstrate financial responsibility to EPA under 40 C.F.R. section 144.63 or to a state implementing agency under a state program authorized by EPA under 40 C.F.R. part 145.

(2) The owner or operator, and/or guarantor, must have a tangible net worth of at least $10,000,000.

(3) The owner or operator, and/or guarantor, must have a letter signed by the chief financial officer worded as specified in subsection (d).

(4) The owner or operator, and/or guarantor, must either:

(A) File financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Utilities Service; or

(B) Report annually the firm's tangible net worth to Dun and Bradstreet, and Dun and Bradstreet must have assigned the firm a financial strength rating of 4A or 5A.

(5) The firm's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

(c) (1) The owner or operator, and/or guarantor, must meet the financial test requirements of 40 C.F.R. section 264.147(f)(1), substituting the appropriate amounts specified in § 50193(b)(1) and (2), Guam Administrative Rules and Regulations for the "amount of liability coverage" each time specified in that section.

(2) The fiscal year-end financial statements of the owner or operator, and/or guarantor, must be examined by an independent certified public accountant and be accompanied by the accountant's report of the examination.

(3) The firm's year-end financial statements cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

(4) The owner or operator, and/or guarantor, must have a letter signed by the chief financial officer, worded as specified in subsection (d).

(5) If the financial statements of the owner or operator, and/or guarantor, are not submitted annually to the U.S. Securities and Exchange Commission, the Energy Information Administration or the Rural Utilities Service, the owner or operator, and/or guarantor, must obtain a special report by an independent certified public accountant stating that:

(A) The accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the latest year-end financial statements of the owner or operator, and/or guarantor, with the amounts in such financial statements; and

(B) In connection with that comparison, no matters came

to the accountant's attention, which caused the accountant to believe that the specified data should be adjusted.

(d) To demonstrate that it meets the financial test under subsection (b) or (c), the chief financial officer of the owner or operator, or guarantor, must sign, within one hundred twenty days of the close of each financial reporting year, as defined by the twelve-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

LETTER FROM CHIEF FINANCIAL OFFICER

I am the chief financial officer of [insert: name and address of the owner or operator, or guarantor]. This letter is in support of the use of [insert: "the financial test of self-insurance" or "guarantee" or both] to demonstrate financial responsibility for [insert: "taking corrective action" or "compensating third parties for bodily injury and property damage" or both] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this financial test, or a corresponding financial test under EPA or another authorized state program, by this [insert: "owner or operator" or "guarantor"]:

[List for each facility: the name and address of the facility where tanks assured by this financial test are located, and whether tanks are assured by this financial test or a corresponding financial test under EPA or under a state program approved under 40 C.F.R. part 281. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to 40 C.F.R. section 280.22, or in the permit applications submitted under §§ 501324 and

501326, Guam Administrative Rules and Regulations

A [insert: "financial test" and/or "guarantee"] is also used by this [insert: "owner or operator" or "guarantor"] to demonstrate evidence of financial responsibility in the following amounts under other EPA regulations or state programs authorized by EPA under 40 C.F.R. parts 271 and 145:

	Amount
EPA Regulations:	
Closure (§§261.143, 264.143, and 265.143)	$
Post-Closure Care (§§264.145 and 265.145)	
Liability Coverage (§§261.147, 264.147, and 265.147)	$
Corrective Action (§264.101(b))	
Plugging and Abandonment (§144.63)	$
	$
	$
Authorized State Programs:	
Closure	$
Post-Closure Care	$
Liability Coverage	$
Corrective Action	$
Plugging and Abandonment	$
TOTAL	$

This [insert: "owner or operator" or "guarantor"] has not received an adverse opinion, a disclaimer of opinion, or a "going concern" qualification from an independent auditor on his or her financial statements for the latest completed fiscal year.

[Fill in the information for Alternative I if the criteria of subsection (b) are being used to demonstrate compliance with the financial test requirements. Fill in the information for Alternative II if the criteria of

subsection (c) are being used to demonstrate compliance with the financial test requirements.]

ALTERNATIVE I

	Amount	
1. Amount of annual UST aggregate coverage being assured by a financial test, or guarantee or both	$	
2. Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test, or guarantee or both	$	
3. Sum of lines 1 and 2	$	
4. Total tangible assets	$	
5. Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6]	$	
6. Tangible net worth [subtract line 5 from line 4]	$	
7. Is line 6 at least $10,000,000?	Yes	No
8. Is line 6 at least ten times line 3?	Yes	No
9. Have financial statements for the latest fiscal year been filed with the U.S. Securities and Exchange Commission?	Yes	No
10. Have financial statements for the latest fiscal year been filed with the federal Energy Information Administration?	Yes	No
11. Have financial statements for the latest fiscal year been filed with the federal Rural Utilities Service?	Yes	No
12. Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a financial strength rating of 4A or 5A? [Answer "Yes" only if both criteria have been met.]	Yes	No

ALTERNATIVE II

		Amount
1. Amount of annual UST aggregate coverage being assured by a financial test, or guarantee or both	$	
2. Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test, or guarantee or both	$	
3. Sum of lines 1 and 2	$	
4. Total tangible assets	$	
5. Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6]	$	
6. Tangible net worth [subtract line 5 from line 4]	$	
7. Total assets in the U.S. [required only if less than ninety per cent of assets are located in the U.S.]	$	
8. Is line 6 at least $10,000,000?	Yes	No
9. Is line 6 at least six times line 3?	Yes	No
10. Are at least ninety per cent of assets located in the U.S.? [If "No," complete line 11]	Yes	No
11. Is line 7 at least six times line 3?	Yes	No
[Fill in either lines 12-15 or lines 16-18:]		
12. Current assets	$	
13. Current liabilities	$	
14. Net working capital [subtract line 13 from line 12]	$	
15. Is line 14 at least six times line 3?	Yes	No
16. Current bond rating of most recent bond issue		

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17. Name of rating service

18. Date of maturity of bond

19. Have financial statements for the latest fiscal year been filed with the U.S. Securities and Exchange Commission, the federal Energy Information Administration, or the federal Rural Utilities Service? Yes No

[If "No," please attach a report from an independent certified public accountant certifying that there are no material differences between the data as reported in lines 4-18 above and the financial statements for the latest fiscal year.]

[For both Alternative II and I complete the certification with this statement.]

I hereby certify that the wording of this letter is identical to the wording specified in § 50195(d), Guam Administrative Rules and Regulations, as such regulations were constituted on the date shown immediately below.

[Signature]
[Name]
[Title]
[Date]

(e) If an owner or operator using the test to provide financial assurance finds that he or she no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator must obtain alternative coverage within one hundred fifty days of the end of the year for which financial statements have been prepared.

(f) The Administrator may require reports of financial condition at any time from the owner or operator, and/or guarantor. If the director finds, on the basis of such reports or other information, that the owner or operator, and/or guarantor, no longer meets the financial test requirements of subsections (b) or (c) and (d), the owner or operator must

obtain alternate coverage within thirty days after notification of such a finding.

(g) If the owner or operator fails to obtain alternate assurance within one hundred fifty days of finding that he or she no longer meets the requirements of the financial test based on the year-end financial statements, or within thirty days of notification by the Administrator that he or she no longer meets the requirements of the financial test, the owner or operator must notify the director of such failure within ten days.

§ 50196. Guarantee.

(a) An owner or operator may satisfy the requirements of § 50193 by obtaining a guarantee that conforms to the requirements of this section. The guarantor must be:

(1) A firm that:

(A) Possesses a controlling interest in the owner or operator;

(B) Possesses a controlling interest in a firm described under subparagraph (A); or

(C) Is controlled through stock ownership by a common parent firm that possesses a controlling interest in the owner or operator; or

(2) A firm engaged in a substantial business relationship with the owner or operator and issuing the guarantee as an act incident to that business relationship.

(b) Within one hundred twenty days of the close of each financial reporting year the guarantor must demonstrate that it meets the financial test criteria of § 50195, Guam Administrative Rules and Regulations based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in § 50195(d), Guam Administrative Rules and Regulations and must deliver the letter to the owner or operator. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within one hundred twenty days of the end of that financial reporting year the guarantor shall send by certified mail,

before cancellation or nonrenewal of the guarantee, notice to the owner or operator. If the Administrator notifies the guarantor that it no longer meets the requirements of the financial test of § 50195(b) or (c) and (d), Guam Administrative Rules and Regulations, the guarantor must notify the owner or operator within ten days of receiving such notification from the Administrator. In both cases, the guarantee will terminate no less than one hundred twenty days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternative coverage as specified in § 501114(e), Guam Administrative Rules and Regulations.

(c) The guarantee must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

GUARANTEE

Guarantee made this [date] by [name of guaranteeing entity], a business entity organized under the laws of the State of [name of state], herein referred to as guarantor, to Guam Environmental Protection Agency and to any and all third parties, and obligees, on behalf of [owner or operator] of [business address].

Recitals.

(1) Guarantor meets or exceeds the financial test criteria of § 50195(b) or (c) and (d), Guam Administrative Rules and Regulations , and agrees to comply with the requirements for guarantors as specified in § 50196(b), Guam Administrative Rules and Regulations.

(2) [Owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 C.F.R. section 280.22, or in the permit

applications submitted under §§ 501324 and 501326 and the name and address of the facility.] This guarantee satisfies Article 8 of Guam Administrative Rules and Regulations, requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

(3) [Insert appropriate phrase: "On behalf of our subsidiary" (if guarantor is corporate parent of the owner or operator); "On behalf of our affiliate" (if guarantor is a related firm of the owner or operator); or "Incident to our business relationship with" (if guarantor is providing the guarantee as an incident to a substantial business relationship with owner or operator)] [owner or operator], guarantor guarantees to Guam Environmental Protection Agency and to any and all third parties that:

In the event that [owner or operator] fails to provide alternative coverage within sixty days after receipt of a notice of cancellation of this guarantee and the Administrator of Guam Environmental Protection Agency has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the Administrator of Guam Environmental Protection Agency, shall fund a standby trust fund in accordance with the provisions of § 501112 Guam Administrative Rules and Regulations, in an amount not to exceed the coverage limits specified above.

In the event that the Administrator of Guam Environmental Protection Agency determines that [owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with Article 6 Guam Administrative Rules and Regulations, the guarantor, upon written instructions from the Administrator of Guam Environmental Protection Agency, shall fund a standby trust in accordance with the provisions of § 501112, Guam Administrative Rules and Regulations, in an amount not to

exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the Administrator of Guam Environmental Protection Agency, shall fund a standby trust in accordance with the provisions of § 501112, Guam Administrative Rules and Regulations, to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

(4) Guarantor agrees that if, at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet the financial test criteria of § 50195(b) or (c) and (d), Guam Administrative Rules and Regulations, guarantor shall send within one hundred twenty days of such failure, by certified mail, notice to [owner or operator]. The guarantee will terminate one hundred twenty days from the date of receipt of the notice by [owner or operator], as evidenced by the return receipt.

(5) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within ten days after commencement of the proceeding.

(6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to Title 22, Guam Administrative Rules and Regulations, Chapter 50.

(7) Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable financial responsibility requirements of Article 8, Guam Administrative Rules and Regulations, for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than one hundred twenty days after receipt of such notice by [owner or operator],

as evidenced by the return receipt.

(8) The guarantor's obligation does not apply to any of the following:

(a) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily damage or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of § 50193, Guam Administrative Rules and Regulations.

(9) Guarantor expressly waives notice of acceptance of this guarantee by the Guam Environmental Protection Agency, by any or all third parties, or by [owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in § 50196(c) Guam Administrative Rules and Regulations, as such regulations were constituted on the effective date shown immediately below.

Effective date:
[Name of guarantor]
[Authorized signature for guarantor]
[Name of person signing]
[Title of person signing]

Signature of witness or notary:

(d) An owner or operator who uses a guarantee to satisfy the requirements of § 50193 Guam Administrative Rules and Regulations must establish a standby trust fund when the guarantee is obtained. Under the terms of the guarantee, all amounts paid by the guarantor under the guarantee will be deposited directly into the standby trust fund in accordance with instructions from the Administrator of Guam Environmental Protection Agency under § 501112. This standby trust fund must meet the requirements specified in § 501103.

§ 50197. Insurance and Risk Retention Group Coverage.

(a) An owner or operator may satisfy the requirements of § 50193, Guam Administrative Rules and Regulations by obtaining liability insurance that conforms to the requirements of this section from a qualified insurer or risk retention group. Such insurance may be in the form of a separate insurance policy or an endorsement to an existing insurance policy.

(b) Each insurance policy must be amended by an endorsement worded as specified in paragraph (l) or evidenced by a certificate of insurance worded as specified in paragraph (2), except that instructions in brackets must be replaced with the relevant information and the brackets deleted:

(1) ENDORSEMENT

Name: [name of each covered location]
Address: [address of each covered location]
Policy Number:
Period of Coverage: [current policy period]
Name of [Insurer or Risk Retention Group]:
Address of [Insurer or Risk Retention Group]:
Name of Insured:
Address of Insured:

Endorsement:

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering the following underground storage tanks:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 C.F.R. 280.22, or in the permit applications submitted under §§ 501324 and 501326, Guam Administrative Rules and Regulations, and the name and address of the facility.] for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage, and/or for each underground storage tank or location], exclusive of legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The insurance afforded with respect to such

occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions inconsistent with subsections (a) to (e) of this paragraph are hereby amended to conform with subsections (a) to (e);

a. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this endorsement is attached.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in §§ 50195 to 501102 and §§ 501104 to 501107, Guam Administrative Rules and Regulations.

c. Whenever requested by the Administrator of Guam Environmental Protection Agency, the ["Insurer" or "Group"] agrees to furnish to the Administrator of Guam Environmental Protection Agency a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"], except for non-payment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of sixty days after a copy of such written notice is received by the insured. Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of ten days after a copy of such written notice is received by the insured. Insert for claims-

made policies:

e. The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in § 50197(b)(1) , Guam Administrative Rules and Regulations, and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in Guam"].

[Signature of authorized representative of Insurer or Risk Retention Group]
[Name of person signing]
[Title of person signing], Authorized Representative of [name of Insurer or Risk Retention Group]
[Address of Representative]

(2) CERTIFICATE OF INSURANCE

Name: [name of each covered location]
Address: [address of each covered location]
Policy Number:

Endorsement (if applicable):
Period of Coverage: [current policy period]
Name of [Insurer or Risk Retention Group]:
Address of [Insurer or Risk Retention Group]:
Name of Insured:
Address of Insured:

Certification:

1. [Name of Insurer or Risk Retention Group], [the "Insurer" or "Group"], as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s):

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 C.F.R. 280.22, or in the permit applications submitted under §§ 501324 and 501326, Guam Administrative Rules and Regulations, and the name and address of the facility.] for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different

underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The ["Insurer" or "Group"] further certifies the following with respect to the insurance described in Paragraph 1:

a. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this certificate applies.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in §§ 50195 to 501102 and 501104 to 501107, Guam Administrative Rules and Regulations.

c. Whenever requested by the Administrator of Guam Environmental Protection Agency, the ["Insurer" or "Group"] agrees to furnish to the director a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"], except for non-payment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of sixty days after a copy of such written notice is received by the insured. Cancellation for non-payment of premium or misrepresentation by the insured will be effective

only upon written notice and only after expiration of a minimum of ten days after a copy of such written notice is received by the insured. Insert for claims-made policies:

e. The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in § 50197(b)(2), Guam Administrative Rules and Regulations, and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in Guam"].

[Signature of authorized representative of Insurer]
[Type Name]
[Title], Authorized Representative of [name of Insurer or Risk Retention Group]
[Address of Representative]

(c) Each insurance policy must be issued by an insurer or a risk retention group that, at a minimum, is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines

insurer in Guam.

§ 50198. Surety Bond.

(a) An owner or operator may satisfy the requirements of § 50193, Guam Administrative Rules and Regulations by obtaining a surety bond that conforms to the requirements of this section. The surety company issuing the bond must be among those listed as acceptable sureties on federal bonds in the latest Circular 570 of the U.S. Department of the Treasury.

(b) The surety bond must be worded as follows, except that instructions in brackets must be replaced with the relevant information and the brackets deleted:

PERFORMANCE BOND

Date bond executed:
Period of coverage:
Principal: [legal name and business address of owner or operator]
Type of organization: [insert: "individual", "joint venture", "partnership", or "corporation"]
State of incorporation (if applicable):
Surety(ies): [name(s) and business address(es)]
Scope of Coverage: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 C.F.R. 280.22, or in the permit applications submitted under §§ 501324 and 501326, Guam Administrative Rules and Regulations, and the name and address of the facility. List the coverage guaranteed by the bond: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" "arising from operating the underground storage tank"].

Penal sums of bond:
Per occurrence $
Annual aggregate $
Surety's bond number:

Know All Persons by These Presents, that we, the Principal and Surety(ies), hereto are firmly bound to the Guam Environmental Protection Agency, in the above penal sums for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sums jointly and severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sums only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sums.

Whereas said Principal is required under Article 8, Guam Administrative Rules and Regulations, to provide financial assurance for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tanks identified above, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, therefore, the conditions of the obligation are such that if the Principal shall faithfully ["take corrective action, in accordance with Article 6, Guam Administrative Rules and Regulations, and the Administrator of Guam Environmental Protection Agency instructions for," and/or "compensate injured third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "sudden and nonsudden accidental releases"] arising from operating the tank(s) identified above, or if the

Principal shall provide alternate financial assurance, as specified in Article 8, Guam Administrative Rules and Regulations, within one hundred twenty days after the date the notice of cancellation is received by the Principal from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

Such obligation does not apply to any of the following:

(a) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of § 50193, Guam Administrative Rules and Regulations.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the Administrator of Guam Environmental Protection Agency that the Principal has failed to ["take corrective action, in accordance with Article 6, Guam Administrative Rules and Regulations and the Administrator of Guam Environmental Protection Agency's instructions," and/or "compensate injured third parties"] as guaranteed by this bond, the Surety(ies) shall either perform ["corrective action in accordance with Chapter 50, Guam Administrative Rules and Regulations and the Administrator of Guam Environmental Protection Agency's

Principal
[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

Corporate Surety(ies)
[Name and address]
State of Incorporation:
Liability limit: $
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: $

(c) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. In all cases, the surety's liability is limited to the per-occurrence and annual aggregate penal sums.

(d) The owner or operator who uses a surety bond to satisfy the requirements of § 50193, Guam Administrative Rules and Regulations must establish a standby trust fund when the surety bond is acquired. Under the terms of the bond, all amounts paid by the surety under the bond will be deposited directly into the standby trust fund in accordance with instructions from the Administrator of Guam Environmental Protection Agency under § 501112, Guam Administrative Rules and Regulations. This standby trust fund must meet the requirements specified in § 501103, Guam Administrative Rules and Regulations.

§ 50199. Letter of Credit.

instructions," and/or "third party liability compensation"] or place funds in an amount up to the annual aggregate penal sum into the standby trust fund as directed by the Administrator of Guam Environmental Protection Agency under § 501112 , Guam Administrative Rules and Regulations.

Upon notification by the Administrator of Guam Environmental Protection Agency that the Principal has failed to provide alternate financial assurance within sixty days after the date the notice of cancellation is received by the determined or suspects that a release has occurred, the Surety(ies) shall place funds in an amount not exceeding the annual aggregate penal sum into the standby trust fund as directed by the Administrator of Guam Environmental Protection Agency and § 501112, Guam Administrative Rules and Regulations.

The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the annual shall the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal, provided, however, that cancellation shall not occur during the one hundred twenty days beginning on the date of return receipt.

The Principal may terminate this bond by sending written notice to the Surety(ies).

In Witness Thereof, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in § 50198(b), Guam Administrative Rules and Regulations, as such regulations were constituted on the date this bond was executed.

(a) An owner or operator may satisfy the requirements of § 50193, Guam Administrative Rules and Regulations by obtaining an irrevocable standby letter of credit that conforms to the requirements of this section. The issuing institution must be an entity that has the authority to issue letters of credit in Guam and whose letter-of-credit operations are regulated and examined by a federal or Guam agency.

(b) The letter of credit must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

IRREVOCABLE STANDBY LETTER OF CREDIT

[Name and address of issuing institution]
[Name and address of the Administrator of Guam Environmental Protection Agency]

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. __ in your favor, at the request and for the account of [owner or operator name] of [address] up to the aggregate amount of [in words] U.S. dollars ($[insert dollar amount]), available upon presentation of

(1) Your sight draft, bearing reference to this letter of credit, No. __, and

(2) Your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of 10 GCA Chapter 76."

This letter of credit may be drawn on to cover [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the underground storage tank(s) identified below in the amount of [in words] $[insert dollar amount] per occurrence and [in words] $[insert dollar amount] annual aggregate:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for

each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 C.F.R. 280.22, or permit applications submitted under §§ 501324 and 501326, Guam Administrative Rules and Regulations, and the name and address of the facility.]

The letter of credit may not be drawn on to cover any of the following:

(a) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of § 50193, Guam Administrative Rules and Regulations.

This letter of credit is effective as of [date] and shall expire on [date], but such expiration date shall be automatically extended for a period of [at least the length of the original term] on [expiration date] and on each successive expiration date, unless, at least one hundred twenty days before the current expiration date, we notify [owner or operator] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event that [owner or operator] is so notified, any unused portion of the credit shall be available upon presentation of your sight draft for one hundred twenty days after the date of receipt by [owner or operator], as shown on the signed return

receipt.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [owner or operator] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in § 50199(b), Guam Administrative Rules and Regulations, as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution]
[Date]

This credit is subject to [insert: "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"].

(c) An owner or operator who uses a letter of credit to satisfy the requirements of § 50193, Guam Administrative Rules and Regulations must also establish a standby trust fund when the letter of credit is acquired. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Administrator will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Administrator of Guam Environmental Protection Agency under § 501112, Guam Administrative Rules and Regulations. This standby trust fund must meet the requirements specified in § 501103, Guam Administrative Rules and Regulations.

(d) The letter of credit must be irrevocable with a term specified by the issuing institution. The letter of credit must provide that credit be automatically renewed for the same term as the original term, unless, at least one hundred twenty days before the current expiration date, the issuing institution notifies the owner or operator by certified mail of its decision not to renew the letter of credit. Under the terms of the letter of credit, the one hundred twenty days will begin on the date when the

owner or operator receives the notice, as evidenced by the return receipt.

§ 501100 to § 501101. [Reserved.]

§ 501102. Trust Fund.

(a) An owner or operator may satisfy the requirements of § 50193, Guam Administrative Rules and Regulations by establishing a trust fund that conforms to the requirements of this section. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of the state in which the fund is established.

(b) The wording of the trust agreement must be identical to the wording specified in § 501103(b)(1), Guam Administrative Rules and Regulations, and must be accompanied by a formal certification of acknowledgment as specified in § 501103(b)(2), Guam Administrative Rules and Regulations.

(c) The trust fund, when established, must be funded for the full required amount of coverage, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining required coverage.

(d) If the value of the trust fund is greater than the required amount of coverage, the owner or operator may submit a written request to the Administrator for release of the excess.

(e) If other financial assurance as specified in this subchapter is substituted for all or part of the trust fund, the owner or operator may submit a written request to the Administrator for release of the excess.

(f) Within sixty days after receiving a request from the owner or operator for release of funds as specified in subsection (d) or (e), the Administrator will instruct the trustee to release to the owner or operator such funds as the Administrator specifies in writing.

§ 501103. Standby Trust Fund.

a) An owner or operator using any one of the mechanisms

authorized by §§ 50196, 50198, or 50199, Guam Administrative Rules and Regulations must establish a standby trust fund when the mechanism is acquired. The trustee of the standby trust fund must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of the state in which the fund is established.

(b)(l) The standby trust agreement, or trust agreement, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

TRUST AGREEMENT

Trust agreement, the "Agreement," entered into as of [date] by and between [name of the owner or operator], a [name of state] [insert: "corporation", "partnership", "association", or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert: "Incorporated in the State of __" or "a national bank"], the "Trustee".

Whereas, Guam Environmental Protection Agency has established certain regulations applicable to the Grantor, requiring that an owner or operator of an underground storage tank shall provide assurance that funds will be available when needed for corrective action and third-party compensation for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from the operation of the underground storage tank. The attached Schedule A lists the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located that are covered by the [insert "standby" where trust agreement is standby trust agreement] trust agreement;

[Whereas, the Grantor has elected to establish [insert either "a guarantee", "surety bond", or "letter of credit"] to provide all or part of such financial assurance for the

underground storage tanks identified herein and is required to establish a standby trust fund able to accept payments from the instrument (This paragraph is only applicable to the standby trust agreement.)];

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee;

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of the Financial Assurance Mechanism. This Agreement pertains to the [identify the financial assurance mechanism, either a guarantee, surety bond, or letter of credit, from which the standby trust fund is established to receive payments (This paragraph is only applicable to the standby trust agreement.)].

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of Guam Environmental Protection Agency. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. [The Fund is established initially as a standby to receive payments and shall not consist of any property.] Payments made by the provider of financial assurance pursuant to the Administrator of Guam Environmental Protection Agency's instruction are transferred to the Trustee and are referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the

Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor as provider of financial assurance, any payments necessary to discharge any liability of the Grantor established by Guam Environmental Protection Agency.

Section 4. Payment for ["Corrective Action" or "Third-Party Liability Claims" or both]. The Trustee shall make payments from the Fund as the Administrator of Guam Environmental Protection Agency shall direct, in writing, to provide for the payment of the costs of [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the tanks covered by the financial assurance mechanism identified in this Agreement.

The Fund may not be drawn upon to cover any of the following:

(a) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of § 50193 Guam Administrative Rules and Regulations.

The Trustee shall reimburse the Grantor, or other persons as specified by the Administrator of Guam Environmental Protection Agency, from the Fund for corrective action expenditures and/or third-party liability claims, in such amounts as the director shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the Administrator specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash and securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his or her duties with respect to the trust fund solely in the interest of the beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(i) Securities or other obligations of the Grantor, or any other owner or operator of the tanks, or any of their

affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase

money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by

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the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 11. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 12. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in writing sent to the Grantor and the present Trustee by certified mail ten days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 13. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Schedule B or such other designees as the Grantor may designate by amendment to Schedule B. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Administrator of Guam Environmental Protection Agency to the Trustee shall be in writing, signed by the Administrator, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Administrator hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the Administrator of Guam Environmental Protection Agency, except as provided for herein.

Section 14. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor and the Trustee, or by the Trustee and the Administrator of Guam Environmental Protection Agency if the Grantor ceases to exist.

Section 15. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 14, this Trust shall be irrevocable and shall continue until terminated at the written direction of the Grantor and the Trustee, or by the Trustee and the Administrator of Guam Environmental Protection Agency, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 16. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Administrator of Guam Environmental Protection Agency issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 17. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of Guam or the Comptroller of the Currency in the case of National Association banks.

Section 18. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals (if applicable) to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in § 501103(b)(1), Guam Administrative Rules and Regulations, as such regulations were constituted on the date written above.

[Signature of Grantor]
[Name of the Grantor]
[Title]

Attest:
[Signature of Trustee]
[Name of the Trustee]
[Title]
[Seal]

[Signature of Witness]
[Name of the Witness]
[Title]
[Seal]

(2) The standby trust agreement, or trust agreement, must be accompanied by a formal certification of acknowledgment similar to the following:

State of ___
County of ___

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]
[Name of Notary Public]

(c) The Administrator will instruct the trustee to refund the balance of the standby trust fund to the provider of financial assurance if the Administrator determines that no additional corrective action costs or

third-party liability claims will occur as a result of a release covered by the financial assurance mechanism for which the standby trust fund was established.

(d) An owner or operator may establish one trust fund as the depository mechanism for all funds assured in compliance with this rule.

§ 501104. Local Government Bond Rating Test.

(a) A general purpose local government owner or operator and/or local government serving as a guarantor may satisfy the requirements of § 50193, Guam Administrative Rules and Regulations by having a currently outstanding issue or issues of general obligation bonds of $1,000,000 or more, excluding refunded obligations, with a Moody's rating of Aaa, Aa, A, or Baa, or a Standard & Poor's rating of AAA, AA, A, or BBB. Where a local government has multiple outstanding issues, or where a local government's bonds are rated by both Moody's and Standard and Poor's, the lowest rating must be used to determine eligibility. Bonds that are backed by credit enhancement other than municipal bond insurance may not be considered in determining the amount of applicable bonds outstanding.

(b) A local government owner or operator or local government serving as a guarantor that is not a general-purpose local government and does not have the legal authority to issue general obligation bonds may satisfy the requirements of § 50193, Guam Administrative Rules and Regulation by having a currently outstanding issue or issues of revenue bonds of $1,000,000 or more, excluding refunded issues and by also having a Moody's rating of Aaa, Aa, A, or Baa, or a Standard & Poor's rating of AAA, AA, A or BBB as the lowest rating for any rated revenue bond issued by the local government. Where bonds are rated by both Moody's and Standard & Poor's, the lower rating for each bond must be used to determine eligibility. Bonds that are backed by credit enhancement may not be considered in determining the amount of applicable bonds outstanding.

(c) The local government owner or operator and/or guarantor must maintain a copy of its bond rating published within the last twelve

months by Moody's or Standard & Poor's.

(d) To demonstrate that it meets the local government bond rating test, the chief financial officer of a general purpose local government owner or operator and/or guarantor must sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

LETTER FROM THE CHIEF FINANCIAL OFFICER

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this bond rating test: [List for each facility: the name and address of the facility where tanks are assured by the bond rating test].

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding bond issues that are being used by [name of local government owner or operator, or guarantor] to demonstrate financial responsibility are as follows: [complete table]

Issue Date	Maturity Date	Outstanding Amount	Bond Rating	Rating Agency*

*[Moody's or Standard & Poor's]

The total outstanding obligation of [insert amount], excluding

refunded bond issues, exceeds the minimum amount of $1,000,000. All outstanding general obligation bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last twelve months. Neither rating service has provided notification within the last twelve months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in § 501104(d), Guam Administrative Rules and Regulations, as such regulations were constituted on the date shown immediately below.

[Date]
[Signature]
[Name]
[Title]

(e) To demonstrate that it meets the local government bond rating test, the chief financial officer of local government owner or operator and/or guarantor other than a general purpose government must sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

LETTER FROM THE CHIEF FINANCIAL OFFICER

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an)

underground storage tank(s). This local government is not organized to provide general governmental services and does not have the legal authority under state law or constitutional provisions to issue general obligation debt.

Underground storage tanks at the following facilities are assured by this bond rating test: [List for each facility: the name and address of the facility where tanks are assured by the bond rating test.]

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding revenue bond issues that are being used by [name of local government owner or operator, or guarantor] to demonstrate financial responsibility are as follows: [complete table]

Issue Date	Maturity Date	Outstanding Amount	Bond Rating	Rating Agency*

*[Moody's or Standard & Poor's]

The total outstanding obligation of [insert amount], excluding refunded bond issues, exceeds the minimum amount of $1,000,000. All outstanding revenue bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last twelve months. The revenue bonds listed are not backed by third-party credit enhancement or insured by a municipal bond insurance company. Neither rating service has provided notification within the last twelve months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in § 501104 (e), Guam Administrative Rules and Regulations, as such regulations were constituted on the date shown immediately below.

[Date]
[Signature]
[Name]
[Title]

(f) The director may require reports of financial condition at any time from the local government owner or operator and/or local government guarantor. If the Administrator finds, on the basis of such reports or other information, that the local government owner or operator and/or guarantor no longer meets the local government bond rating test requirements of this section, the local government owner or operator must obtain alternative coverage within thirty days after notification of such a finding.

(g) If a local government owner or operator using the bond rating test to provide financial assurance finds that it no longer meets the bond rating test requirements, the local government owner or operator must obtain alternative coverage within one hundred fifty days of the change in status.

(h) If the local government owner or operator fails to obtain alternate assurance within one hundred fifty days of finding that it no longer meets the requirements of the bond rating test or within thirty days of notification by the Administrator that it no longer meets the requirements of the bond rating test, the owner or operator must notify the Administrator of such failure within ten days.

§ 501105. Local Government Financial Test.

(a) A local government owner or operator may satisfy the requirements of § 50193 by passing the financial test specified in this section. To be eligible to use the financial test, the local government owner or operator must have the ability and authority to assess and levy taxes or to freely establish fees and charges. To pass the local government financial test, the owner or operator must meet the criteria of subsection (b)(2) and (3) based on year-end financial statements for the latest

completed fiscal year.

(b) (1) The local government owner or operator must have the following information available, as shown in the year-end financial statements for the latest completed fiscal year:

(A) Total Revenues: Consists of the sum of general fund operating and non-operating revenues including net local taxes, licenses and permits, fines and forfeitures, revenues from use of money and property, charges for services, investment earnings, sales (property, publications, etc.), intergovernmental revenues (restricted and unrestricted), and total revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity. For purposes of this test, the calculation of total revenues shall exclude all transfers between funds under the direct control of the local government using the financial test (interfund transfers), liquidation of investments, and issuance of debt.

(B) Total Expenditures: Consists of the sum of general fund operating and non-operating expenditures including public safety, public utilities, transportation, public works, environmental protection, cultural and recreational, community development, revenue sharing, employee benefits and compensation, office management, planning and zoning, capital projects, interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues. For purposes of this test, the calculation of total expenditures shall exclude all transfers between funds under the direct control of the local government using the financial test

(interfund transfers).

(C) Local Revenues: Consists of total revenues (as defined in subparagraph (A)) minus the sum of all transfers from other governmental entities, including all monies received from federal, state, or local government sources.

(D) Debt Service: Consists of the sum of all interest and principal payments on all long-term credit obligations and all interest-bearing short-term credit obligations. Includes interest and principal payments on general obligation bonds, revenue bonds, notes, mortgages, judgments, and interest-bearing warrants. Excludes payments on non-interest-bearing short-term obligations, interfund obligations, amounts owed in a trust or agency capacity, and advances and contingent loans from other governments.

(E) Total Funds: Consists of the sum of cash and investment securities from all funds, including general, enterprise, debt service, capital projects, and special revenue funds, but excluding employee retirement funds, at the end of the local government's financial reporting year. Includes federal securities, federal agency securities, state and local government securities, and other securities such as bonds, notes and mortgages. For purposes of this test, the calculation of total funds shall exclude agency funds, private trust funds, accounts receivable, value of real property, and other non-security assets.

(F) Population consists of the number of people in the area served by the local government.

(2) The local government's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion or a disclaimer of opinion. The local government cannot have outstanding issues of general obligation or revenue bonds that are rated as less than investment grade.

(3) The local government owner or operator must have a letter signed by the chief financial officer worded as specified in subsection (c).

(c) To demonstrate that it meets the financial test under subsection (b), the chief financial officer of the local government owner or operator, must sign, within one hundred twenty days of the close of each financial reporting year, as defined by the twelve-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

LETTER FROM CHIEF FINANCIAL OFFICER

I am the chief financial officer of [insert: name and address of the owner or operator]. This letter is in support of the use of the local government financial test to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating [an] underground storage tank[s].

Underground storage tanks at the following facilities are assured by this financial test [List for each facility: the name and address of the facility where tanks assured by this financial test are located. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to 10 GCA Chapter 76, 40 C.F.R. section 280.22, or in the permit applications submitted under §§ 501324 and 501326, Guam Administrative Rules and Regulations.

This owner or operator has not received an adverse opinion, or a disclaimer of opinion from an independent auditor on its financial statements for the latest completed fiscal year. Any outstanding issues of general obligation or revenue bonds, if rated, have a Moody's rating of

Aaa, Aa, A, or Baa or a Standard and Poor's rating of AAA, AA, A, or BBB; if rated by both firms, the bonds have a Moody's rating of Aaa, Aa, A or Baa and a Standard and Poor's rating of AAA, AA, A, or BBB.

WORKSHEET FOR MUNICIPAL FINANCIAL TEST

PART I: BASIC INFORMATION

1. Total Revenues
   a. Revenues (dollars)
      Value of revenues excludes liquidation of investments and issuance of debt. Value includes all general fund operating and non-operating revenues, as well as all revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity.
   b. Subtract interfund transfers (dollars)
   c. Total Revenues (dollars)
2. Total Expenditures
   a. Expenditures (dollars)
      Value consists of the sum of general fund operating and non-operating expenditures including interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues.
   b. Subtract interfund transfers (dollars)
   c. Total Expenditures (dollars)
3. Local Revenues
   a. Total Revenues (from 1c) (dollars)
   b. Subtract total intergovernmental transfers (dollars)
   c. Local Revenues (dollars)
4. Debt Service
   a. Interest and fiscal charges (dollars)

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b. Add debt retirement (dollars)
c. Total Debt Service (dollars)

5. Total Funds (Dollars)
(Sum of amounts held as cash and investment securities from all funds, excluding amounts held for employee retirement funds, agency funds, and trust funds)
6. Population (Persons)

PART II: APPLICATION OF TEST

7. Total Revenues to Population
   a. Total Revenues (from 1c)
   b. Population (from 6)
   c. Divide 7a by 7b
   d. Subtract 417
   e. Divide by 5,212
   f. Multiply by 4.095
8. Total Expenses to Population
   a. Total Expenses (from 2c)
   b. Population (from 6)
   c. Divide 8a by 8b
   d. Subtract 524
   e. Divide by 5,401
   f. Multiply by 4.095
9. Local Revenues to Total Revenues
   a. Local Revenues (from 3c)
   b. Total Revenues (from 1c)
   c. Divide 9a by 9b
   d. Subtract 0.695
   e. Divide by 0.205
   f. Multiply by 2.840
10. Debt Service to Population
   a. Debt Service (from 4c)
   b. Population (from 6)
   c. Divide 10a by 10b

d. Subtract 51
e. Divide by 1,038
f. Multiply by -1.866

11. Debt Service to Total Revenues
    a. Debt Service (from 4c)
    b. Total Revenues (from 1c)
    c. Divide 11a by 11b
    d. Subtract 0.068
    e. Divide by 0.259
    f. Multiply by -3.533
12. Total Revenues to Total Expenses
    a. Total Revenues (from 1c)
    b. Total Expenses (from 2c)
    c. Divide 12a by 12b
    d. Subtract 0.910
    e. Divide by 0.899
    f. Multiply by 3.458
13. Funds Balance to Total Revenues
    a. Total Funds (from 5)
    b. Total Revenues (from 1c)
    c. Divide 13a by 13b
    d. Subtract 0.891
    e. Divide by 9.156
    f. Multiply by 3.270
14. Funds Balance to Total Expenses
    a. Total Funds (from 5)
    b. Total Expenses (from 2c)
    c. Divide 14a by 14b
    d. Subtract 0.866
    e. Divide by 6.409
    f. Multiply by 3.270
15. Total Funds to Population
    a. Total Funds (from 5)
    b. Population (from 6)
    c. Divide 15a by 15b

d. Subtract 270
e. Divide by 4,548
f. Multiply by 1.866
16. Add 7f+8f+9f+10f+11f+12f+13f+14f+15f+4.937

I hereby certify that the financial index shown on line 16 of the worksheet is greater than zero and that the wording of this letter is identical to the wording specified in § 501105(c), Guam Administrative Rules and Regulations, as such regulations were constituted on the date shown immediately below.

[Date]
[Signature]
[Name]
[Title]

(d) If a local government owner or operator using the test to provide financial assurance finds that it no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator must obtain alternative coverage within one hundred fifty days of the end of the year for which financial statements have been prepared.

(e) The Administrator may require reports of financial condition at any time from the local government owner or operator. If the director finds, on the basis of such reports or other information, that the local government owner or operator no longer meets the financial test requirements of subsections (b) and (c), the owner or operator must obtain alternate coverage within thirty days after notification of such a finding.

(f) If the local government owner or operator fails to obtain alternate assurance within one hundred fifty days of finding that it no longer meets the requirements of the financial test based on the year-end financial statements or within thirty days of notification by the Administrator that it no longer meets the requirements of the financial test, the owner or operator must notify the Administrator of such failure within ten days.

§ 501106. Local Government Guarantee.

(a) A local government owner or operator may satisfy the requirements of § 50193, by obtaining a guarantee that conforms to the requirements of this section. The guarantor must be a local government having a "substantial governmental relationship" with the owner or operator and issuing the guarantee as an act incident to that relationship. A local government acting, as the guarantor must:

(1) Demonstrate that it meets the bond rating test requirement of § 501104, and deliver a copy of the chief financial officer's letter as contained in § 591104(d) and (e), to the local government owner or operator;

(2) Demonstrate that it meets the worksheet test requirements of § 501105, and deliver a copy of the chief financial officer's letter as contained in § 501105(c), to the local government owner or operator; or

(3) Demonstrate that it meets the local government fund requirements of § 501107(1), (2), or (3), and deliver a copy of the chief financial officer's letter as contained in § 501107, to the local government owner or operator.

(b) If the local government guarantor is unable to demonstrate financial assurance under §§ 501104, 501105, or 501107(1), (2), or (3), at the end of the financial reporting year, the guarantor shall send by certified mail, before cancellation or non-renewal of the guarantee, notice to the owner or operator. The guarantee will terminate no less than one hundred twenty days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternative coverage as specified in § 501114(e).

(c) The guarantee agreement must be worded as specified in subsection (d) or (e), depending on which of the following alternative guarantee arrangements is selected:

(1) If, in the default or incapacity of the owner or operator, the guarantor guarantees to fund a standby trust as directed by the Administrator, the guarantee shall be worded as

specified in subsection (d).

(2) If, in the default or incapacity of the owner or operator, the guarantor guarantees to make payments as directed by the director for taking corrective action or compensating third parties for bodily injury and property damage, the guarantee shall be worded as specified in subsection (e).

(d) The local government guarantee with standby trust must be worded exactly as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:

LOCAL GOVERNMENT GUARANTEE WITH STANDBY TRUST MADE BY A LOCAL GOVERNMENT

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of Guam, herein referred to as guarantor, to the Guam Environmental Protection Agency and to any and all third parties, and obliges, on behalf of [local government owner or operator].

Recitals

(1) Guarantor meets or exceeds [select one: the local government bond rating test requirements of § 501104, Guam Administrative Rules and Regulations, the local government financial test requirements of § 501105, Guam Administrative Rules, or the local government fund under § 501107(1),(2) or (3), Guam Administrative Rules and Regulations.

(2) [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 10 GCA Chapter 76, 40 C.F.R. section 280.22, or in the permit applications submitted under §§ 501324 and 501326, Guam Administrative Rules and Regulations, and the name and

address of the facility.] This guarantee satisfies Article 8 requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

(3) Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to the Guam Environmental Protection Agency and to any and all third parties that:

In the event that [local government owner or operator] fails to provide alternative coverage within sixty days after receipt of a notice of cancellation of this guarantee and the Administrator of Guam Environmental Protection Agency has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the director shall fund a standby trust fund in accordance with the provisions of § 501112, Guam Administrative Rules and Regulations, in an amount not to exceed the coverage limits specified above.

In the event that the Administrator determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with Article 6, the guarantor upon written instructions from the director shall fund a standby trust fund in accordance with the provisions of § 501112, Guam Administrative Rules and Regulations, in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the Administrator, shall fund a standby trust in

accordance with the provisions of § 501112, Guam Administrative Rules and Regulations, to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

(4) Guarantor agrees that, if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), guarantor shall send within one hundred twenty days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

(5) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within ten days after commencement of the proceeding.

(6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to Article 1.

(7) Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of Article 8, for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than one hundred twenty days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

(8) The guarantor's obligation does not apply to any of the following:

(a) Any obligation of [local government owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the

care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of § 50193, Guam Administrative Rules and Regulations.

(9) Guarantor expressly waives notice of acceptance of this guarantee by the Guam Environmental Protection Agency, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in § 501106(d), Guam Administrative Rules and Regulations, as such regulations were constituted on the effective date shown immediately below.

Effective date:
[Name of guarantor]
[Authorized signature for guarantor]
[Name of person signing]
[Title of person signing]
Signature of witness or notary:

(e) The local government guarantee without standby trust must be worded exactly as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:

LOCAL GOVERNMENT GUARANTEE WITHOUT STANDBY TRUST MADE BY A LOCAL GOVERNMENT

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of Guam, herein referred to as guarantor, to the Guam Environmental Protection Agency and to any and all third parties, and obliges, on behalf of [local government owner or operator].

Recitals

(1) Guarantor meets or exceeds [select one: the local government bond rating test requirements of § 501104, Guam Administrative Rules and Regulations, the local government financial test requirements of § 501105, Guam Administrative Rules and Regulations, or the local government fund under § 501107(1),(2) or (3), Guam Administrative Rules and Regulations.

(2) [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 10 GCA Chapter 76, 40 C.F.R. section 280.22, or in the permit applications submitted under §§ 501324 and 501326, Guam Administrative Rules and Regulations, and the name and address of the facility.] This guarantee satisfies Article 8, requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

(3) Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to the Guam Environmental Protection Agency and to any and all third parties and obliges that:

In the event that [local government owner or operator] fails to provide alternative coverage within sixty days after receipt of a notice of cancellation of this guarantee and the Administrator of Guam Environmental Protection Agency has determined or suspects that a

release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon written instructions from the Administrator shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

In the event that the Administrator determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with Article 6, the guarantor upon written instructions from the director shall make funds available to pay for corrective actions in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the director, shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

(4) Guarantor agrees that if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), guarantor shall send within one hundred twenty days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

(5) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within ten days after commencement of the proceeding.

(6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to Chapter 50, Guam Administrative Rules and Regulations.

(7) Guarantor agrees to remain bound under this guarantee for

so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of Article 8, for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than one hundred twenty days after receipt of such notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the guarantor agrees to remain bound to the terms of this guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the guarantee with respect to future releases.

(8) The guarantor's obligation does not apply to any of the following:

(a) Any obligation of [local government owner or operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert: local government owner or operator] arising from and in the course of, employment by [insert: local government owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of § 50193, Guam Administrative Rules and Regulations.

(9) Guarantor expressly waives notice of acceptance of this guarantee by the Guam Environmental Protection Agency, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in § 501106(e), Guam Administrative Rules and

Regulations, as such regulations were constituted on the effective date shown immediately below.

Effective date:
[Name of guarantor]
[Authorized signature for guarantor]
[Name of person signing]
[Title of person signing]
Signature of witness or notary:

§ 501107. Local Government Fund.

A local government owner or operator may satisfy the requirements of § 50193, Guam Administrative Rules and Regulations by establishing a dedicated fund account that conforms to the requirements of this section. Except as specified in paragraph (2), a dedicated fund may not be commingled with other funds or otherwise used in normal operations. A dedicated fund will be considered eligible if it meets one of the following requirements:

(1) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order to pay for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks or tank systems and is funded for the full amount of coverage required under § 50193, Guam Administrative Rules and Regulations, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage; or

(2) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order as a contingency fund for general emergencies, including taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases

arising from the operation of petroleum underground storage tanks or tank systems, and is funded for five times the full amount of coverage required under § 50193, Guam Administrative Rules and Regulations, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage. If the fund is funded for less than five times the amount of coverage required under § 50193, Guam Administrative Rules and Regulations, the amount of financial responsibility demonstrated by the fund may not exceed one-fifth the amount in the fund; or

(3) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance or order to pay for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks or tank systems. A payment is made to the fund once every year for seven years until the fund is fully-funded. This seven-year period is hereafter referred to as the "pay-in-period". The amount of each payment must be determined by this formula:

$$\frac{TF - CF}{Y}$$

Where TF is the total required financial assurance for the owner or operator, CF is the current amount in the fund, and Y is the number of years remaining in the pay-in-period, and;

(A) The local government owner or operator has available bonding authority, approved through voter referendum (if such approval is necessary prior to the issuance of bonds), for an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund. This bonding authority shall be available for taking corrective action and for compensating third parties

for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks or tank systems, or

(B) The local government owner or operator has a letter signed by the appropriate state attorney general stating that the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws. The letter must also state that prior voter approval is not necessary before use of the bonding authority.

(4) To demonstrate that it meets the requirements of the local government fund, the chief financial officer of the local government owner or operator and/or guarantor must sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

LETTER FROM CHIEF FINANCIAL OFFICER

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor.] This letter is in support of the use of the local government fund mechanism to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this local government fund mechanism: [List for each facility: the name and address of the facility where tanks are assured by the local government fund].

[Insert: "The local government fund is funded for the full amount of coverage required under section § 50193, Guam Administrative Rules and Regulations, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage." or "The local government fund is funded for five times the full amount of coverage required under § 50193, Guam Administrative Rules and Regulations, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage." or "A payment is made to the fund once every year for seven years until the fund is fully-funded and [name of local government owner or operator] has available bonding authority, approved through voter referendum, of an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund" or "A payment is made to the fund once every year for seven years until the fund is fully-funded and I have attached a letter signed by the State Attorney General stating that (1) the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws and (2) that prior voter approval is not necessary before use of the bonding authority"].

The details of the local government fund are as follows:

Amount in Fund (market value of fund at close of last fiscal year):

[If fund balance is incrementally funded as specified in § 501107(3), Guam Administrative Rules and Regulations, insert:

Amount added to fund in the most recently completed fiscal year:

Number of years remaining in the pay-in period:]

A copy of the state constitutional provision, or local

government statute, charter, ordinance or order dedicating the fund is attached.

I hereby certify that the wording of this letter is identical to the wording specified in § 501107(4), Guam Administrative Rules and Regulations, as such regulations were constituted on the date shown immediately below.

[Date]
[Signature]
[Name]
[Title]

§ 501108. Substitution of Financial Assurance Mechanisms by Owner or operator.

(a) An owner or operator may substitute any alternate financial assurance mechanisms as specified in this subchapter, provided that at all times the owner or operator maintains an effective financial assurance mechanism or combination of mechanisms that satisfies the requirements of § 50193, Guam Administrative Rules and Regulations.

(b) After obtaining alternate financial assurance as specified in this Article, an owner or operator may cancel a financial assurance mechanism by providing notice to the provider of financial assurance.

§ 501109. Cancellation or Non-renewal by a Provider of Financial Assurance.

(a) Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination by certified mail to the owner or operator.

(1) Termination of a local government guarantee, a guarantee, a surety bond, or a letter of credit may not occur until one hundred twenty days after the date on which the owner or operator receives the notice of termination, as evidenced by

the return receipt.

(2) Termination of insurance or risk retention coverage, except for non-payment or misrepresentation by the insured, may not occur until sixty days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt. Termination for non-payment of premium or misrepresentation by the insured may not occur until a minimum of ten days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.

(b) If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in § 501114, Guam Administrative Rules and Regulations, the owner or operator must obtain alternate coverage as specified in this Article within sixty days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within sixty days after receipt of the notice of termination, the owner or operator must notify the Administrator of such failure and submit:

(1) The name and address of the provider of financial assurance;

(2) The effective date of termination; and

(3) The evidence of the financial assurance mechanism subject to the termination maintained in accordance with § 501111(b), Guam Administrative Rules and Regulations.

§ 501110. Reporting by Owner or Operator.

(a) An owner or operator must submit the appropriate forms listed in § 501111(b), Guam Administrative Rules and Regulations documenting current evidence of financial responsibility to the director:

(1) Within thirty days after the owner or operator identifies a release from an underground storage tank or tank system required to be reported under §§ 50153 or 50161, Guam Administrative Rules and Regulations;

(2) If the owner or operator fails to obtain alternate coverage as required by this subchapter, within thirty days after the

owner or operator receives notice of:

(A) Commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a provider of financial assurance as a debtor;

(B) Suspension or revocation of the authority of a provider of financial assurance to issue a financial assurance mechanism;

(C) Failure of a guarantor to meet the requirements of the financial test; or

(D) Other incapacity of a provider of financial assurance; or

(3) As required by §§ 50195(g) and 501109(b).

(b) An owner or operator must certify compliance with the financial responsibility requirements of this subchapter as specified in the notification form submitted pursuant to 10 GCA Chapter 76, § 50134, Guam Administrative Rules and Regulations, or the permit applications under §§ 501324 and 501326, Guam Administrative Rules and Regulations.

(c) The Administrator may require an owner or operator to submit evidence of financial assurance as described in § 501111(b), Guam Administrative Rules and Regulations or other information relevant to compliance with this Article at any time.

§ 501111. Record Keeping.

(a) Owners or operators must maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility under this subchapter for an underground storage tank or tank system until released from the requirements of this Article under § 501113, Guam Administrative Rules and Regulations. An owner or operator must maintain such evidence at the underground storage tank or tank system site or the owner's or operator's place of work. Records maintained off-site must be made available upon request of the director.

(b) An owner or operator must maintain the following types of

evidence of financial responsibility:

(1) An owner or operator using an assurance mechanism specified in §§ 50195 to 50199 or § 501102 or §§ 501104 to 501107, Guam Administrative Rules and Regulations must maintain a copy of the instrument worded as specified.

(2) An owner or operator using a financial test or guarantee, or a local government financial test or a local government guarantee supported by the local government financial test must maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. Such evidence must be on file no later than one hundred twenty days after the close of the financial reporting year.

(3) An owner or operator using a guarantee, surety bond, or letter of credit must maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement.

(4) A local government owner or operator using a local government guarantee under § 501106(d), Guam Administrative Rules and Regulations must maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement.

(5) A local government owner or operator using the local government bond rating test under § 501104, Guam Administrative Rules and Regulations must maintain a copy of its bond rating published within the last twelve months by Moody's or Standard & Poor's.

(6) A local government owner or operator using the local government guarantee under § 501106, Guam Administrative Rules and Regulations, where the guarantor's demonstration of financial responsibility relies on the bond rating test under § 501104, Guam Administrative Rules and Regulations must maintain a copy of the guarantor's bond rating published within the last twelve months by Moody's or Standard & Poor's.

(7) An owner or operator using an insurance policy or risk retention group coverage must maintain a copy of the signed insurance policy or risk retention group coverage policy, with the endorsement or certificate of insurance and any amendments to the agreements.

(8) An owner or operator using a local government fund under § 501107, Guam Administrative Rules and Regulations must maintain the following documents:

(A) A copy of the state constitutional provision or local government statute, charter, ordinance, or order dedicating the fund;

(B) Year-end financial statements for the most recent completed financial reporting year showing the amount in the fund. If the fund is established under § 501107(3), Guam Administrative Rules and Regulations using incremental funding backed by bonding authority, the financial statements must show the previous year's balance, the amount of funding during the year, and the closing balance in the fund; and

(C) If the fund is established under § 501107(3), Guam Administrative Rules and Regulations using incremental funding backed by bonding authority, the owner or operator must also maintain documentation of the required bonding authority, including either the results of a voter referendum (under § 501107(3)(A), Guam Administrative Rules and Regulations, or attestation by the state attorney general as specified under § 501107(3)(B), Guam Administrative Rules and Regulations).

(9) A local government owner or operator using the local government guarantee supported by the local government fund must maintain a copy of the guarantor's year-end financial statements for the most recent completed financial reporting year showing the amount of the fund.

(10) (A) An owner or operator using an assurance mechanism specified in §§ 50195 to 501107, Guam Administrative Rule and Regulations must maintain an updated copy of a certification of financial responsibility worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

CERTIFICATION OF FINANCIAL RESPONSIBILITY

[Owner or operator] hereby certifies that it is in compliance with the requirements of Article 8 of Chapter 50, Guam Administrative Rules and Regulations.

The financial assurance mechanism(s) used to demonstrate financial responsibility under Article 8 of Chapter 50, Guam Administrative Rules and Regulations, is (are) as follows:

[For each mechanism, list the type of mechanism, name of issuer, mechanism number (if applicable), amount of coverage, effective period of coverage and whether the mechanism covers "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases".]

[Signature of owner or operator]
[Name of owner or operator]
[Title]
[Date]
[Signature of witness or notary]
[Name of witness or notary]
[Date]

(B) The owner or operator must update this certification whenever the financial assurance mechanism(s) used to demonstrate financial responsibility change(s).

§ 501112. Drawing of Financial Assurance Mechanisms.

(a) Except as specified in subsection (d), the Administrator shall require the guarantor, surety, or institution issuing a letter of credit to place the amount of funds stipulated by the Administrator, up to the limit of funds provided by the financial assurance mechanism, into the standby trust if:

(1) (A) The owner or operator fails to establish alternate financial assurance within sixty days after receiving notice of cancellation of the guarantee, surety bond, letter of credit, or, as applicable, other financial assurance mechanism; and

(B) The Administrator determines or suspects that a release from an underground storage tank or tank system covered by the mechanism has occurred and so notifies the owner or operator or the owner or operator has notified the Administrator pursuant to Articles 5 or 6 of a release from an underground storage tank or tank system covered by the mechanism; or

(2) The conditions of subsection (b)(1), (b)(2)(A), or (b)(2)(B) are satisfied.

(b) The Administrator may draw on a standby trust fund when:

(1) The Administrator makes a final determination that a release has occurred and immediate or long-term corrective action for the release is needed, and the owner or operator, after appropriate notice and opportunity to comply, has not conducted release response action as required under Article 6; or

(2) The Administrator has received either:

(A) Certification from the owner or operator and the

third-party liability claimant(s) and from attorneys representing the owner or operator and the third-party liability claimant(s) that a third-party liability claim should be paid. The certification must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

CERTIFICATION OF A VALID CLAIM

The undersigned, as principals and as legal representatives of [insert: owner or operator] and [insert: name and address of third-party claimant], hereby certify that the claim of bodily injury [and/or] property damage caused by an accidental release arising from operating [owner's or operator's] underground storage tank should be paid in the amount of $[___].

[Signatures]
Owner or Operator
Attorney for Owner or Operator
(Notary)
Date
[Signatures]
Claimant(s)
Attorney(s) for Claimant(s)
(Notary)
Date

or;

(B) A valid final court order establishing a judgment against the owner or operator for bodily injury or property damage caused by an accidental release from an underground storage tank or tank system

covered by financial assurance under this subchapter and the director determines that the owner or operator has not satisfied the judgment.

(c) If the Administrator determines that the amount of corrective action costs and third-party liability claims eligible for payment under subsection (b) may exceed the balance of the standby trust fund and the obligation of the provider of financial assurance, the first priority for payment shall be corrective action costs necessary to protect human health and the environment. The Administrator shall pay third-party liability claims in the order in which the director receives certifications under subsection (b)(2)(A), and valid court orders under subsection (b)(2)(B).

(d) A governmental entity acting as guarantor under § 501106(e), Guam Administrative Rules and Regulations, the local government guarantee without standby trust, shall make payments as directed by the Administrator under the circumstances described in subsections (a), (b), and (c).

§ 501113. Release from the Requirements.

An owner or operator is no longer required to maintain financial responsibility under this subchapter for an underground storage tank or tank system after the tank or tank system has been permanently closed or undergoes a change-in-service or, if release response action is required, after release response action has been completed and the tank or tank system has been permanently closed or undergoes a change-in-service as required by Article 7.

§ 501114. Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance.

(a) Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming an owner or operator as debtor, the owner or operator must notify the director by certified mail of such commencement and submit the

appropriate forms listed in § 501111(b), Guam Administrative Rules and Regulations documenting current financial responsibility.

(b) Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing financial assurance as debtor, such guarantor must notify the owner or operator by certified mail of such commencement as required under the terms of the guarantee specified in § 50196, Guam Administrative Rules and Regulations.

(c) Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a local government owner or operator as debtor, the local government owner or operator must notify the director by certified mail of such commencement and submit the appropriate forms listed in § 501111(b), Guam Administrative Rules and Regulations documenting current financial responsibility.

(d) Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing a local government financial assurance as debtor, such guarantor must notify the local government owner or operator by certified mail of such commencement as required under the terms of the guarantee specified in § 501106, Guam Administrative Rules and Regulations.

(e) An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit. The owner or operator must obtain alternate financial assurance as specified in this Article within thirty days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage within thirty days after such notification, the owner or operator must notify the Administrator.

§ 501115. Replenishment of Guarantee, Letters of Credit, or Surety

Bond.

(a) If at any time after a standby trust is funded upon the instruction of the Administrator with funds drawn from a guarantee, local government guarantee with standby trust, letter of credit, or surety bond, and the amount in the standby trust is reduced below the full amount of coverage required, the owner or operator shall by the anniversary date of the financial mechanism from which the funds were drawn:

(1) Replenish the value of financial assurance to equal the full amount of coverage required; or

(2) Acquire another financial assurance mechanism for the amount by which funds in the standby trust have been reduced.

(b) For purposes of this section, the full amount of coverage required is the amount of coverage to be provided by § 50193, Guam Administrative Rule and Regulations. If a combination of mechanisms was used to provide the assurance funds, which were drawn upon, replenishment shall occur by the earliest anniversary date among the mechanisms.

§ 501116 to § 501199. [Reserved.]

ARTICLE 9
LENDER LIABILITY

§ 501200. Definitions
§ 501201 to § 501209. [Reserved.]
§ 501210. Participation in Management
§ 501211 to § 501219. [Reserved.]
§ 501220. Ownership of an Underground Storage Tank or Underground Storage Tank System or Facility or Property on which an Underground Storage Tank or Underground Storage Tank System is Located
§ 501221 to § 501229. [Reserved.]

§ 501230. Operating an Underground Storage Tank or Underground Storage Tank System
§ 501231 to § 501239. [Reserved.]

§ 501200. Definitions.

(a) UST technical standards, as used in this Article, refers to the UST preventative and operating requirements under Articles 2, 3, 4, 7, and 10 and § 50150, Guam Administrative Rules and Regulations.

(b) Petroleum production, refining, and marketing.

(a) (1) "Petroleum production" means the production of crude oil or other forms of petroleum (as defined in § 50112, Guam Administrative Rules and Regulations) as well as the production of petroleum products from purchased materials.

(2) "Petroleum refining" means the cracking, distillation, separation, conversion, upgrading, and finishing of refined petroleum or petroleum products.

(3) "Petroleum marketing" means the distribution, transfer, or sale of petroleum or petroleum products for wholesale or retail purposes.

(c) "Indicia of ownership" means evidence of a secured interest, evidence of an interest in a security interest, or evidence of an interest in real or personal property securing a loan or other obligation, including any legal or equitable title or deed to real or personal property acquired through or incident to foreclosure. Evidence of such interests include, but are not limited to, mortgages, deeds of trust, liens, surety bonds and guarantees of obligations, title held pursuant to a lease financing transaction in which the lessor does not select initially the leased property (hereinafter "lease financing transaction"), and legal or equitable title obtained pursuant to foreclosure. Evidence of such interests also includes assignments, pledges, or other rights to or other forms of encumbrance against property that are held primarily to protect a security interest. A person is not required to hold title or a security interest in order to maintain indicia of ownership.

(d) A "holder" is a person who, upon October 13, 2015, or in the

future, maintains indicia of ownership (as defined in subsection (c)) primarily to protect a security interest (as defined in subsection (f)(1)) in a petroleum UST or UST system or facility or property on which a petroleum UST or UST system is located. A holder includes the initial holder (such as a loan originator); any subsequent holder (such as a successor-in-interest or subsequent purchaser of the security interest on the secondary market); a guarantor of an obligation, surety, or any other person who holds ownership indicia primarily to protect a security interest; or a receiver or other person who acts on behalf or for the benefit of a holder.

(e) A "borrower, debtor, or obligor" is a person whose UST or UST system or facility or property on which the UST or UST system is located is encumbered by a security interest. These terms may be used interchangeably.

(f) "Primarily to protect a security interest" means that the holder's indicia of ownership are held primarily for the purpose of securing payment or performance of an obligation.

(1) "Security interest" means an interest in a petroleum UST or UST system or in the facility or property on which a petroleum UST or UST system is located, created or established for the purpose of securing a loan or other obligation. Security interests include but are not limited to mortgages, deeds of trusts, liens, and title pursuant to lease financing transactions. Security interests may also arise from transactions such as sale and leasebacks, conditional sales, installment sales, trust receipt transactions, certain assignments, factoring agreements, accounts receivable financing arrangements, and consignments, if the transaction creates or establishes an interest in an UST or UST system or in the facility or property on which the UST or UST system is located, for the purpose of securing a loan or other obligation.

(2) "Primarily to protect a security interest", as used in this subchapter, does not include indicia of ownership held primarily for investment purposes, nor ownership indicia

held primarily for purposes other than as protection for a security interest. A holder may have other, secondary reasons for maintaining indicia of ownership, but the primary reason why any ownership indicia are held must be as protection for a security interest.

(g) "Operation" means, for purposes of this Article, the use, storage, filling, or dispensing of petroleum contained in an UST or UST system.

§ 501201 to § 501209. [Reserved.]

§ 501210. Participation in Management.

(a) The term "participating in the management of an UST or UST system" means that the holder is engaging in decision making control of, or activities related to, operation of the UST or UST system, as defined in this section. Actions that are participation in management:

(1) Participation in the management of an UST or UST system means, for purposes of this subchapter, actual participation by the holder in the management or control of decision making related to the operation of an UST or UST system. Participation in management does not include the mere c capacity or ability to influence or the unexercised right to control UST or UST system operations. A holder is participating in the management of the UST or UST system only if the holder either:

(A) Exercises decision making control over the operational (as opposed to financial or administrative) aspects of the UST or UST system, such that the holder has undertaken responsibility for all or substantially all of the management of the UST or UST system; or

(B) Exercises control at a level comparable to that of a manager of the borrower's enterprise, such that the holder has assumed or manifested responsibility for

the overall management of the enterprise encompassing the day-to-day decision making of the enterprise with respect to all, or substantially all, of the operational (as opposed to financial or administrative) aspects of the enterprise.

(2) Operational aspects of the enterprise relate to the use, storage, filling, or dispensing of petroleum contained in an UST or UST system, and include functions such as that of a facility or plant manager, operations manager, chief operating officer, or chief executive officer. Financial or administrative aspects include functions such as that of a credit manager, accounts payable/receivable manager, personnel manager, controller, chief financial officer, or similar functions. Operational aspects of the enterprise do not include the financial or administrative aspects of the enterprise, or actions associated with environmental compliance, or actions undertaken voluntarily to protect the environment in accordance with applicable requirements in this Article.

(b) Actions that are not participation in management pre-foreclosure:

(1) Actions at the inception of the loan or other transaction. No act or omission prior to the time that indicia of ownership are held primarily to protect a security interest constitutes evidence of participation in management within the meaning of this Article. A prospective holder who undertakes or requires an environmental investigation (which could include a site assessment, inspection, and/or audit) of the UST or UST system or facility or property on which the UST or UST system is located (in which indicia of ownership are to be held), or requires a prospective borrower to clean up contamination from the UST or UST system or to comply or come into compliance (whether prior or subsequent to the time that indicia of ownership are held primarily to protect a security interest) with any applicable law or regulation, is not by such action considered to be participating in the management of the UST or UST system or facility or property on which the UST or UST system is located.

(2) Loan policing and work out. Actions that are consistent with holding ownership indicia primarily to protect a security interest do not constitute participation in management for purposes of this subchapter. The authority for the holder to take such actions may, but need not, be contained in contractual or other documents specifying requirements for financial, environmental, and other warranties, covenants, conditions, representations or promises from the borrower. Loan policing and work out activities cover and include all such activities up to foreclosure, exclusive of any activities that constitute participation in management.

(A) Policing the security interest or loan.

(i) A holder who engages in policing activities prior to foreclosure will remain within the exemption provided that the holder does not together with other actions participate in the management of the UST or UST system as provided in § 501210(a), Guam Administrative Rules and Regulations. Such policing actions include, but are not limited to, requiring the borrower to clean up contamination from the UST or UST system during the term of the security interest; requiring the borrower to comply or come into compliance with applicable federal, state, and local environmental and other laws, rules, and regulations during the term of the security interest; securing or exercising authority to monitor or inspect the UST or UST system or facility or property on which the UST or UST system is located (including on-site inspections) in which indicia of ownership are maintained, or the borrower's business or financial condition during the term of the security interest; or taking other actions to adequately police the loan or security interest

(such as requiring a borrower to comply with any warranties, covenants, conditions, representations, or promises from the borrower).

(ii) Policing activities also include undertaking by the holder of UST environmental compliance actions and voluntary environmental actions taken in compliance with this chapter, provided that the holder does not otherwise participate in the management or daily operation of the UST or UST system as provided in §§ 501210(a) and 50130, Guam Administrative Rules and Regulations sections 11-280.1-210(a) and 11-280.1-230. Such allowable actions include, but are not limited to, release detection and release reporting, r release response and corrective action, temporary or permanent closure of an UST or UST system, UST upgrading or replacement, and maintenance of corrosion protection. A holder who undertakes these actions must do so in compliance with the applicable requirements in this chapter. A holder may directly oversee these environmental compliance actions and voluntary environmental actions, and directly hire contractors to perform the work, and is not by such action considered to be participating in the management of the UST or UST system.

(B) Loan work out. A holder who engages in work out activities prior to foreclosure will remain within the exemption provided that the holder does not together with other actions participate in the management of the UST or UST system as provided in § 501210(a) Guam Administrative Rules and Regulations.

For purposes of this rule, "work out" refers to those actions by which a holder, at any time prior to foreclosure, seeks to prevent, cure, or mitigate a default by the borrower or obligor; or to preserve, or prevent the diminution of, the value of the security. Work out activities include, but are not limited to, restructuring or renegotiating the terms of the security interest; requiring payment of additional rent or interest; exercising forbearance; requiring or exercising rights pursuant to an assignment of accounts or other amounts owing to an obligor; requiring or exercising rights pursuant to an escrow agreement pertaining to amounts owing to an obligor; providing specific or general financial or other advice, suggestions, counseling, or guidance; and exercising any right or remedy the holder is entitled to by law or under any warranties, covenants, conditions, representations, or promises from the borrower.

(c) Foreclosure on an UST or UST system or facility or property on which an UST or UST system is located, and participation in management activities post-foreclosure.

(1) Foreclosure.

(A) Indicia of ownership that are held primarily to protect a security interest include legal or equitable title or deed to real or personal property acquired through or incident to foreclosure. For purposes of this Article, the term "foreclosure" means that legal, marketable or equitable title or deed has been issued, approved, and recorded, and that the holder has obtained access to the UST, UST system, UST facility, and property on which the UST or UST system is located, provided that the holder acted diligently to acquire marketable title or deed and to gain access to the UST, UST system, UST facility, and property on which the UST or UST system is located. The indicia

of ownership held after foreclosure continue to be maintained primarily as protection for a security interest provided that the holder undertakes to sell, re-lease an UST or UST system or facility or property on which the UST or UST system is located, held pursuant to a lease financing transaction (whether by a new lease financing transaction or substitution of the lessee), or otherwise divest itself of the UST or UST system or facility or property on which the UST or UST system is located, in a reasonably expeditious manner, using whatever commercially reasonable means are relevant or appropriate with respect to the UST or UST system or facility or property on which the UST or UST system is located, taking all facts and circumstances into consideration, and provided that the holder does not participate in management (as defined in § 501210(a), Guam Administrative Rules and Regulations prior to or after foreclosure.

(B) For purposes of establishing that a holder is seeking to sell, re-lease pursuant to a lease financing transaction (whether by a new lease financing transaction or substitution of the lessee), or divest in a reasonably expeditious manner an UST or UST system or facility or property on which the UST or UST system is located, the holder may use whatever commercially reasonable means as are relevant or appropriate with respect to the UST or UST system or facility or property on which the UST or UST system is located, or may employ the means specified in § 501210(c)(2), Guam Administrative Rules and Regulations). A holder that outbids, rejects, or fails to act upon a written, bona fide, firm offer of fair consideration for the UST or UST system or facility or property on which the UST or UST system is located, as provided in § 501210(c)(2), Guam Administrative

Rules and Regulations, is not considered to hold indicia of ownership primarily to protect a security interest.

(2) Holding foreclosed property for disposition and liquidation. A holder, who does not participate in management prior to or after foreclosure, may sell, re-lease, pursuant to a lease financing transaction (whether by a new lease financing transaction or substitution of the lessee), an UST or UST system or facility or property on which the UST or UST system is located, liquidate, wind up operations, and take measures, prior to sale or other disposition, to preserve, protect, or prepare the secured UST or UST system or facility or property on which the UST or UST system is located. A holder may also arrange for an existing or new operator to continue or initiate operation of the UST or UST system. The holder may conduct these activities without voiding the security interest exemption, subject to the requirements of this Article.

(A) A holder establishes that the ownership indicia maintained after foreclosure continue to be held primarily to protect a security interest by, within twelve months following foreclosure, listing the UST or UST system or the facility or property on which the UST or UST system is located, with a broker, dealer, or agent who deals with the type of property in question, or by advertising the UST or UST system or facility or property on which the UST or UST system is located, as being for sale or disposition on at least a monthly basis in either a real estate publication or a trade or other publication suitable for the UST or UST system or facility or property on which the UST or UST system is located, or a newspaper of general circulation (defined as one with a circulation over 10,000, or one suitable under any applicable federal, state, or local rules of court for publication required

by court order or rules of civil procedure) covering the location of the UST or UST system or facility or property on which the UST or UST system is located. For purposes of this provision, the twelve-month period begins to run from the date that the marketable title or deed has been issued, approved and recorded, and the holder has obtained access to the UST, UST system, UST facility and property on which the UST or UST system is located, provided that the holder acted diligently to acquire marketable title or deed and to obtain access to the UST, UST system, UST facility and property on which the UST or UST system is located. If the holder fails to act diligently to acquire marketable title or deed or to gain access to the UST or UST system, the twelve-month period begins to run from the date on which the holder first acquires either title to or possession of the secured UST or UST system, or facility or property on which the UST or UST system is located, whichever is later.

(B) A holder that outbids, rejects, or fails to act upon an offer of fair consideration for the UST or UST system or the facility or property on which the UST or UST system is located, establishes by such outbidding, rejection, or failure to act, that the ownership indicia in the secured UST or UST system or facility or property on which the UST or UST system is located are not held primarily to protect the security interest, unless the holder is required, in order to avoid liability under federal or state law, to make a higher bid, to obtain a higher offer, or to seek or obtain an offer in a different manner.

(i) Fair consideration, in the case of a holder maintaining indicia of ownership primarily to protect a senior security interest in the UST or

UST system or facility or property on which the UST or UST system is located, is the value of the security interest as defined in this section. The value of the security interest includes all debt and costs incurred by the security interest holder, and is calculated as an amount equal to or in excess of the sum of the outstanding principal (or comparable amount in the case of a lease that constitutes a security interest) owed to the holder immediately preceding the acquisition of full title (or possession in the case of a lease financing transaction) pursuant to foreclosure, plus any unpaid interest, rent, or penalties (whether arising before or after foreclosure). The value of the security interest also includes all reasonable and necessary costs, fees, or other charges incurred by the holder incident to work out, foreclosure, retention, preserving, protecting, and preparing, prior to sale, the UST or UST system or facility or property on which the UST or UST system is located, re-lease, pursuant to a lease financing transaction (whether by a new lease financing transaction or substitution of the lessee), of an UST or UST system or facility or property on which the UST or UST system is located, or other disposition. The value of the security interest also includes environmental investigation costs (which could include a site assessment, inspection, and/or audit of the UST or UST system or facility or property on which the UST or UST system is located), and release response and corrective action costs incurred under §§ 50151 to 50167, Guam Administrative

Rules and Regulations or any other costs incurred as a result of reasonable efforts to comply with any other applicable federal, state or local law or regulation; less any amounts received by the holder in connection with any partial disposition of the property and any amounts paid by the borrower (if not already applied to the borrower's obligations) subsequent to the acquisition of full title (or possession in the case of a lease financing transaction) pursuant to foreclosure. In the case of a holder maintaining indicia of ownership primarily to protect a junior security interest, fair consideration is the value of all outstanding higher priority security interests plus the value of the security interest held by the junior holder, each calculated as set forth in this subsection.

(ii) Outbids, rejects, or fails to act upon an offer of fair consideration means that the holder outbids, rejects, or fails to act upon within ninety days of receipt, a written, bona fide, firm offer of fair consideration for the UST or UST system or facility or property on which the UST or UST system is located received at any time after six months following foreclosure, as defined in § 501210(c), Guam Administrative Rules and Regulations. A "written, bona fide, firm offer" means a legally enforceable, commercially reasonable, cash offer solely for the foreclosed UST or UST system or facility or property on which the UST or UST system is located, including all material terms of the transaction, from a ready, willing, and able purchaser who demonstrates

to the holder's satisfaction the ability to perform. For purposes of this provision, the six-month period begins to run from the date that marketable title or deed has been issued, approved and recorded to the holder, and the holder has obtained access to the UST, UST system, UST facility and property on which the UST or UST system is located, provided that the holder was acting diligently to acquire marketable title or deed and to obtain access to the UST or UST system, UST facility and property on which the UST or UST system is located. If the holder fails to act diligently to acquire marketable title or deed or to gain access to the UST or UST system, the six-month period begins to run from the date on which the holder first acquires either title to or possession of the secured UST or UST system, or facility or property on which the UST or UST system is located, whichever is later.

(3) Actions that are not participation in management post-foreclosure. A holder is not considered to be participating in the management of an UST or UST system or facility or property on which the UST or UST system is located when undertaking actions under this chapter, provided that the holder does not otherwise participate in the management or daily operation of the UST or UST system as provided in §§ 501210(a) and 501230, Guam Administrative Rules and Regulations. Such allowable actions include, but are not limited to, release detection and release reporting, release response and corrective action, temporary or permanent closure of an UST or UST system, UST upgrading or replacement, and maintenance of corrosion protection. A holder who undertakes these actions must do so in compliance with the applicable requirements in this Article.

A holder may directly oversee these environmental compliance actions and voluntary environmental actions, and directly hire contractors to perform the work, and is not by such action considered to be participating in the management of the UST or UST system.

§ 501211 to § 501219. [Reserved.]

§ 501220. Ownership of an Underground Storage Tank or Underground Storage Tank System or Facility or Property on which an Underground Storage Tank or Underground Storage Tank System is Located.

Ownership of an UST or UST system or facility or property on which an UST or UST system is located. A holder is not an "owner" of a petroleum UST or UST system or facility or property on which a petroleum UST or UST system is located for purposes of compliance with the UST technical standards as defined in § 501200(a), Guam Administrative Rules and Regulations, the UST release response and corrective action requirements under §§ 50151 to 50167, Guam Administrative Rules and Regulations, and the UST financial responsibility requirements under §§ 50190 to 501111, Guam Administrative Rules and Regulations, provided the person:

(1) Does not participate in the management of the UST or UST system as defined in § 501210, Guam Administrative Rules and Regulations; and

(2) Does not engage in petroleum production, refining, and marketing as defined in § 501200(b), Guam Administrative Rules and Regulations.

§§ 501221 to 501229. [Reserved.]

§ 501230. Operating an Underground Storage Tank or Underground Storage Tank System.

(a) Operating an UST or UST system prior to foreclosure. A

holder, prior to foreclosure, as defined in § 501210(c), Guam Administrative Rules and Regulations, is not an "operator" of a petroleum UST or UST system for purposes of compliance with the UST technical standards as defined in § 501200(a), Guam Administrative Rules and Regulations, the UST corrective action requirements under §§ 50151 to 50167, Guam Administrative Rules and Regulations, and the UST financial responsibility requirements under §§ 50190 to 501111, Guam Administrative Rules and Regulations, provided that the holder is not in control of or does not have responsibility for the daily operation of the UST or UST system.

(b) Operating an UST or UST system after foreclosure. The following provisions apply to a holder who, through foreclosure, as defined in § 501210(c), Guam Administrative Rules and Regulations, acquires a petroleum UST or UST system or facility or property on which a petroleum UST or UST system is located.

(1) A holder is not an "operator" of a petroleum UST or UST system for purposes of compliance with this chapter if there is an operator, other than the holder, who is in control of or has responsibility for the daily operation of the UST or UST system, and who can be held responsible for compliance with applicable requirements of this chapter.

(2) If another operator does not exist, as provided for under paragraph (1), a holder is not an "operator" of the UST or UST system, for purposes of compliance with the UST technical standards as defined in § 501200(a), Guam Administrative Rules and Regulations, the UST corrective action requirements under §§ 50151 to 50167, Guam Administrative Rules and Regulations, and the UST financial responsibility requirements under §§ 50190 to 501111, Guam Administrative Rules and Regulations, provided that the holder:

(A) Empties all of its known USTs and UST systems within sixty calendar days after foreclosure, or another reasonable time period specified by the agency, so that no more than 2.5 centimeters (one

inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remains in the system; leaves vent lines open and functioning; and caps and secures all other lines, pumps, manways, and ancillary equipment; and

(B) Empties those USTs and UST systems that are discovered after foreclosure within sixty calendar days after discovery, or another reasonable time period specified by the agency, so that no more than 2.5 centimeters (one inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remains in the system; leaves vent lines open and functioning; and caps and secures all other lines, pumps, manways, and ancillary equipment.

(3) If another operator does not exist, as provided for under paragraph (1), in addition to satisfying the conditions under paragraph (2), the holder must either:

(A) Permanently close the UST or UST system in accordance with §§ 50171 to 50174, Guam Administrative Rules and Regulations, except § 50172(b), Guam Administrative Rules and Regulations; or

(B) Temporarily close the UST or UST system in accordance with the following applicable provisions of § 50170, Guam Administrative Rules and Regulations:

(i) Continue operation and maintenance of corrosion protection in accordance with § 50131, Guam Administrative Rules and Regulations;

(ii) Report suspected releases to the agency; and

(iii) Conduct a site assessment in accordance with § 50172(a), Guam Administrative Rules and Regulations if the UST system is temporarily

closed for more than twelve months and the UST system does not meet the applicable system design, construction, and installation requirements in Article 2, except that the spill and overfill equipment requirements do not have to be met. The holder must report any suspected releases to the agency.

For purposes of this provision, the twelve-month period begins to run from the date on which the UST system is emptied and secured under paragraph (2).

(4) The UST system can remain in temporary closure until a subsequent purchaser has acquired marketable title to the UST or UST system or facility or property on which the UST or UST system is located. Once a subsequent purchaser acquires marketable title to the UST or UST system or facility or property on which the UST or UST system is located, the purchaser must decide whether to operate or close the UST or UST system in accordance with applicable requirements in this chapter.

§§ 501231 to 501239. [Reserved.]

ARTICLE 10
OPERATOR TRAINING

§ 501240. General Requirement for All UST Systems
§ 501241. Designation of Class A, B, and C Operators
§ 501242. Requirements for Operator Training
§ 501243. Timing of Operator Training
§ 501244. Retraining
§ 501245. Documentation
§ 501246 to § 501249. [Reserved.]

§ 501240. General Requirement for All UST Systems.

All owners and operators of UST systems must ensure they have designated Class A, Class B, and Class C operators who meet the requirements of this subchapter.

§ 501241. Designation of Class A, B, and C Operators.

(a) UST system owners and operators must designate:

(1) At least one Class A and one Class B operator for each UST or group of USTs at a facility; and

(2) Each individual who meets the definition of Class C operator at the UST facility as a Class C operator.

(b) Separate individuals may be designated for each class of operator or an individual may be designated for more than one of the operator classes.

(c) Owners and operators shall submit written notice to the agency identifying the Class A and Class B operators for each UST or tank system in use or temporarily out of use no later than thirty (30) calendar days after an operator assumes the operator's responsibilities as a Class A or Class B operator. The notification must include the name of each operator, the date training was completed, the name and address of each facility where the USTs or tank systems for which the operator has been designated is located, and written verification from a training program approved or administered by the agency that the Class A and Class B operator for each UST or tank system has successfully completed operator training in the operator's class.

§ 501242. Requirements for Operator Training.

UST system owners and operators must ensure Class A, Class B, and Class C operators meet the requirements of this section. Any individual designated for more than one operator class must successfully complete the required training program or comparable examination according to the operator classes in which the individual is designated.

(1) Class A operators. Each designated Class A operator must

either be trained in accordance with subparagraphs (A) and (B) or pass a comparable examination in accordance with paragraph (5).

(A) At a minimum, the training must teach the Class A operators about the purpose, methods, and function of:

(i) Spill and overfill prevention;

(ii) Release detection;

(iii) Corrosion protection;

(iv) Emergency response;

(v) Product and equipment compatibility and demonstration;

(vi) Financial responsibility;

(vii) Notification and permitting;

(viii) Temporary and permanent closure;

(ix) Reporting, recordkeeping, testing, and inspections;

(x) Environmental and regulatory consequences of releases; and

(xi) Training requirements for Class B and Class C operators.

(B) At a minimum, the training program must evaluate Class A operators to determine these individuals have the knowledge and skills to make informed decisions regarding compliance and determine whether appropriate individuals are fulfilling the operation, maintenance, and recordkeeping requirements for UST systems in accordance with subparagraph (A).

(2) Class B operators. Each designated Class B operator must either receive training in accordance with subparagraphs (A) and (B) or pass a comparable examination, in accordance with paragraph (5).

(A) At a minimum, the training program for Class B operators must teach the Class B operator about the purpose, methods, and function of:

(i) Operation and maintenance, including components of UST systems, materials of UST system components, and methods of release detection and release prevention applied to UST components;
(ii) Spill and overfill prevention;
(iii) Release detection and related reporting;
(iv) Corrosion protection;
(v) Emergency response;
(vi) Product and equipment compatibility and demonstration;
(vii) Reporting, recordkeeping, testing, and inspections;
(ix) Environmental and regulatory consequences of releases; and
(x) Training requirements for Class C operators.

(B) At a minimum, the training program must evaluate Class B operators to determine these individuals have the knowledge and skills to implement applicable UST regulatory requirements in the field on the components of typical UST systems in accordance with subparagraph (A).

(3) Class C operators. Each designated Class C operator must either: be trained by a Class A or Class B operator in accordance with subparagraphs (A) and (B); complete a training program in accordance with subparagraphs (A) and (B); or pass a comparable examination, in accordance with paragraph (5).

(A) At a minimum, the training program for the Class C operator must teach the Class C operators to take appropriate actions (including notifying appropriate authorities) in response to emergencies or alarms caused by spills or releases resulting from the operation of the UST system.

(B) At a minimum, the training program must evaluate

Class C operators to determine these individuals have the knowledge and skills to take appropriate action (including notifying appropriate authorities) in response to emergencies or alarms caused by spills or releases from an underground storage tank system.

(4) Training program requirements. Any training program must meet the minimum requirements of this section, must incorporate an evaluation of operator knowledge through written examination, a practical demonstration, or other reasonable testing methods acceptable to the agency, and must be approved or administered by the agency. An operator training program may consist of in-class or on-line instruction and may include practical exercises.

(5) Comparable examination. A comparable examination must, at a minimum, test the knowledge of the Class A, Class B, or Class C operators in accordance with the requirements of paragraph (1), (2), or (3), as applicable. The acceptability of a comparable examination to meet the requirements of this section is determined by the agency. The agency may accept operator training verification from other states if the operator training is deemed by the agency to be equivalent to the requirements of this section.

§ 501243. Timing of Operator Training.

(a) An owner and operator must ensure that designated Class A, Class B, and Class C operators meet the requirements in §501242 not later than October 13, 2015.

(b) Class A and Class B operators designated on or after October 13, 2015, must meet requirements in § 501242 within thirty (30) calendar days of assuming duties.

(c) Class C operators designated after October 13, 2015, must be trained before assuming duties of a Class C operator.

§ 501244. Retraining.

(a) Class A and class B operators shall be retrained every two (2) years. Class C operators shall be retrained every three hundred sixty-five (365) calendar days.
(b) Class A and Class B operators of UST systems determined by the agency to be out of compliance must complete a training program or comparable examination in accordance with requirements in § 501242. The training program or comparable examination must be developed or administered by the agency or an independent organization. An UST or tank system is out of compliance if the system:

(1) Meets any of the delivery prohibition criteria outlined in § 501429; or
(2) Is in significant violation of other requirements, such as temporary or permanent closure, tank registration, or financial responsibility, as determined by the director.

(c) UST system owners and operators must ensure Class A and Class B operators are retrained as required in subsection (b) no later than thirty (30) calendar days from the date the agency determines the facility is out of compliance except in one of the following situations:

(1) Class A and Class B operators take annual refresher training. Refresher training for Class A and Class B operators must cover all applicable requirements in § 501242;
(2) The agency, at its discretion, waives this retraining requirement for either the Class A or Class B operator or both.

§ 501245. Documentation.

Owners and operators of underground storage tank systems must maintain a list of designated Class A, Class B, and Class C operators and maintain records verifying that training and retraining, as applicable, have been completed, in accordance with § 50134 as follows:

(1) The list must:
    (A) Identify all Class A, Class B, and Class C operators

currently designated for the facility; and

(B) Include names, class of operator trained, date assumed duties, date each completed initial training, and any retraining.

(2) Records verifying completion of training or retraining must be a paper or electronic record for Class A, Class B, and Class C operators. The records, at a minimum, must identify name of trainee, date trained, operator training class completed, and list the name of the trainer or examiner and the training company name, address, and telephone number. Owners and operators must maintain these records for as long as Class A, Class B, and Class C operators are designated. The following requirements also apply to the following types of training:

(A) Records from classroom or field training programs (including Class C operator training provided by the Class A or Class B operator) or a comparable examination must, at a minimum, be signed by the trainer or examiner;

(B) Records from computer based training must, at a minimum, indicate the name of the training program and web address, if Internet based; and

(C) Records of retraining must include those areas on which the Class A or Class B operator has been retrained.

§ 501246 to § 501249. [Reserved.]

ARTICLE 11
RESERVED

§ 501250 to § 501299. [Reserved.]

ARTICLE 12
PERMITS AND VARIANCES

§ 501300 to § 501322. [Reserved]
§ 501323. Permit Required
§ 501324. Application for Permit
§ 501325. Permit
§ 501326. Permit Renewal
§ 501327. Action On and Timely Approval of Application for Permit
§ 501328. Permit Conditions
§ 501329. Modification of Permit
§ 501330. Revocation or Suspension of Permit
§ 501331. Change in Owner or Operation for a Permit
§ 501332. Variance Allowed
§ 501333. Variance Application
§ 501334. Maintenance of Permit or Variance
§ 501335. Fees
§ 501336 to § 501339. [Reserved.]

§ 501300 to § 501322. [Reserved]

§ 501323. Permit Required.

(a) No person shall install, operate, modify, or close an UST or tank system without first obtaining a permit from the Administrator.
(b) The Administrator shall approve an application for a permit only if the applicant has submitted sufficient information to the satisfaction of the Administrator that the technical, financial, and other requirements of this chapter are or can be met and the installation and operation of the UST or

tank system will be done in a manner that is protective of human health and the environment.
(c) A permit shall be issued only in accordance with 10 GCA Chapter 76, and this Article, and it shall be the duty of the permittee to ensure compliance with the law in the installation, operation, and closure of the UST or tank system.
(d) Issuance of a permit shall not relieve any person of the responsibility to comply fully with all applicable laws

§ 501324. Application for Permit.

(a) Every application for a permit shall be submitted to the agency on the "Application for an Underground Storage Tank Permit" form prescribed by the agency.
(b) A permit fee in accordance with § 501335 shall accompany each application for a permit.
(c) The applicant shall submit sufficient information to enable the Administrator to make a decision on the application. Information submitted shall include but not be limited to the following:

(1) General information on involved parties, including the landowner, UST owner, and UST operator; location of the property; and basic description of the UST or tank system;
(2) Age, size, precise location within the property, and use of each UST;
(3) Other information required in the form prescribed by the Administrator; and
(4) Other information as the agency may require.

(d) Every application shall be signed by the owner and the operator and shall constitute an acknowledgment that the applicants assume responsibility for the installation and operation of the UST or tank system in accordance with this Article and the conditions of the permit, if issued. Each signatory shall be:

(1) In the case of a corporation, a principal executive officer of at least the level of vice president, or a duly authorized

representative if that representative is responsible for the overall operation of the UST or tank system;

(2) In the case of a partnership, a general partner;

(3) In the case of a sole proprietorship, the proprietor; or

(4) In the case of a county, state, or federal entity, either a principal executive officer, ranking elected official, or other duly authorized employee.

§ 501325. Permit.

(a) Upon approval of an application for a permit to install and operate an UST or tank system, the Administrator shall issue a permit for a term of one (1) year except as noted in subsection (b).

(b) The owner or operator shall have one (1) year from the issuance of the permit to install an UST or tank system. If the installation is not completed within one (1) year, the permit expires and the owner or operator must apply for a new permit.

(c) The owner or operator must inform the agency at least seven (7) calendar days prior to performing the actual installation. The information shall include the permit number, name and address of the UST or tank system, the contact person, the contact person's phone number, and date and time of actual installation.

(d) The owner or operator must notify the agency within thirty (30) calendar days after the installation of the UST or tank system. The notification shall be submitted on the "Notification for Underground Storage Tanks Permits" form prescribed by the Administrator. If information submitted on the form has changed since the original application. The form must certify compliance with the following requirements:

(1) Installation of tanks and piping under § 50120(f);

(2) Cathodic protection of steel tanks and piping under § 50120(b) and (c);

(3) Financial responsibility under Article 8; and

(4) Release detection under §§ 50141 and 50142.

(e) The agency, where practicable and appropriate, may issue one (1)

permit to the owner or operator of an UST system for the purpose of combining all USTs, piping, and any ancillary equipment constituting that UST system under one permit, irrespective of the number of individual USTs, so long as that UST system is part of one reasonably contiguous physical location.

§ 501326. Permit Renewal.

(a) On application, a permit may be renewed for a term of one (1) year.
(b) A renewal fee in accordance with § 501335 shall accompany each application for renewal of a permit.
(c) An application for a renewal shall be received by the agency at least one hundred eighty (180) calendar days prior to the expiration of the existing permit and shall be submitted on the "Notification for Underground Storage Tanks Permits" form prescribed by the Administrator.

§ 501327. Action On and Timely Approval of Application for Permit.

(a) The Administrator need not act upon nor consider any incomplete application for a permit. An application shall be deemed complete only when:

(1) All required and requested information, including the application form, plans, specifications, and other information required by this Article have been submitted in a timely fashion;
(2) All fees have been paid as prescribed in § 501335; and
(3) The Administrator determines that the application is complete.

(b) The Administrator shall approve, approve with conditions, or deny a complete application for a permit to install or operate an UST or tank system or a permit renewal, modification, or transfer, required under this chapter. The Administrator shall notify the applicant of the agency's decision within one hundred eighty (180) calendar days of receipt of a complete application, as defined in subsection (a). Otherwise, a complete

application is deemed approved one hundred eighty (180) calendar days after it is received by the agency.

§ 501328. Permit Conditions.

The Administrator may impose conditions on a permit that the Administrator deems reasonably necessary to ensure compliance with this Article and any other relevant state requirement, including conditions relating to equipment, work practice, or operation. Conditions may include, but shall not be limited to, the requirement that devices for measurement or monitoring of regulated substances be installed and maintained and the results reported to the Administrator, all costs and expenses to be borne by the applicant.

§ 501329. Modification of Permit.

(a) The Administrator may modify a permit if there is a change that requires a modification to an existing permit. Changes requiring a permit modification shall include but not be limited to:

(1) The addition or removal of an UST from an UST system; and

(2) Any change to or modification of an UST or UST system which would otherwise place the existing UST or UST system out of compliance with this Article or an existing permit.

(b) An application for modification of a permit shall be made in writing to the agency and shall be accompanied by sufficient information on the planned renovation or modification to the UST or tank system to assist the agency in making a determination as to whether the application for modification should be denied or granted.

(c) Applications for a permit modification shall be received by the agency no later than sixty (60) calendar days prior to the occurrence of the event that prompted the application except that applications for change-in-service must be received by the agency at least thirty (30) calendar days before the owner or operator begins the change-in-service. Applications shall be submitted on the "Notification for Underground Storage Tanks

Permits" form prescribed by the Administrator.
(d) Owners and operators shall submit a permit application to add USTs or tank systems to an existing permit. If the Administrator approves the addition, the existing permit shall be terminated, and a new permit shall be issued which covers the additional USTs as well as the already-permitted USTs. The term of the new permit shall be for the remaining term of the original permit.

§ 501330. Revocation or Suspension of Permit.

The Administrator may revoke or suspend a permit if the Administrator finds any one of the following:

(1) There is a release or threatened release of regulated substances that the agency deems to pose an imminent and substantial risk to human health or the environment;
(2) The permittee violated a condition of the permit; or
(3) The permit was obtained by misrepresentation, or failure to disclose fully all relevant facts.

§ 501331. Change in Owner or Operator for a Permit.

(a) No permit to install, own, or operate an UST or tank system shall be transferable unless approved by the agency. Request for approval to transfer a permit from one owner to another owner must be made by the new owner. Request for approval to transfer a permit from one operator to another operator must be made by the owner.
(b) The transferred permit will be effective for the remaining life of the original permit.
(c) An application for the transfer shall be received by the agency at least thirty (30) calendar days prior to the proposed effective date of the transfer and shall be submitted on the "Notification for Underground Storage Tanks Permits" form prescribed by the Administrator.

§ 501332. Variance Allowed.

Provisions pursuant to this Article relating to USTs or tank systems which are more stringent than Title 40, Part 280 of the Code of Federal Regulations, published by the Office of the Federal Register, as amended as of July 1, 2017, may be varied by the Administrator in accordance with this Article. No variance may be less stringent than the federal requirements.

§ 501333. Variance Application.

(a) An application for a variance shall be submitted to the agency on the "Notification for Underground Storage Tanks Permits" form prescribed by the Administrator.
(b) A variance fee in accordance with § 501335 shall accompany each application for a variance.
(c) Every application shall be signed by the owner and operator, and the signature shall be by one of the following:

(1) In the case of a corporation, by a principal executive officer of at least the level of vice president, or a duly authorized representative if that representative is responsible for the overall operation of the UST or tank system;
(2) In the case of a partnership, by a general partner;
(3) In the case of a sole proprietorship, by the proprietor; or
(4) In the case of a county, state, or federal entity, by a principal executive officer, ranking elected official or other duly authorized employee.

(d) The Administrator shall approve, approve with conditions, or deny a complete application as required under this Article. The Administrator shall notify the applicant of the agency's decision, within one hundred eighty (180) calendar days of receipt of a complete application. Otherwise, a complete application is deemed approved one hundred eighty (180) calendar days after it is received by the agency.

§ 501334. Maintenance of Permit or Variance.

(a) Permits and variances, including application records, shall be

maintained at the location of the UST or tank system for which the permit was issued and shall be made available for inspection upon request of any duly authorized representative of the agency.
(b) No person shall willfully deface, alter, forge, counterfeit, or falsify any permit or variance.

§ 501335. Fees.

(a) Every applicant for a permit or a variance, or applicant for modification or renewal of a permit or variance, or applicant for a transfer of a permit, shall pay the applicable fees as set forth below:

Type of Application	Permit	Variance
Permit Application Fee per Tank (New Installation)	$500.00	$550.00
Permit to Operate Fee per Tank (Annual)	$250.00	
Permit to Transfer	$250.00	
Permit to Modify	$150.00	$200.00
Permit to Close	$500.00	$550.00
Permit to Install OWS	$500.00	$550.00
Permit to Close OWS	$500.00	
Request for Proposal (Copy)	$25.00	
Installer's Certification (2 years)	$150.00	
Operator's Certification A & B (2 years)	$150.00	
Operator's Re-Certification (2 years)	$100.00	

(b) Fees shall be submitted with the application and are nonrefundable.
(c) Fees shall be made payable to Guam Environmental Protection Agency UST-LUST Fund.
(d) If more than one type of application is combined, the highest

applicable fee will be assessed. However, a permit application and a variance application shall not be combined under one fee.

§ 501336 to § 501399. [Reserved.]

ARTICLE 13
ENFORCEMENT

§ 501400 to § 501420. [Reserved.]
§ 501421. Purpose.
§ 501422. Field Citation
§ 501423 to § 501428. [Reserved.]
§ 501429. Delivery, Deposit, and Acceptance Prohibition

§ 501400 to § 501420. [Reserved.]
§ 501421. Purpose.

The purpose of this Article is to create an enforcement program that facilitates the effective and expeditious resolution of violations of 10 GCA Chapter 76 and this Chapter.

§ 501422. Field Citations.

(a) Field citations may be issued for violations of 10 GCA Chapter 76 and this Chapter, that the agency deems appropriate for resolution through the issuance of a field citation. Nothing in this section requires the agency to elect one enforcement mechanism over another and the decision to proceed with one course of action over, or in conjunction with, another is within the discretion of the Administrator.
(b) The field citation is an offer to settle an allegation of noncompliance with this Chapter. If the owner or operator declines to accept the agency's offer to settle within the time period set forth in the field citation, the agency may bring administrative or civil enforcement action under 10 GCA Chapter 76.

(c) The field citation shall set forth sufficient facts to notify the recipient of the alleged violations, the applicable law, the proposed settlement amount, and the time period during which to respond.
(d) By returning the signed settlement agreement attached to the field citation and payment of the proposed settlement amount to the agency, the owner or operator will be deemed to have accepted the terms and conditions of the settlement offer.
(e) By signing the settlement agreement, the owner or operator waives his or her right to a contested case hearing pursuant to 10 GCA Chapter 76 and 5 GCA Chapter 9.

§ 501423 to § 501428. [Reserved.]

§ 501429. Delivery, Deposit, and Acceptance Prohibition.

(a) No person shall deliver to, deposit into, or accept a regulated substance into an UST or tank system that has been identified by the agency as ineligible for delivery, deposit, or acceptance.
(b) An UST or tank system shall be identified by the agency as ineligible for delivery, deposit, or acceptance by placement of a tag or other notice of ineligibility onto the fill pipe of the ineligible UST or tank system. If an owner or operator is not present at the facility at the time the underground storage tank is identified as ineligible, the agency may notify an employee at the facility at the time of identification in lieu of the owner or operator.
(c) No person shall remove, tamper with, destroy, or damage a tag or other notice of ineligibility affixed to any UST or tank system unless authorized to do so by the agency. Removal of a tag or other notice of ineligibility by the agency or person authorized by the agency shall occur only after the agency confirms that the conditions giving rise to the delivery prohibition have been corrected to the agency's satisfaction. The agency shall make this determination either at a hearing, if one is requested in accordance with this section, or as soon as practicable.
(d) Pursuant to this section, a tag or other notice of ineligibility may immediately be affixed to the fill pipe of an UST or tank system upon

finding by the agency of any of the following:

(1) Operating without a permit issued by the agency;

(2) Operating inconsistently with one or more conditions of a permit issued by the agency;

(3) Required spill prevention equipment is not installed or properly functioning or maintained;

(4) Required overfill protection equipment is not installed or properly functioning or maintained;

(5) Required release detection equipment is not installed or properly functioning or maintained;

(6) Required corrosion protection equipment is not installed or properly functioning or maintained;

(7) Failure to maintain financial responsibility; or

(8) Failure to protect a buried metal flexible connector from corrosion.

(e) An owner or operator of an UST or tank system designated by the agency to be ineligible shall be provided a hearing to contest the agency's determination of ineligibility within forty-eight (48) hours of the agency's receipt of a written request for a hearing by the owner or operator of the ineligible UST or tank system. The hearing shall modify or affirm the agency's determination of ineligibility and shall be conducted in accordance with 10 GCA Chapter 76 and 5 GCA Chapter 9, and the agency's rules of practice and procedure.

Permitting Advanced onsite wastewater disposal systems

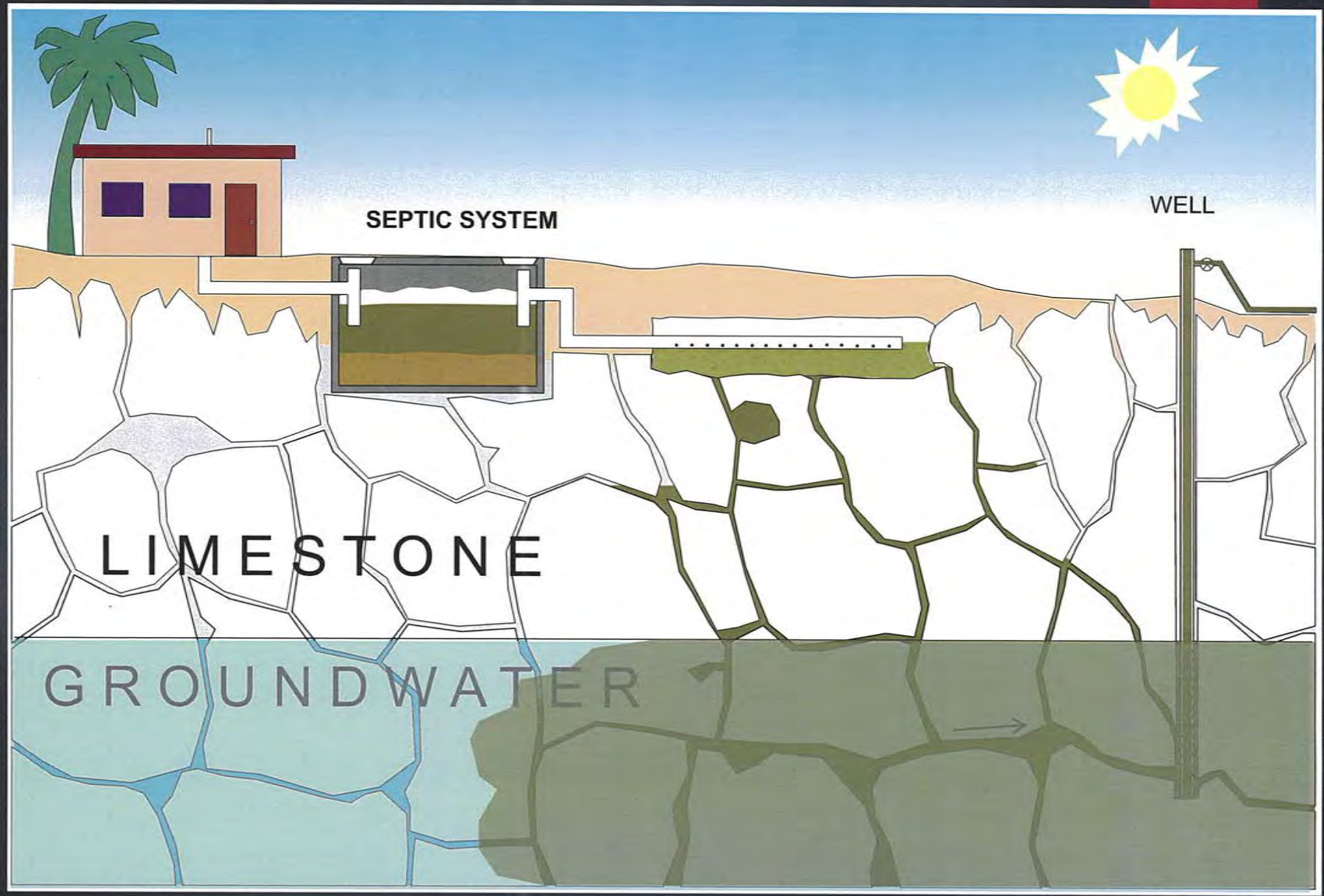
Basic issues:

- Septic systems in Northern Guam limited to 2 single-family homes per acre (½ acre lots)
- Parental subdivision law allows ¼ acre lots
- GEPA has historically permitted septic systems on ¼ acre parental subdivision lots
  - Administrator policy memos 1997 and 2009
  - Currently permitting >100 per year over NGLA
- AGO: legal opinion almost complete
  - Likely: GEPA ½ acre rule trumps parental subdivision law
- GEPA already feeling significant pressure from developers to continue practice

Environmental Issues

- Protection of Northern Guam Lens Aquifer
  - Designated "sole source aquifer" under SDWA
- Septic systems degrade groundwater quality
  - Nitrate is common measure of degradation
  - MCL = 10 mg/L, based on "blue baby syndrome"
  - Half-MCL triggers additional monitoring
  - A few wells in Guam exceed half MCL
  - WERI data: nitrate increasing in most NGLA wells
- Public sewer is the primary mitigation
  - Not available in many areas above NGLA

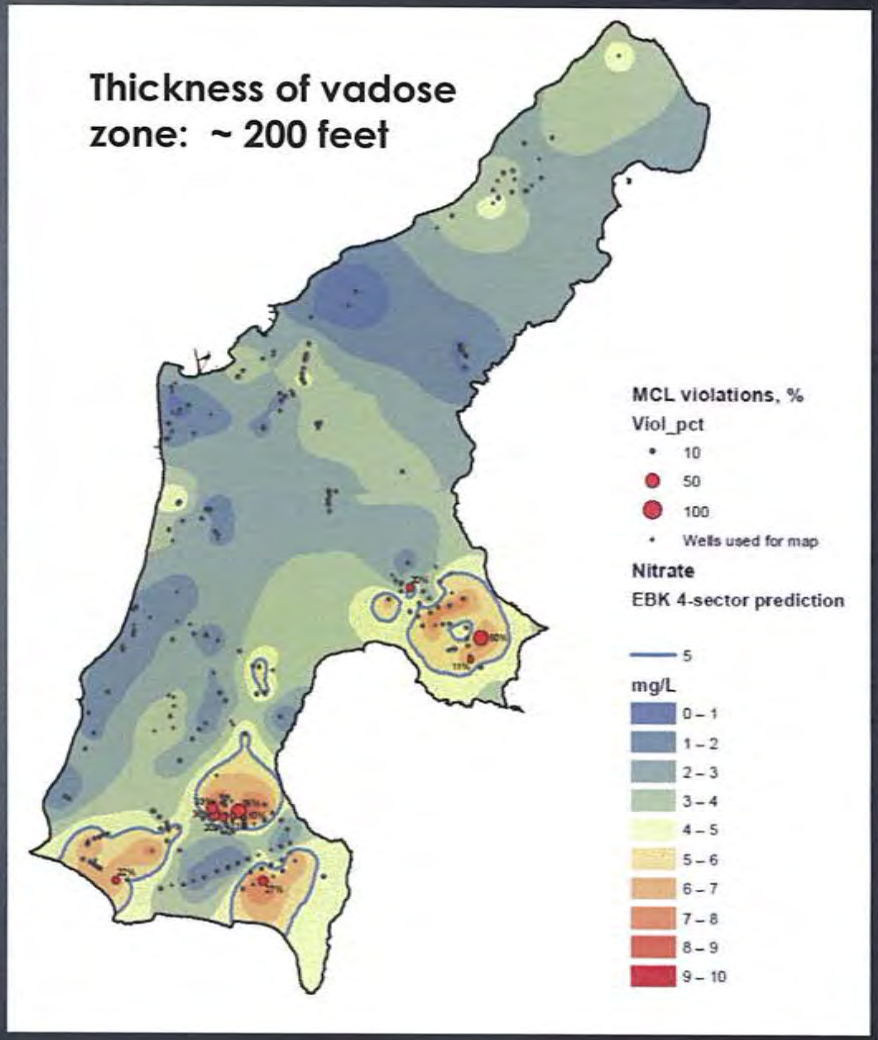
Septic System:



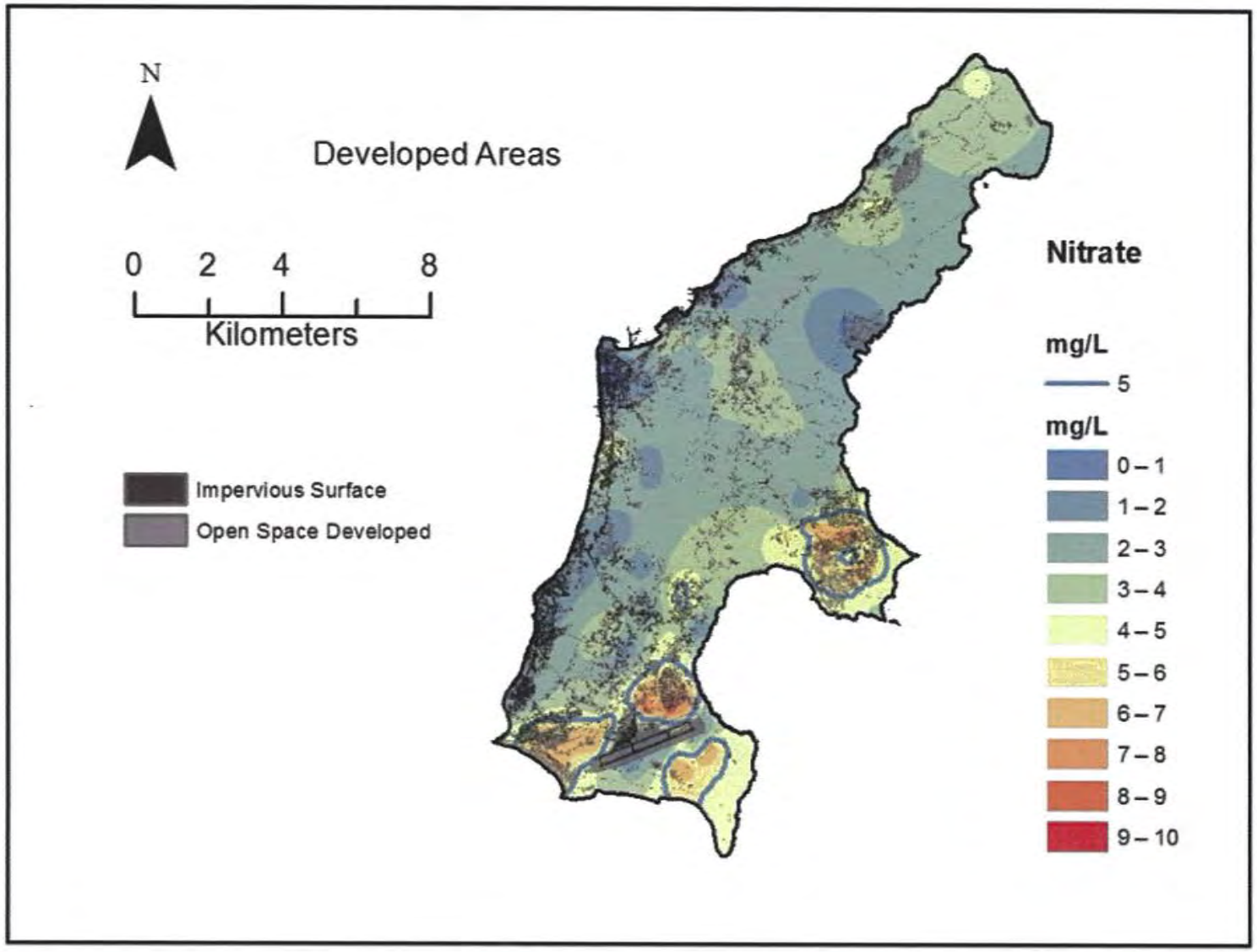
Extreme example - Saipan

Of 330 wells in database:

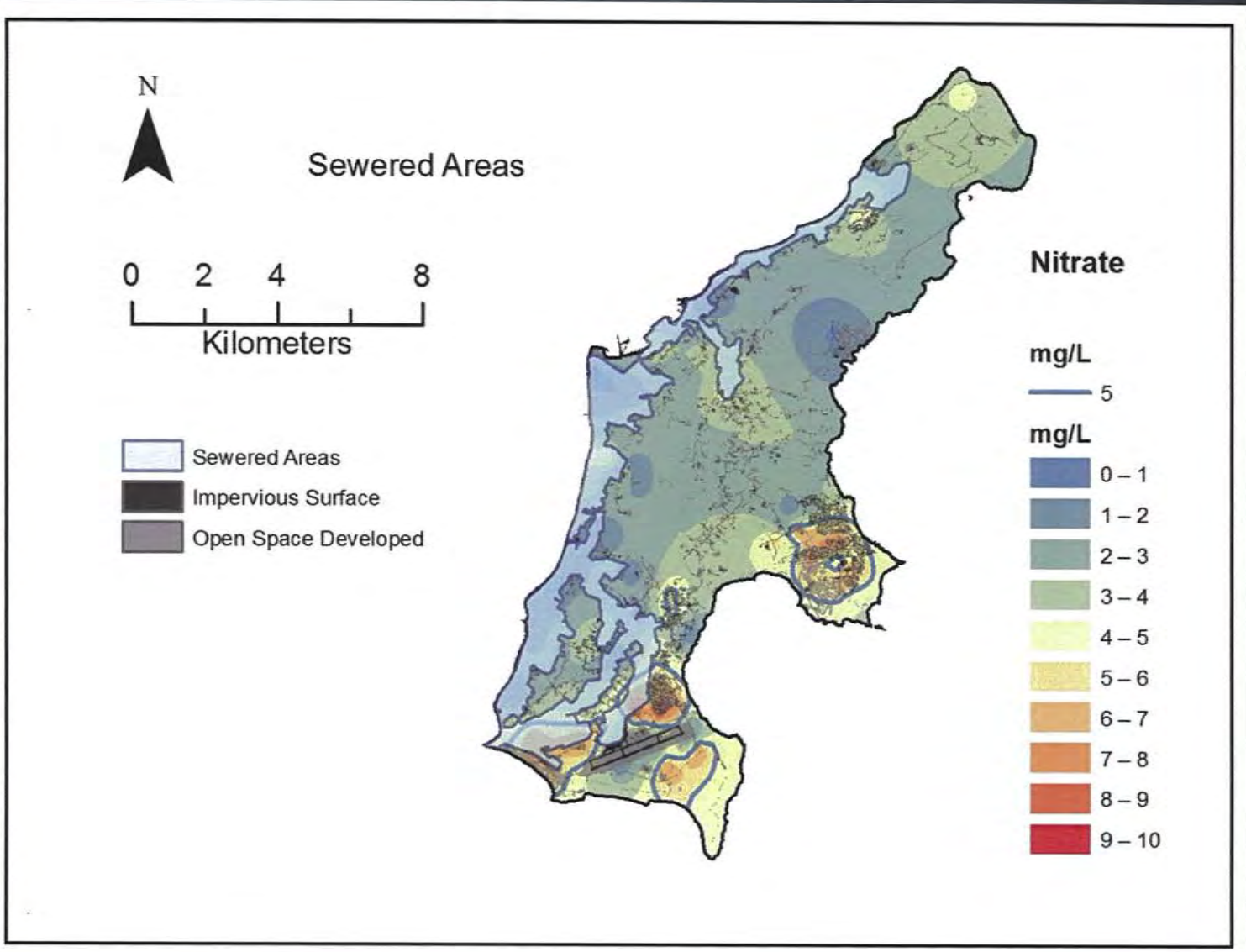
- 11 wells (3%) w/ MCL exceedences
  - worst well exceeded MCL on 56% of all samples
- 79 wells (32%) exceed the half-MCL
- Two most contaminated areas directly under unsewered subdivisions (1/4 acre lots or slightly smaller)



Nitrate vs. Development



Nitrate vs. sewered areas



Proposal

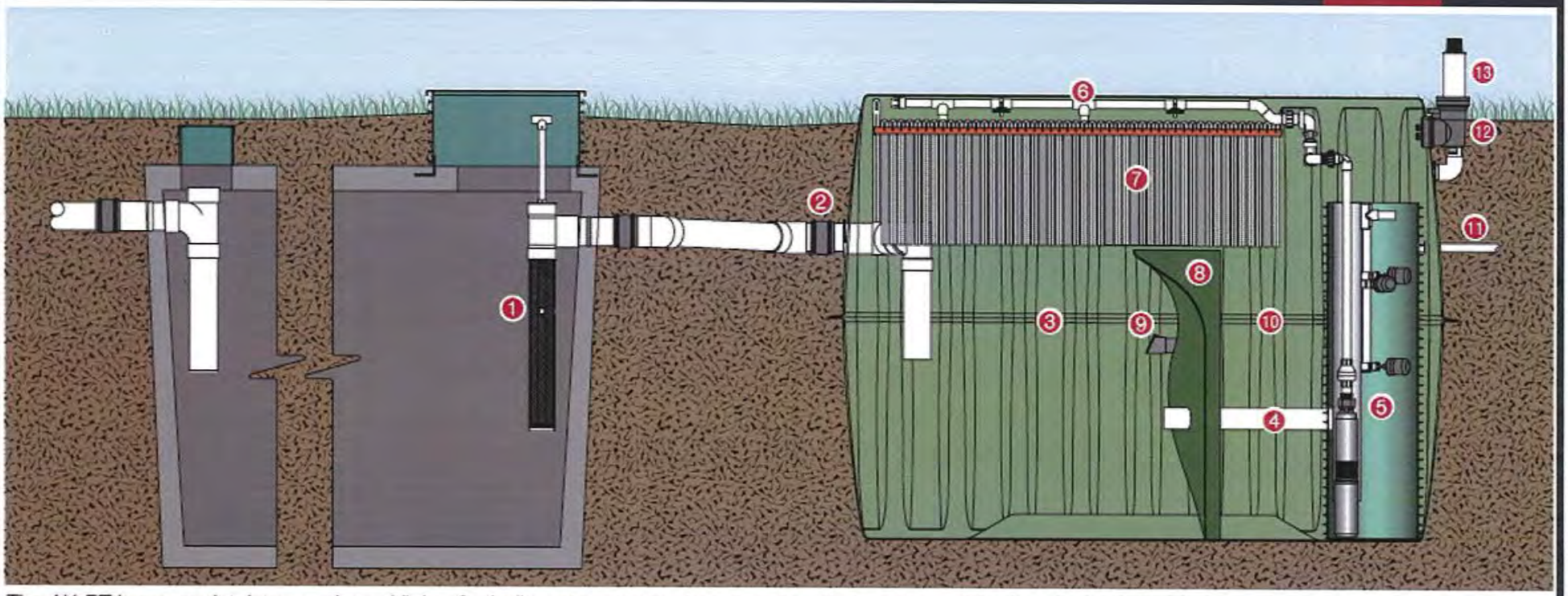
- Allow use of advanced on-site wastewater treatment systems above NGLA for ¼ acre lots
  - Satisfies development pressure
  - Reduces impact vs. septic systems on ½ acre lots:
    - Simple math:

      Using verified claims of 65% nitrate reduction:

      4 advanced systems: 4 x 0.35 N = 1.4 N

      2 regular septics: 2 x 1.0 N = 2.0 N

      4 advanced systems discharge 30% less nitrogen than 2 regular septic systems



The AX-RT is a completely prepackaged "plug & play" wastewater treatment system that can be quickly installed right behind an existing (or new) watertight septic tank.

Table 5
Typical Treatment Level Expectations

Characteristic	Typical Treatment Expectations
BOD_5 (mg/L)	≤ 10
TSS (mg/L)	≤ 10
NO_3-N (mg/L*	≤ 20
NH_3-N (mg/L)*	≤ 1
Fecal Coliform	≤ 50 cfu/100mL
pH	6.5-8.0

Based on estimated influent: flows and influent concentrations

Components

1. *Biotube® effluent filter*
2. *Inlet*
3. *Treatment tank – recirc/blend chamber*
4. *Recirc transfer line*
5. *Recirc pumping system (discharge pumping system not visible)*
6. *Manifold and spin nozzles*
7. *Textile treatment media*
8. *Tank baffle*
9. *Recirc return valve*
10. *Treatment tank – recirc/filtrate chamber*
11. *Outlet*
12. *Splice box*
13. *Passive air vent*
14. *Control panel (not shown)*

Stakeholder meetings:

- Unanimous support for maintaining strict septic system density rules
- Conditional support for allowing advanced on-site systems on ¼ acre lots
  - Verified performance
  - Enforced maintenance
- Unanimous support for continuing to prohibit on-site disposal of any kind of industrial uses and uses which are vulnerable to contamination:
  - Commercial / retail / construction worker housing / hotels / health care / warehousing

Permitting model:

- GEPA approval of systems prior to import
  - Proven performance via regulatory approval package and testing from other state program
- GEPA approval of supplier/O&M vendor support
  - Technical capacity
  - Stability – possible bonding to ensure O&M if bankrupt
- GEPA installation permits
  - Proof of O&M contract
- GEPA operation permits
  - Annual renewal
  - Must provide renewed O&M contract
  - Must provide inspection report from O&M support contractor verifying proper operation

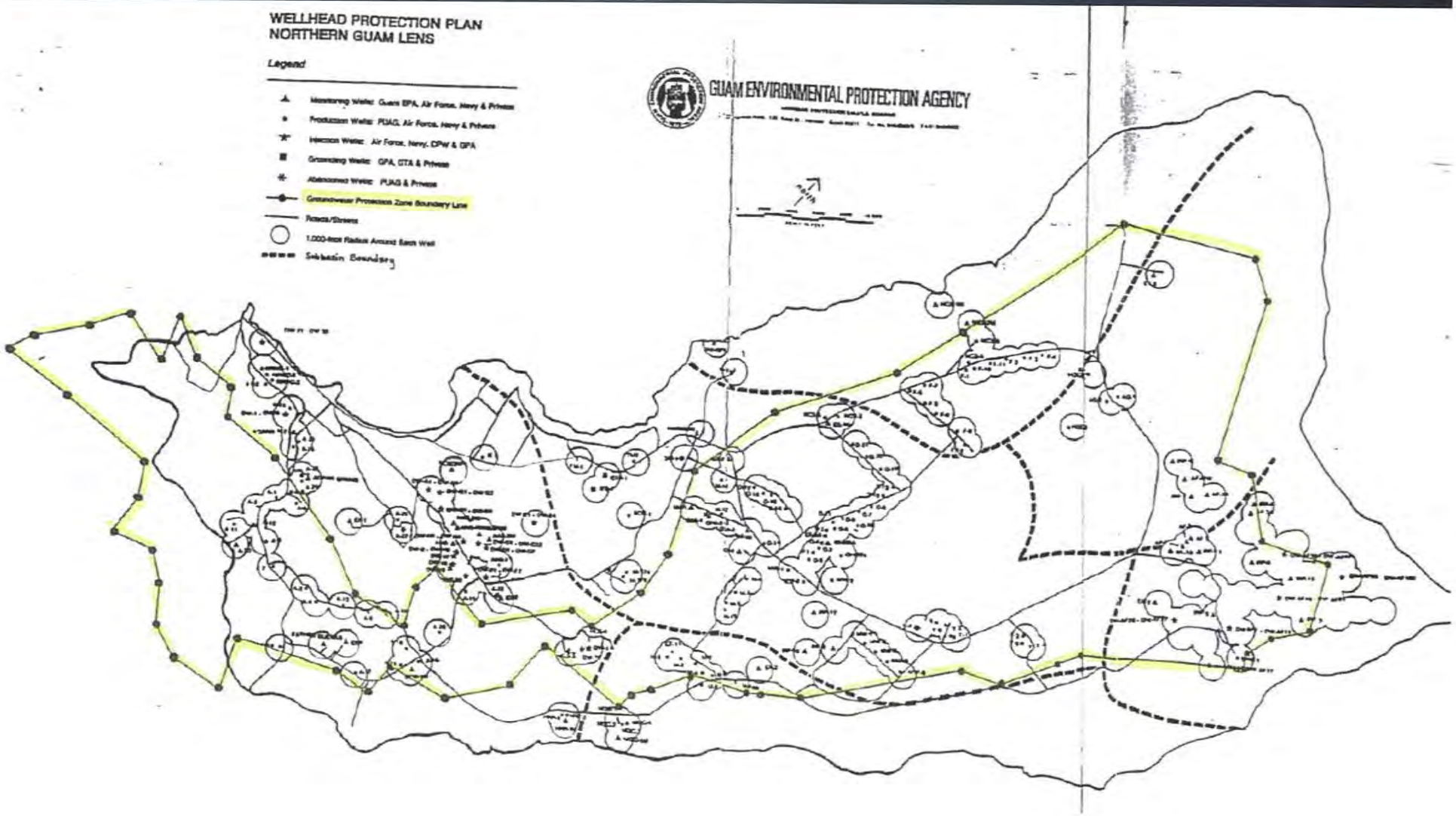
Permitting model (cont):

- Enforcement:
  - Need ability to issue administrative orders & penalties
    - Current law: misdemeanor & $1000 fine (AG only)
  - Desirable: ability to shut off GWA water service
- Cut-off date
  - Need to avoid triggering development boom
    - Could actually increase contamination if not checked
- Strict enforcement of sewer connection rule
  - History of non-enforcement; seen as hardship
  - Greater cost of advanced systems may make worse

Changes that would be needed

- Revision of Guam Water Quality Standards Regulations (22 GAR Chapter 5)
  - Already underway – could piggy-back
- Revision of Individual Wastewater System Regulations (22 GAR Chapter 12)
- Changes to statute (enforcement provisions):
  - 10 GCA Chapter 48
    - Toilet Facilities and Sewage Disposal
  - 10 GCA Chapter 47
    - Water Pollution Control Act

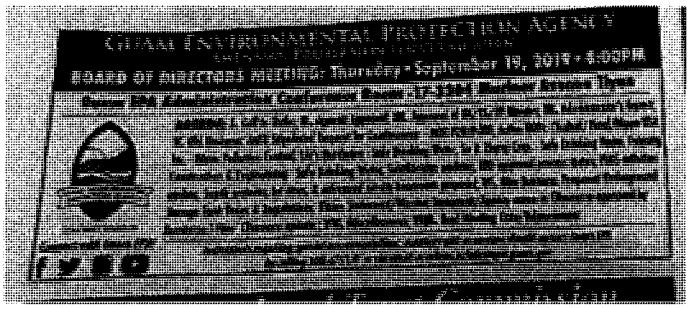
Groundwater Protection Zone (GPZ) Map:

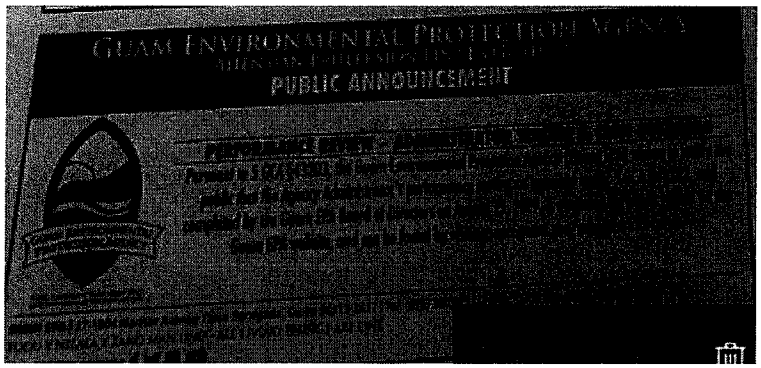


Doc. No. 35GL-20-1381.

Side issue: updating GPZ map

- GEPA and WERI to prepare revised GPZ map
  - Early October
- DLM must prepare metes and bounds description
- 10 GCA Chapter 47:
  - GEPA issues Notice of Public Hearing
    - Once per week for 2 consecutive weeks
  - GEPA holds public hearing
  - GEPA adopts revised GPZ map


GUAM ENVIRONMENTAL PROTECTION AGENCY
BOARD OF DIRECTORS MEETING: Thursday, September 19, 2019 • 6:00PM


GUAM ENVIRONMENTAL PROTECTION AGENCY
PUBLIC ANNOUNCEMENT