

From: Committee on Rules 36GL <cor@guamlegislature.org>
Sent: Tuesday, October 19, 2021 11:49 AM
To: Clerks; Rennae Meno; Speaker Therese M. Terlaje
Subject: Messages and Communications for Doc. Nos. 36GL-21-1210 & 36GL-21-1211*.
Attachments: 36GL-21-1211.pdf; 36GL-21-1210.pdf

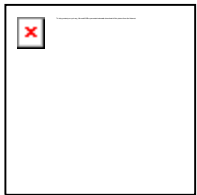
Håfa Adai Clerks,

Please see attached M&C Doc. Nos. 36GL-21-1210 & 36GL-21-1211 for processing:

36GL-21-1210	BILL NO. 116-36 (COR) nka P.L. 36-61 – “AN ACT TO AMEND §§ 51202, 51204, 51205, AND 51207 OF ARTICLE 2, CHAPTER 51, TITLE 10, GUAM CODE ANNOTATED; TO AMEND § 40115(c) OF ARTICLE 1, CHAPTER 40, TITLE 5, GUAM CODE ANNOTATED; AND TO AMEND § 77114.3 OF ARTICLE 1, CHAPTER 77, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO ENHANCING AGENCY CAPACITY TO ADDRESS ILLEGAL DUMPING”*.	Office of the Governor of Guam
36GL-21-1211	BILL NO. 165-36 (COR) nka P.L. 36-60 – “AN ACT TO AMEND § 10115(a)(2) OF CHAPTER 10, TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO REMOVING THE CAP ON CIVIL PENALTIES FOR VIOLATIONS OF THE GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS”*.	Office of the Governor of Guam

Electronic and Hard Copies received and attached.

Si Yu'os Ma'åse',



COMMITTEE ON RULES

Vice Speaker Tina Rose Muña Barnes
36th Guam Legislature
I Mina'trentai Sais Na Liheslaturan Guåhan
163 Chalan Santo Papa Hågatña Guam 96910
Email: cor@guamlegislature.org

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From: Speaker Therese M. Terlaje <speaker@guamlegislature.org>
Date: Mon, Oct 18, 2021 at 6:19 PM
Subject: Messages and Communications for 36GL-21-1210 & 36GL-21-1211
To: Legislative Secretary Amanda Shelton <officeofsenatorshelton@guamlegislature.org>, Committee on Rules 36GL <cor@guamlegislature.org>

Håfa Adai,

Please see attached M&C Doc. No. 36GL-21-1210 & 36GL-21-1211.

36GL-21-1210	BILL NO. 116-36 (COR) nka P.L. 36-61 – “AN ACT TO AMEND §§ 51202, 51204, 51205, AND 51207 OF ARTICLE 2, CHAPTER 51, TITLE 10, GUAM CODE ANNOTATED; TO AMEND § 40115(c) OF ARTICLE 1, CHAPTER 40, TITLE 5, GUAM CODE ANNOTATED; AND TO AMEND § 77114.3 OF ARTICLE 1, CHAPTER 77, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO ENHANCING AGENCY CAPACITY TO ADDRESS ILLEGAL DUMPING”.	Office of the Governor of Guam
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Si Yu'os Ma'åse',

Maria Abante
Legislative Assistant

Office of Speaker Therese M. Terlaje
Committee on Health, Land, Justice and Culture

I Mina'trentai Sais na Liheslaturan Guåhan
36th Guam Legislature

Office Location: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910

Address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 989-3590 Email: speaker@guamlegislature.org

website: www.senatorterlaje.com

----- Forwarded message -----

From: <june.borja@guam.gov>

Date: Mon, Oct 18, 2021 at 5:13 PM

Subject: Bill No. 165-36 (COR) nka P.L. 36-60 and Bill No. 116-36 (COR) nka P.L. 36-61

To: Speaker Therese M. Terlaje <speaker@guamlegislature.org>

Cc: Governor Lourdes A. Leon Guerrero <governor@guam.gov>, Lt. Governor Joshua F. Tenorio

<joshua.tenorio@guam.gov>, <gcepeda@guamcourts.gov>, <guamcompiler@gmail.com>, <libanez@guamcourts.gov>,

Jon Calvo (DCOS) <jon.calvo@guam.gov>, <alice.taijeron@guam.gov>, SSD (Legal) <sophia.diaz@guam.gov>, Leslie

Travis <leslie.travis@guam.gov>, <brianne.dunstan@guam.gov>, Stephanie G. Flores <stephanie.flores@guam.gov>,

Krystal Paco-San Agustin <krystal.paco@guam.gov>, <lester.carlson@bbmr.guam.gov>, BERTHA

<bertha.duenas@guam.gov>, Eliza G. Dames (Chamber) <eliza.dames@guam.gov>, Shamra L.A. Chargualaf (Chamber)

<shamra.chargualaf@guam.gov>, Josephine C. Cepeda (Chamber) <josephine.cepeda@guam.gov>, Kathleen C. Cepeda

(DCOS) <kathleen.cepeda@guam.gov>, Rhea Chang <rhea.chang@guam.gov>, Jessica Cruz (CF)

<jessica.cruz@guam.gov>, <admin@bbmr.guam.gov>, <analyn.eustaquio@bbmr.guam.gov>, Michael D. Weakley

<michael.weakley@guam.gov>, <rikki.orsini@guam.gov>

Hafa Adai Madame Speaker:

Please find a copy of the attached letter dated October 18, 2021 from the **Honorable Lourdes A. Leon Guerrero, I Maga'hågan Guåhan** regarding the following Bill No. 165-36 (COR) and 116-36 (COR). The original transmittal will be delivered to your office.

BILL NO. 165-36 (COR) nka P.L. 36-60 – “AN ACT TO AMEND § 10115(a)(2) OF CHAPTER 10, TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO REMOVING THE CAP ON CIVIL PENALTIES FOR VIOLATIONS OF THE GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS”

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Thank you.

Respectfully,

June M.C. Borja

Administrative Services Officer

OFFICE OF THE GOVERNOR OF GUAM

Office of Legal Counsel

Ricardo J. Bordallo Governor's Complex

Adelup, Guam 96910

P.O. Box 2950, Hagåtña, Guam 96932

Office No.: (671) 473-1118

Fax No.: (671) 477-4826

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Speaker Therese M. Terlaje <speaker@guamlegislature.org>

Bill No. 165-36 (COR) nka P.L. 36-60 and Bill No. 116-36 (COR) nka P.L. 36-61

june.borja@guam.gov <june.borja@guam.gov>

Mon, Oct 18, 2021 at 5:13 PM

To: "Speaker Therese M. Terlaje" <speaker@guamlegislature.org>

Cc: "Governor Lourdes A. Leon Guerrero" <governor@guam.gov>, "Lt. Governor Joshua F. Tenorio" <joshua.tenorio@guam.gov>, gcepeda@guamcourts.gov, guamcompiler@gmail.com, libanez@guamcourts.gov, "Jon Calvo (DCOS)" <jon.calvo@guam.gov>, alice.taijeron@guam.gov, "SSD (Legal)" <sophia.diaz@guam.gov>, Leslie Travis <leslie.travis@guam.gov>, brianne.dunstan@guam.gov, "Stephanie G. Flores" <stephanie.flores@guam.gov>, Krystal Paco-San Agustin <krystal.paco@guam.gov>, lester.carlson@bbmr.guam.gov, BERTHA <bertha.duenas@guam.gov>, "Eliza G. Dames (Chamber)" <eliza.dames@guam.gov>, "Shamra L.A. Chargualaf (Chamber)" <shamra.chargualaf@guam.gov>, "Josephine C. Cepeda (Chamber)" <josephine.cepeda@guam.gov>, "Kathleen C. Cepeda (DCOS)" <kathleen.cepeda@guam.gov>, Rhea Chang <rhea.chang@guam.gov>, "Jessica Cruz (CF)" <jessica.cruz@guam.gov>, admin@bbmr.guam.gov, analyn.eustaquio@bbmr.guam.gov, "Michael D. Weakley" <michael.weakley@guam.gov>, rikki.orsini@guam.gov

Hafa Adai Madame Speaker:

Please find a copy of the attached letter dated October 18, 2021 from the **Honorable Lourdes A. Leon Guerrero, / Maga'hågan Guåhan** regarding the following Bill No. 165-36 (COR) and 116-36 (COR). The original transmittal will be delivered to your office.

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Thank you.

36GL-21-1210 + 36GL-21-1211
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

Respectfully,

June M.C. Borja

Administrative Services Officer

OFFICE OF THE GOVERNOR OF GUAM

Office of Legal Counsel

Ricardo J. Bordallo Governor's Complex

Adelup, Guam 96910

P.O. Box 2950, Hagåtña, Guam 96932

Office No.: (671) 473-1118

Fax No.: (671) 477-4826

10-18-2021

Time: 5:13 pm

Received:

COMMITTEE ON RULES
RECEIVED:

October 19, 2021

8:00 A.M.

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21.1018 GOV to Speaker re Bill No. 165-36 (COR) nka P.L. 36-60 and Bill No. 116-36 (COR) nka P.L. 36-61.pdf
673K

OFFICE OF THE SPEAKER
THERESA M. TERESA

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

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

October 18, 2021

HONORABLE THERESE M. TERLAJE

Speaker

I Mina'trentai Sais Na Liheslaturan Guåhan

36th Guam Legislature

Guam Congress Building

163 Chalan Santo Papa

Hagåtña, Guam 96910

Re: BILL NO. 116-36 (COR) – “AN ACT TO *AMEND* §§ 51202, 51204, 51205, AND 51207 OF ARTICLE 2, CHAPTER 51, TITLE 10, GUAM CODE ANNOTATED; TO *AMEND* § 40115(c) OF ARTICLE 1, CHAPTER 40, TITLE 5, GUAM CODE ANNOTATED; AND TO *AMEND* § 77114.3 OF ARTICLE 1, CHAPTER 77, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO ENHANCING AGENCY CAPACITY TO ADDRESS ILLEGAL DUMPING”

BILL NO. 165-36 (COR) – “AN ACT TO *AMEND* § 10115(a)(2) OF CHAPTER 10, TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO REMOVING THE CAP ON CIVIL PENALTIES FOR VIOLATIONS OF THE GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS”

Dear Madame Speaker,

Today, I sign into law two bills that resolve significant gaps in previous enforcement efforts for violations of environmental statutes and regulations.

The recent environmental devastation at Marbo Cave was a hard lesson for our community -- in matters related to our environment, it is critical that we provide our enforcement agencies with mechanisms by which they can deter and punish conduct that violates the laws that protect these scarce natural resources and culturally significant sites. Bill No. 165-36 amends the Guam Soil Erosion and Sediment Control Regulations, adopted in 2000, to remove the \$125,000.00 cap on the maximum amount of civil penalties that may be imposed for violations. While it is unclear why the cap on penalties was imposed in the first place, it is clear that such a cap does a disservice to our overall goals of preservation and sustainability. Empowering our enforcement agencies to impose penalties that are proportionate to the harm done to our environment is an important step towards achieving these goals. For this reason, I sign Bill No. 165-36 into law as ***Public Law No. 36-60***.

Similarly, Bill No. 116-36, now known as ***Public Law No. 36-61***, targets illegal dumping in our public spaces and bolsters enforcement capability by expanding designated apprehending officers,

To: Speaker Terlaje
Fr: Governor of Guam
Date: October 18, 2021
Re: Bill No. 116-36 (COR) and 165-36 (COR)

Page 2 of 2

and, again, removing previous caps on fines for offenders and mandating such offenders to perform cleanup community service. The bill further reallocates funds previously dedicated to the Guam Beautification Fund to the Litter Control Revolving Fund, and ultimately to our enforcement agencies. This effort furthers the collaborative work of our administration, led by Lt. Governor Josh Tenorio, and other government stakeholders including the Mayor's Council of Guam, and enforcement agencies such as the Department of Parks and Recreation, the Department of Agriculture, the Department of Public Works, the Department of Public Health and Social Services, the Guam Environmental Protection Agency, and the Guam Police Department.

It is more important now than ever that we take meaningful steps to preserve our people's capacity to endure, by implementing common-sense policies that meet the needs of the present without compromising the ability of future generations to meet theirs. It is through implementing robust enforcement measures such as Public Laws No. 36-60 and 36-61, prioritizing deterrence, prevention and education over remediation, and engaging our businesses and community directly in the work to keep our public spaces clean and free of solid waste, that we can achieve our common goal of preserving our environment for our children, and future generations.

Senseremente,



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

Enclosure: Bill No. 165-36 (COR) *nka P.L. No. 36-60*
Bill No. 116-36 (COR) *nka P.L. No. 36-61*

cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'låhen Guåhan*
Compiler of Laws

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

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

This is to certify that **Bill No. 165-36 (COR)**, “**AN ACT TO AMEND § 10115(a)(2) OF CHAPTER 10, TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO REMOVING THE CAP ON CIVIL PENALTIES FOR VIOLATIONS OF THE GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS,**” was on the 4th day of October 2021, duly and regularly passed.



Therese M. Terlaje
Speaker

Attested:



Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 6th day of October,
2021, at 12:43 o'clock P.M.



Sperez Rodriguez
Assistant Staff Officer
Maga'håga's Office


APPROVED:



Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 10/18/2021

Public Law No. 36-60


RCUD AT CENTRAL FILES
OCT 6 '21 PM 12:43
2021-14794

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÁHAN
2021 (FIRST) Regular Session

Bill No. 165-36 (COR)

As amended on the Floor.

Introduced by:

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

AN ACT TO AMEND § 10115(a)(2) OF CHAPTER 10, TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO REMOVING THE CAP ON CIVIL PENALTIES FOR VIOLATIONS OF THE GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** § 10115(a)(2) of Chapter 10, Title 22, Guam Administrative
3 Rules and Regulations, is hereby *amended* to read:

4 "(2) Administrative. Whenever on the basis of any information
5 available the Administrator reasonably determines that any person has
6 violated the provisions of these rules and regulations or a lawful order, or has

1 violated any permit condition or limitation, the Administrator may assess a
2 civil penalty that may not exceed Ten Thousand Dollars (\$10,000.00) per day
3 per violation that the violation continues.

4 (A) Before issuing an order assessing a civil penalty, the
5 Administrator shall give to the person to be assessed such penalty,
6 written notice of the Administrator's proposal to issue such order and
7 the opportunity to request, within thirty (30) days of the date the notice
8 is received by such person, a hearing on the proposed order. Hearing
9 will be conducted as provided under the Administrative Adjudication
10 Law (AAL). In lieu of an order, the Agency may require that alleged
11 violator or violators appear before the Agency for a hearing at a time
12 and place specified in the notice and answer the charges complained of,
13 or the Agency may initiate action pursuant to Section 10114 of these
14 regulations.

15 (i) If, after a hearing held pursuant to the AAL, the
16 Board finds that a violation or violations have occurred, it shall
17 affirm or modify the order previously issued or issue an
18 appropriate order or orders for the prevention, abatement, or
19 control of the pollution or discharges involved or for the taking
20 of such other correction action as may be appropriate.

21 (ii) If, after hearing on an order contained in a notice,
22 the Board finds that no violation has occurred or is occurring, it
23 shall rescind the order.

24 (iii) Any order issued as part of a notice or after hearing
25 may prescribe the date or dates by which the violation or
26 violations shall cease may prescribe timetables for the necessary

1 action in preventing, abating or controlling the pollution or
2 discharge.

3 (B) In determining the amount of any penalty assessed, the
4 Administrator shall take into account the nature, circumstances, extent
5 and gravity of the violation or violations and with respect to the
6 violator, ability to pay, any prior history of such violations, the degree
7 of culpability, economic benefit or savings if any resulting from the
8 violation, and such other matters as justice may require.

9 (C) If any person fails to pay an assessment of a civil penalty
10 after the order making the assessment has become final, or after a Court
11 in an action has entered a final judgment in favor of the Administrator,
12 the Administrator shall request the Attorney General to bring a civil
13 action to recover the amount assessed. In such an action, the validity,
14 amount, and appropriateness of such penalty shall not be subject to
15 review.

16 (D) The Administrator may settle, modify or release, with or
17 without conditions, any administrative penalty which may be imposed
18 under this Section.”

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

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

October 18, 2021

Doc Type: 36GL-21-1711
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

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

~~10~~ 18 2021

Time: 5:38pm
Received: [Signature]

Re: **BILL NO. 116-36 (COR)** – “AN ACT TO *AMEND* §§ 51202, 51204, 51205, AND 51207 OF ARTICLE 2, CHAPTER 51, TITLE 10, GUAM CODE ANNOTATED; TO *AMEND* § 40115(c) OF ARTICLE 1, CHAPTER 40, TITLE 5, GUAM CODE ANNOTATED; AND TO *AMEND* § 77114.3 OF ARTICLE 1, CHAPTER 77, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO ENHANCING AGENCY CAPACITY TO ADDRESS ILLEGAL DUMPING”

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Similarly, Bill No. 116-36, now known as ***Public Law No. 36-61***, targets illegal dumping in our public spaces and bolsters enforcement capability by expanding designated apprehending officers,

To: Speaker Terlaje
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It is more important now than ever that we take meaningful steps to preserve our people's capacity to endure, by implementing common-sense policies that meet the needs of the present without compromising the ability of future generations to meet theirs. It is through implementing robust enforcement measures such as Public Laws No. 36-60 and 36-61, prioritizing deterrence, prevention and education over remediation, and engaging our businesses and community directly in the work to keep our public spaces clean and free of solid waste, that we can achieve our common goal of preserving our environment for our children, and future generations.

Senseremente,



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan

Governor of Guam

Enclosure: Bill No. 165-36 (COR) *nka P.L. No. 36-60*
Bill No. 116-36 (COR) *nka P.L. No. 36-61*

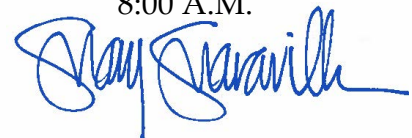
cc via email: *Honorable Joshua F. Tenorio, Sigundo Maga'låhen Guåhan*
Compiler of Laws

COMMITTEE ON RULES

RECEIVED:

October 19, 2021

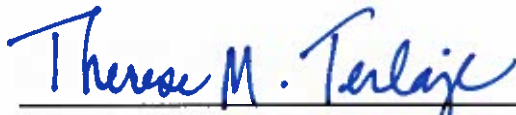
8:00 A.M.



I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

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

This is to certify that **Bill No. 165-36 (COR), "AN ACT TO AMEND § 10115(a)(2) OF CHAPTER 10, TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO REMOVING THE CAP ON CIVIL PENALTIES FOR VIOLATIONS OF THE GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS,"** was on the 4th day of October 2021, duly and regularly passed.



Therese M. Terlaje
Speaker

Attested:



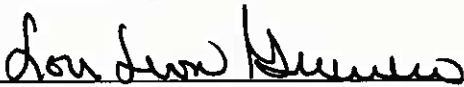
Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 6th day of October,
2021, at 12:43 o'clock P.M.



Spera Rodriguez
Assistant Staff Officer
Maga'håga's Office


APPROVED:



Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 10/18/2021

Public Law No. 36-60


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OCT 6 '21 PM 12:43
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As amended on the Floor.

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Amanda L. Shelton
Jose "Pedo" Terlaje
Mary Camacho Torres

**AN ACT TO AMEND § 10115(a)(2) OF CHAPTER 10,
TITLE 22, GUAM ADMINISTRATIVE RULES AND
REGULATIONS, RELATIVE TO REMOVING THE CAP
ON CIVIL PENALTIES FOR VIOLATIONS OF THE
GUAM SOIL EROSION AND SEDIMENT CONTROL
REGULATIONS.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** § 10115(a)(2) of Chapter 10, Title 22, Guam Administrative
3 Rules and Regulations, is hereby *amended* to read:

4 "(2) Administrative. Whenever on the basis of any information
5 available the Administrator reasonably determines that any person has
6 violated the provisions of these rules and regulations or a lawful order, or has

1 violated any permit condition or limitation, the Administrator may assess a
2 civil penalty that may not exceed Ten Thousand Dollars (\$10,000.00) per day
3 per violation that the violation continues.

4 (A) Before issuing an order assessing a civil penalty, the
5 Administrator shall give to the person to be assessed such penalty,
6 written notice of the Administrator's proposal to issue such order and
7 the opportunity to request, within thirty (30) days of the date the notice
8 is received by such person, a hearing on the proposed order. Hearing
9 will be conducted as provided under the Administrative Adjudication
10 Law (AAL). In lieu of an order, the Agency may require that alleged
11 violator or violators appear before the Agency for a hearing at a time
12 and place specified in the notice and answer the charges complained of,
13 or the Agency may initiate action pursuant to Section 10114 of these
14 regulations.

15 (i) If, after a hearing held pursuant to the AAL, the
16 Board finds that a violation or violations have occurred, it shall
17 affirm or modify the order previously issued or issue an
18 appropriate order or orders for the prevention, abatement, or
19 control of the pollution or discharges involved or for the taking
20 of such other correction action as may be appropriate.

21 (ii) If, after hearing on an order contained in a notice,
22 the Board finds that no violation has occurred or is occurring, it
23 shall rescind the order.

24 (iii) Any order issued as part of a notice or after hearing
25 may prescribe the date or dates by which the violation or
26 violations shall cease may prescribe timetables for the necessary

1 action in preventing, abating or controlling the pollution or
2 discharge.

3 (B) In determining the amount of any penalty assessed, the
4 Administrator shall take into account the nature, circumstances, extent
5 and gravity of the violation or violations and with respect to the
6 violator, ability to pay, any prior history of such violations, the degree
7 of culpability, economic benefit or savings if any resulting from the
8 violation, and such other matters as justice may require.

9 (C) If any person fails to pay an assessment of a civil penalty
10 after the order making the assessment has become final, or after a Court
11 in an action has entered a final judgment in favor of the Administrator,
12 the Administrator shall request the Attorney General to bring a civil
13 action to recover the amount assessed. In such an action, the validity,
14 amount, and appropriateness of such penalty shall not be subject to
15 review.

16 (D) The Administrator may settle, modify or release, with or
17 without conditions, any administrative penalty which may be imposed
18 under this Section.”