

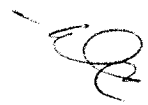
I MINA' TRENTA NA LIHESLATURAN GUÁHAN
2010 (SECOND) Regular Session

Bill No. 441-30 (COR)

Introduced by:

R.J. RESPICIO 

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AN ACT TO REPEAL AND ADOPT A NEW TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, DIVISION III, CHAPTER 15 RELATIVE TO THE GUAM ENVIRONMENTAL PROTECTION AGENCY'S PESTICIDE REGULATIONS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 SECTION 1. **Legislative Findings and Intent.** *I Liheslaturan Guáhan* finds that
3 the current provisions of the Pesticides Regulations in Title 22, Division III, Chapter 15
4 of Guam Administrative Rules and Regulations (GARR) were established in 1981. The
5 1997 version that is available from the Compiler of Laws is a re-numbering of the 1981
6 version, however, no substance was changed.

7 These regulations have been reviewed and revised by the Guam Environmental
8 Protection Agency (GEPA), in accordance with the Administrative Adjudication Law,
9 and based on the authority of the Agency granted pursuant to 10 GCA Chapter 50 –
10 “The Guam Pesticides Act”. The new regulations proposed for adoption in this Act are
11 an updated version of the 1981 regulations, which have been amended to reflect current
12 environmental concerns and conditions.

1 These regulations were passed by the Guam Environmental Protection Agency
2 (“GEPA”) on May 12, 2010 and transmitted to *I Liheslaturan Guåhan* for consideration on
3 May 17, 2010. After further review of the documents, GEPA provided technical
4 amendments and clarifying language to the Committee on Natural Resources to
5 incorporate into the adopted version of the regulations.

6 It is the intent of *I Liheslatura* to *repeal* Title 22, GARR, Division III, Chapter 15
7 and to *replace* said chapter with the pesticide regulations adopted in this Act, attached
8 herein as “Appendix 1”.

9 It is also the intent of *I Liheslatura* to *amend* portions of 10 GCA Chapter 50 – “The
10 Guam Pesticides Act” to accurately reflect the changes made to the new regulations.

11 **SECTION 2.** Title 22, Guam Administrative Rules and Regulations, Division III,
12 Chapter 15 is hereby *repealed*. Hereby *adopted* in its place are the provisions set forth in
13 “Appendix 1”.

14 **SECTION 3.** 10 GCA §50102(9) is hereby *amended* to read:

15 “(9) *Certified Pesticide Applicator shall* mean any individual who is certified under
16 regulations promulgated under this Chapter to use *or* to supervise the use of ~~restricted~~
17 ~~use pesticides, and shall include, but not be limited to:~~

18 ~~(a) *Private applicator shall* mean a certified applicator who uses *or* supervises the~~
19 ~~use of any pesticide which is classified for restricted use for purposes of producing any~~
20 ~~agricultural commodity on property owned *or* leased by the applicator *or* the~~

1 applicator's employer ~~or (if applied without compensation other than trading of~~
2 ~~personal services between producers of agricultural commodities) on the property of~~
3 ~~another person;~~

4 ~~(b) Commercial applicator shall mean an applicator who uses or supervises the use~~
5 ~~of any pesticide which is classified for restricted use for any purpose or on any~~
6 ~~property other than as provided in 9(a).~~

7 **SECTION 4.** 10 GCA §50107(c) is hereby *amended* to read:

8 (c) Certification. Every person who applies ~~restricted use pesticides as their~~
9 occupational duties shall obtain certification from the Agency pursuant to regulations
10 promulgated under this Chapter, which shall be valid for three (3) years. Every person
11 who applies any restricted use pesticides must be Core Training Certified, and ~~who is~~
12 ~~not a certified applicator~~ if not Category Certified, must be under the direct supervision
13 of a Category Ceertified applicator.

14 **SECTION 5.** 10 GCA §50107(d) is hereby *repealed*.

15 **SECTION 6. Effective Date.** *Except* for §15602(a) "Basic Training" and
16 §15703(b) "Basic Training Certification Cards", the provisions of this Act shall be
17 effective upon enactment. The provisions set forth in §15602(a) and §15703(b) shall be
18 effective on October 1, 2011.

22 GARR – Guam Environmental Protection Agency

Division 3
Guam Pesticide Regulations

Chapter 15
Pesticides

Article 1
General Provisions

1 §15101. Words in Singular Form.

2 §15102. Definitions.

3 **§15101. Words in Singular Form.**

4 For purposes of this Chapter, words used in the singular form *shall* include the
5 plural and vice-versa, as appropriate.

6 **§15102. Definitions.**

7 Terms and expressions used in this Chapter but not defined below, *shall* have the
8 meanings set forth in 10 GCA §50102. For purposes of this Chapter, the following terms
9 and expressions *shall* have the meanings set forth below:

10 (a) *Act shall* mean “The Guam Pesticides Act” of Title 10, Guam Code Annotated,
11 Chapter 50 as enacted in 2007 by Public Law 29-26.

12 (b) ‘*Agricultural Commodity Applicator*’ *shall* mean a person who applies any pesticide
13 on or around any agricultural commodity.

14 (c) ‘*Agricultural Establishment*’ *shall* mean a farm, plant nursery, greenhouse or forest
15 area.

16 (d) ‘*Agricultural Operator*’ *shall* mean any person such as a landowner, grower, lease
17 holder or pesticide applicator who is responsible for management or condition of an
18 agricultural establishment that hires or uses such persons. Agricultural operator

1 includes any person who hires, contracts for or uses the services of any person
2 (compensated or uncompensated) to perform activities related to the production of
3 agricultural plants.

4 (e) *“Basic Training”* shall mean a type of pesticide training for certain applicants
5 handling general use pesticides. *Basic Training* is divided into two categories:

6 (1) *“Basic Training-A”* shall mean a type of pesticide training which involves a
7 four (4) hour training course and an open-book exam.

8 (2) *“Basic Training-B”* shall mean a type of pesticide training which involves an
9 eight (8) hour training course and a closed-book exam.

10 (f) *‘Body of Water’* shall mean any surface water resource within the borders of Guam
11 including, but not limited to lakes, rivers, streams, bays, lagoons, harbors, intertidal
12 areas, wetlands and coastal ocean waters.

13 (g) *‘Category Training’* shall mean a specialized type of training for the use, or
14 supervision of the use of, restricted use pesticides.

15 (h) *Certification* shall refer to

16 (1) The process which an individual must successfully complete in order to be
17 authorized to use, or supervise the use of, pesticides; or

18 (2) The successful completion of the process which an individual must
19 successfully complete in order to be authorized to use, or supervise the
20 use of, pesticides,

21 as appropriate to the context in which the term appears.

22 (i) *‘Certification Card’* shall mean an identification card issued by Guam EPA to an
23 individual, evidencing that he has successfully completed the process required for an
24 individual to be authorized to use or supervise the use of pesticides.

25 (j) *‘Certified Pesticide Sales Manager’* shall mean a person in charge of the sale of

1 restricted use pesticides and who has successfully passed an examination of any
2 category to qualify for that position.

3 (k) *Chemigation shall* mean the application of pesticides through any type of
4 irrigation system including any sprinkler, food, furrow, drip or greenhouse system.

5 (l) *'Competent person' shall* mean a person who is qualified to perform functions
6 associated with pesticide application; the degree of capability required being directly
7 related to the nature of the activity and the associated responsibility. A *competent person*
8 must have successfully completed the appropriate training and must have obtained the
9 appropriate certification card from Guam EPA.

10 (m) *Dealer shall* mean any person, company or corporation engaged in the business
11 of purchasing and selling restricted and/or general use pesticide products or devices.

12 (n) *Distributor shall* mean any company other than a *dealer* or *sales outlet* that sells
13 only general use pesticides or devices.

14 (o) *'Federal Requirement' shall* refer to any and all applicable provisions of federal
15 law, especially "The Federal Insecticide, Fungicide, Rodenticide Act", and/or any and
16 all applicable provisions of the Code of Federal Regulations (CFR).

17 (p) *'Guam EPA' shall* mean the Guam Environmental Protection Agency.

18 (q) *Hazard shall* mean a situation where there exists a possibility that a given
19 pesticide will cause injury or have an adverse effect on the environment.

20 (r) *'Keep Out of Reach of Children' shall* mean that children under the age of seventeen
21 (17) shall not open or remove pesticides without parental supervision.

22 (s) *'Local Requirement' shall* refer to any and all applicable provisions of Guam law,
23 especially "The Guam Pesticides Act", and/or any and all applicable provisions of this
24 Chapter.

25 (t) *'Non-Refillable Container' shall* mean a container that is designed and constructed

1 for one time containment of a pesticide for sale or distribution. Reconditioned
2 containers are considered to be *non-refillable containers*.

3 (u) *Owner shall* mean any person who has present possessory interest (fee, leasehold,
4 rental or other) in any type of operation that uses, sells and/or distributes pesticides.

5 (v) *'Pest Control Operator (PCO)' shall* mean a company that provides pest control
6 activities for hire and that has obtained a PCO license from Guam EPA.

7 (w) *Program shall* mean the Guam EPA Pesticide Enforcement Program.

8 (x) *'Refillable Container' shall* mean a container that is intended by the registrant of
9 the pesticide to be filled with pesticide more than once for sale or distribution.

10 (y) *Respondent shall* mean an alleged violator.

11 (z) *'Sales Outlet' shall* mean a location where any restricted use pesticide is sold or
12 distributed; or kept or stored for sale or distribution; and where records of such sales
13 and distribution are kept.

14 (aa) *'Treated Article' shall* mean an article or substance treated with or containing a
15 pesticide to protect the integrity of the article or substance itself treated with a pesticide
16 if the pesticide is registered for such use.

17 (bb) *'Under the Direct Supervision of a Category Certified Applicator' shall* refer to a
18 situation in which a restricted use pesticide is applied by a Core Training certified
19 applicator acting under the instructions, control and direct supervision of a Category
20 Certified applicator, who is required to be physically present on-site and observing the
21 application of the RUP at the time of the application. The person supervising must be
22 certified for the type of pesticide application he is directly supervising.

22 GARR – Guam Environmental Protection Agency

Division 3
Guam Pesticide Regulations

Chapter 15
Pesticides

Article 2
Sale of Pesticides

1 §15201. Registration, Label and Labeling Requirements.

2 §15202. Sale of Restricted Use Pesticides.

3 **§15201. Registration, Label and Labeling Requirements.**

4 Every pesticide product sold and distributed in Guam must be registered with
5 USEPA and *shall* bear a label or labeling conforming to 10 GCA §50108 and all
6 applicable local and federal requirements. All persons must maintain the integrity of
7 the original pesticide label or labeling, including legibility and completeness.

8 **§15202. Sale of Restricted Use Pesticides.**

9 No restricted use pesticide *shall* be sold to a person who is not a certified
10 pesticide applicator.

11 **(a) Dealers and Sales Outlets.**

12 **(1) Dealer’s License Required.** No person *shall* sell a restricted use pesticide
13 unless he has obtained a dealer’s license from Guam EPA.

14 **(2) Certified Pesticide Sales Manager (CPSM) Required.** Each dealer and
15 sales outlet *shall* have a CPSM, who must hold a valid certification card by Guam EPA
16 in any category training. The name of each CPSM *shall* be submitted together with the
17 application for a dealer’s license for each sales outlet. The Administrator must be
18 notified in writing by the owner of the sales outlet within fifteen (15) working days of

1 any change of personnel in this position.

2 **(b) Record Keeping and Reporting Requirements.**

3 Dealers and sales outlets *shall* keep a monthly record of each sale of each
4 restricted use pesticide. Dealers and sales outlets *shall* prepare sales records in
5 duplicate. Such records *shall* include: the name, address, and certification number of
6 the purchaser; the expiration date of the purchaser's certification; the date of sale; the
7 USEPA Registration number, quantity, and brand name of RUPs sold; and the CPSM's
8 signature, which must be affixed at the time of the sale transaction.

9 The original copies of the monthly sales records *shall* be submitted to the
10 Administrator within five (5) working days after the end of each month. The duplicate
11 copies *shall* be kept for a period of two (2) years at the physical location where the sale
12 transactions took place.

22 GARR – Guam Environmental Protection Agency

Division 3
Guam Pesticide Regulations

Chapter 15
Pesticides

Article 3
Use of Pesticides

- 1 §15301. Record Keeping and Reporting Requirements for Application.
- 2 §15302. Disposal.
- 3 §15303. Storage and Display.
- 4 §15304. Transportation.
- 5 §15305. Notice of Intent.
- 6 §15306. Posting of Signs.
- 7 §15307. Special Requirements for Foggers.
- 8 §15308. Special Requirements for Aerial Pesticide Application.
- 9 §15309. Worker Protection Standards.

10 **§15301. Record Keeping and Reporting Requirements for Application.**

11 Record keeping is required for all applicators who apply any amount of
12 restricted use pesticides. Applicators *shall* keep and maintain, for the period of at least
13 two (2) years, routine operational records, copies of which *shall* be provided by the
14 applicant to the site manager or facility owner. Such records *shall* include the following
15 information:

16 (a) The name, address, and certification number of the person who applied the
17 pesticide;

18 (b) The expiration date of the applicator’s certification;

1 (c) The name and address of the entity for whom the pesticide was applied;

2 (d) The USEPA registration number and trade (or common) name of each pesticide
3 applied;

4 (e) The date, time, location, and method of pesticide application;

5 (f) Target pests;

6 (g) Target site (i.e., the specific crop (or commodity), residence, school, etc...); and

7 (h) Where or how any rinsate, remaining pesticide and/or the pesticide container is
8 stored or disposed of.

9 **§15302. Disposal.**

10 Pesticides, empty containers (or parts thereof), or equipment that holds (or has
11 held) a pesticide, *shall* not be emptied or disposed of in such a manner that may present
12 a hazard to persons, animals (especially bees), food, feed, crops or property.

13 Empty non-refillable pesticide containers must be triple rinsed and punctured to
14 render useless. To dispose of any non-refillable pesticide container that cannot be triple
15 rinsed and punctured, the user must follow directions on the container's pesticide label.

16
17 Empty refillable containers must be triple rinsed and punctured to be rendered
18 useless if such container is not being returned to an authorized refiller.

19 Pesticides that are considered hazardous waste must be disposed of in
20 accordance with all applicable local and federal requirements.

21 **§15303. Storage and Display.**

22 No person *shall* store or display pesticides in violation of the USEPA-accepted
23 label or labeling or local or federal requirements. All pesticides must be stored in the
24 following manner:

25 (a) No pesticide, empty pesticide container (or parts thereof), or equipment that

1 holds (or has held) a pesticide *shall* be stored, displayed, or left unattended under
2 conditions:

3 (1) Where food, food containers, animal feed or any other products are likely
4 to become contaminated; or

5 (2) That may create a hazard or cause injury to humans, vegetation, crops,
6 live-stock, wildlife, beneficial insects or aquatic life.

7 (b) Pesticides must be stored in a locked, well-ventilated, cool and dry storage area.

8 (c) Restricted Use Pesticide storage areas must be posted with a warning sign that
9 states any, all, or any combination, of the following statements, as applicable:

10 (1) "Danger";

11 (2) "Poison Storage Area";

12 (3) "All Unauthorized Persons Keep Out"; or

13 (4) "Keep Door Locked When Not In Use".

14 (d) Pesticides must not be stored in places where flooding is possible or in places
15 where pesticides might spill or leak into wells, drains, groundwater, or any body of
16 water.

17 (e) Pesticides must be stored or displayed in such a way that they are kept out of
18 reach of children and pets.

19 (f) Pesticides must not be stored near flammable liquids or solids; or near a source
20 of ignition including, but not limited to, a furnace, car, gas grill, or lawnmower.

21 (g) Pesticides must be stored in their original containers with the complete original
22 label, which includes, but is not limited to, the USEPA Registration number &
23 establishment number, ingredient statement, directions for use, personal protective
24 equipment and first aid steps in case of accidental poisoning.

25 (h) Pesticides must not be transferred to any container including, but not limited to,

1 soft drink bottles or other food or drink containers other than proper mixing and
2 application equipment.

3 (i) Pesticides must not be stored near incompatible chemicals.

4 **§15304. Transportation.**

5 Pest Control Operators transporting pesticides must have a company logo readily
6 recognizable to the public on all vehicles used for such transportation. Such vehicles
7 *shall* not be used for transportation of passengers and pets until such time that the
8 pesticides have been removed and the vehicle or pesticide equipment in the vehicle
9 have been properly sanitized.

10 **§15305. Notice of Intent.**

11 (a) **Notice of Intent: Structural Pesticide Application (NOI: SPA).** Any person
12 intending to perform structural pesticide applications for termites (including pre- or
13 post- construction treatments to soil), must submit a notice of intent for structural
14 pesticide prior to the proposed application.

15 (1) **NOI: SPA Form.** The NOI: SPA *shall* be on a form prescribed by the
16 Administrator and shall include, at minimum:

17 (A) The date and time of proposed application; and

18 (B) Information on the pesticide to be used:

19 (i) A Copy of the label or labeling on the container for each pesticide
20 to be used;

21 (ii) A calculation of the amount of the pesticides to be applied; and

22 (iii) A description of the proposed application method;

23 (C) Information on the applicator:

24 (i) The name and certification number of each certified pesticide
25 applicator involved in the project; and

1 (ii) The name of the entity for which the applicator is performing the
2 application;

3 (D) Information on the application site:

4 (i) The physical address of the application site, including a map to
5 the site and the site lot number;

6 (ii) A description of the application site, including the size of the area
7 to be treated;

8 (iii) A map showing all bodies of water within one thousand (1,000)
9 feet of the application site. The Administrator may require additional
10 information to ensure that waters of Guam are protected.

11 (2) **NOI: SPA General Requirements.** Prior to any termite and other soil
12 applications, the applicator must ensure that:

13 (A) After the chemical pesticide application is completed, the treated
14 area is adequately protected from the elements to protect rainwater from
15 reaching the treated area.

16 (B) If the treated area is to be covered with concrete, the concrete must
17 be poured *no later than* twelve (12) hours after the application is completed.

18 Should it be determined that the proposed pesticide's physical-chemical
19 characteristics such as solubility, adsorption, volatility and degradation indicate
20 potential for adverse impact to surface and ground water of Guam, the
21 applicator must find a suitable less toxic or lower risk alternative for termite
22 treatment at the proposed site. Any alternative pesticide used must meet federal
23 and local requirements for the intended use.

24 (b) **Notice of Intent: Structural Fumigation (NOI: SF).** Any person intending to
25 perform fumigation of any structure including, but not limited to, buildings and any

1 fumigation of soil, must submit a notice of intent for structural fumigation to the
2 Agency prior to the proposed application.

3 **(1) NOI: SF Form.** The NOI: SF *shall* be on a form prescribed by the
4 Administrator and shall include, at minimum:

5 **(A)** The date and time of proposed application; and

6 **(B)** Information on the pesticide to be used:

7 **(i)** A Copy of the label or labeling on the container for each pesticide
8 to be used;

9 **(ii)** A calculation of the amount of the pesticides to be applied; and

10 **(iii)** A description of the equipment to be used;

11 **(C)** Information on the applicator:

12 **(i)** The name and certification number of each certified pesticide
13 applicator involved in the project; and

14 **(ii)** The name of the entity for which the applicator is performing the
15 application;

16 **(D)** Information on the application site:

17 **(i)** The physical address of the application site;

18 **(ii)** A description of the application site, including the size of the area
19 to be treated;

20 **(iii)** A map showing all residential homes, schools, hospitals, places of
21 worship and businesses within seventy-five (75) feet of the site;

22 **(iv)** A map showing all bodies of water and wells within seventy-five
23 (75) feet of the application site. The Administrator may require additional
24 information to ensure that waters of Guam are protected.

25 **(E)** General Information on the Project:

1 (i) The names and contact numbers of the facility owner and the
2 project manager;

3 (ii) Description or history of the company's work experience with
4 using the fumigant that is proposed for application;

5 (iii) A standard operating procedure for the project;

6 (iv) A health and safety plan;

7 (v) Any additional information required in a Fumigant Management
8 Plan by the product label;

9 (vi) A listing of the target pests.

10 **(2) NOI: SF General Requirements.**

11 (A) All affected parties must be notified as required by the pesticide label
12 for the product to be used.

13 (B) The Pest Control Operator must provide written notices to all
14 occupants of residential homes and businesses that are located within
15 seventy-five (75) feet of the proposed application. If the application area is a
16 single-owner complex with multiple units, then The PCO must inform the
17 owner and manager of the site to be fumigated. Notices to the residents must
18 be made by the applicator *at least* fourteen (14) days prior to the fumigation
19 project. The fourteen (14) day deadline may be reduced to two (2) days for
20 boat applications that require immediate treatments.

21 (C) A Pest Control Company who proposes to apply a fumigant must
22 have in its possession an occupant's fumigation notice that has been signed
23 by the occupant(s) or the designated agent of the structure. The occupant's
24 fumigation notice must state the pest to be controlled, the proposed
25 pesticide(s) to be applied including the active ingredients and the registration

1 number, and all applicable precautionary statements. This form must state
2 that the lethal gas will be used in the building on indicated dates, and that it
3 is unsafe to return to the building until a notice of re-entry is posted by the
4 licensee in charge of the fumigation. The owner or his designee should
5 receive a copy of the occupant's fumigation notice.

6 (D) *At least* one (1) hour prior to any fumigation application, the PCO
7 must place a copy of the NOI: SF at the primary entrance of the building or
8 structure to be fumigated. The NOI: SF must remain posted throughout the
9 fumigation process. The NOI: SF must be removed by the PCO after the PCO
10 renders it safe to enter.

11 **§15306. Posting of Signs.**

12 (a) **RUP-Treated Areas.** *At least* one (1) hour prior to any restricted use pesticide
13 application, the project manager *shall* assure that warning signs, which must be written
14 in the English language, are posted within fifty (50) feet of all entrances leading to the
15 application site. The signs must include the appropriate wording, as indicated on the
16 label or labeling.

17 The signs must stay in place for the duration of any label mandated "Re-Entry
18 Interval" (REI) and must be removed after the REI has expired. In the event that the
19 pesticide does not have a label mandated REI, applicators must leave the signs in place
20 for *at least* one (1) hour after the application is completed; or until pesticide residues are
21 dry and *no longer than* twenty-four (24) hours after the pesticide application is
22 completed.

23 (b) **Public Right-of-Way or Roadside Areas.** *At least* one (1) hour prior to any
24 pesticide application on or along a roadside, the project manager *shall* assure that
25 warning signs are posted *at least* one (1) hour prior to the pesticide application. Signs

1 must be written in the English language and must be visible from all usual points of
2 entry to the treated area including each access road, border, footpath and other walking
3 route that leads to the treated area. When there are no usual points of entry, signs must
4 be posted in the corners of the treated area or in any other location affording maximum
5 visibility. The signs must include the appropriate wording, as indicated on the label or
6 labeling.

7 The signs must stay in place for the duration of any label mandated "Re-Entry
8 Interval" (REI) and must be removed after the REI has expired. In the event that the
9 pesticide does not have a label mandated REI, applicators must leave the signs in place
10 for *at least* one (1) hour after the application is completed; or until pesticide residues are
11 dry and *no longer than* twenty-four (24) hours after the pesticide application is
12 completed.

13 **(c) Structural Fumigation Application.** *At least* one (1) hour prior to any fumigation
14 application, the project manager *shall* assure that warning signs, which must be written
15 in the English language, are posted at all entrances to the application site. The signs,
16 which must be readable by the general public from *at least* (25) feet away, must include
17 the following information:

18 (1) The phrase: "DO NOT ENTER: PESTICIDE FUMIGATION IN
19 PROGRESS";

20 (2) The date of application;

21 (3) The name of a contact person;

22 (4) A telephone number where the contact person can be reached.

23 Signs must stay in place during the entire time of the application and must not be
24 removed until such time as the pesticide label indicates; or until there is no evidence of

1 fumigation fumes in the area. Project managers are responsible for removing the signs
2 at the appropriate times.

3 **§15307. Special Requirements for Foggers.**

4 **(d) Ventilation.** Pest Control Operators and for-hire applicators of foggers must
5 follow all requirements listed on the USEPA-accepted label. Applicators must verify
6 that there is no evidence of fogging fumes in the treated area prior to reentry by anyone.
7 Applicators may utilize industrial size fans and or air conditioning after fogging took
8 place before anyone is allowed into the treated area.

9 **(e) Posting of Signs.** *At least* one (1) hour prior to any fogging application, the
10 project manager *shall* assure that warning signs, which must be written in the English
11 language, are posted at all entrances to the application site. The signs, which must be
12 readable by the general public from *at least* (25) feet away, must include the following
13 information:

- 14 (5) The phrase: "DO NOT ENTER: PESTICIDE FOGGING IN PROGRESS";
- 15 (6) The date of application;
- 16 (7) The name of a contact person;
- 17 (8) A telephone number where the contact person can be reached.

18 Signs must stay in place during the entire time of the application and must not be
19 removed until such time as the pesticide label indicates; or until there is no evidence of
20 fogging fumes in the area. Project managers are responsible for removing the signs at
21 the appropriate times.

22 **§15308. Special Requirements for Aerial Pesticide Application.**

23 **(a) Aerial Pesticide Application Permit Required.** No person *shall* apply any
24 pesticides by aircraft unless specifically permitted by the accepted USEPA label; and
25 unless he has obtained a Guam EPA "Aerial Pesticide Application Permit". In addition,

1 the permittee *shall* notify the Administrator in writing at least three (3) days in advance
2 of any aerial pesticide application.

3 **(b) Pesticide Application Equipment Safety and Maintenance Requirements.**

4 Equipment used for aerial pesticide application shall be kept and maintained according
5 to the following conditions:

6 (1) Spray equipment on aircraft shall be leak-proof. Spray nozzles shall be
7 equipped with a device to prevent dribble when spray is turned off.

8 (2) Flexible hoses carrying liquid pesticides under pressure shall not pass
9 unshielded through the cockpit of an airplane or helicopter.

10 (3) Self-propelled power rigs used for inter-row or broadcast applications shall
11 be equipped with a pressure control device and a pressure gauge.

12 (4) Power rigs, mist blowers, boom sprayers and other pesticide application
13 equipment shall be in good working order with no leaks.

14 (5) Persons who own or operate pesticide mixing, loading or application
15 equipment shall ensure that equipment used for mixing, loading, transferring or
16 applying pesticides is inspected before each day of use for leaks, clogging, and worn
17 or damaged parts, and equipment with any safety defect is repaired or altered to
18 remove the hazard before further use.

19 (6) Applicators or employees who clean, service, or repair mixing and
20 application equipment shall be provided by their employer with any necessary
21 protective equipment or clothing and shall be instructed and supervised in the
22 maintenance operation in a manner that will reduce work hazards.

23 **§15309. Worker Protection Standard (WPS).**

24 Worker Protection Standard (WPS) is a federal regulation aimed at reducing the
25 risk of pesticide poisoning and injuries among workers, handlers, and volunteer

1 workers who work in any farm, forest, greenhouse or nursery.

2 All agricultural operators who have workers and handlers who work on a farm,
3 forest, greenhouse or nursery where a pesticide has been applied within the past thirty
4 (30) days must follow the WPS requirements as described in 40 CFR, Part 170.

5 For the purposes of this section, *'worker'* shall mean any person who is
6 performing activities relating to the production of agricultural plants on an agricultural
7 establishment. This requirement applies to family members, friends, and volunteers.
8 Workers may or may not be compensated for their work.

9 For the purposes of this section, *'handler'* shall mean anyone who mixes or loads
10 pesticides on an agricultural establishment including, but not limited, to flaggers, those
11 handling or cleaning application equipment, those performing soil incorporation, and
12 those disposing of pesticides or pesticide containers.

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Guam Pesticide Regulations

Chapter 15
Pesticides

Article 4
Importation of Pesticides and Pesticide Devices

- 1 §15401. Notice of Arrival.
- 2 §15402. Arrival of Shipment.
- 3 §15403. Release of Shipment or Entry Refused.
- 4 §15404. Sample of Imports.
- 5 §15401. Notice of Arrival.

6 (a) **Notice of Arrival Form.** Any person desiring to import pesticides or
7 pesticide devices into Guam – regardless of origin, type and quantity – *shall* submit
8 to the Administrator a completed Guam EPA “Notice of Arrival” (NOA) form, *no*
9 *later than* ten (10) calendar days prior to the arrival of the shipment in Guam. The
10 Administrator, or his designee, may waive this deadline if the importer provides
11 valid documents evidencing that the shipment will arrive in Guam in less than 10
12 days from the date of exportation from the point of origin.

13 For any shipment that includes more than one (1) type of pesticide and/or device,
14 the importer must indicate the on his NOA form all pertinent information for each
15 pesticide and/or device. Importers who apply for a NOA for the first time for a
16 specific pesticide or device must also provide respective labels for each pesticide or
17 device.

1 Upon receipt, the Administrator, or his designee, *shall* complete the form,
2 indicating the disposition to be made of the shipment of pesticides or devices upon
3 its arrival in Guam and *shall* return the form to the importer or his agent.

4 **(b) Notice of Arrival Required.** No pesticide or device *shall* be imported into
5 Guam without an accompanying “Notice of Arrival” that has been approved and
6 signed by the Administrator or his designee.

7 **§15402. Arrival of Shipment.**

8 **(a) Notice of Arrival Presented.** Upon the arrival of a shipment, the importer, or
9 his designee, *shall* present to the Customs Officer at the port of entry an approved
10 and signed NOA which indicates the action to be taken by the Customs Officer with
11 respect to the shipment. The Customs Officer *shall* compare entry documents for the
12 shipment with the NOA and must notify the Administrator of any discrepancies.

13 **(b) Notice of Arrival Not Presented.** Upon the arrival of a shipment, if the
14 importer, or his designee, does *not* present an approved and signed NOA to the
15 Customs Officer at the port of entry, the shipment *shall* be detained until such time a
16 signed and approved NOA is presented; or until other disposition is ordered by the
17 Administrator.

18 **(c) Detained Shipments.** A shipment may be detained for up to fifteen (15)
19 days. A shipment that remains detained for more than fifteen (15) days *shall* be
20 treated as prohibited importation.

21 **§15403. Release of Shipment or Entry Refused.**

22 If the signed and approved NOA directs the Customs Officer to release the
23 shipment of pesticides or devices, and from examination if it appears to be in
24 compliance, the shipment *shall* be released to the importer or his designee. If the signed
25 and approved NOA directs the Customs Officer to refuse entry of a shipment, or from

1 examination of the shipment it appears to violate local or federal requirements, such
2 shipment *shall* be refused entry and treated as prohibited importation.

3 The Customs Officer *shall* notify the importer at least twenty (20) days prior to
4 the date of exportation of the shipment. If a shipment of pesticides or devices is refused
5 entry into Guam, the shipment can be detained at the importer's storage area pending
6 exportation to the country of origin. However, during the detainment period, the
7 shipment shall not be used, sold or distributed or otherwise disposed of other than
8 exportation.

9 Any expenses incident to the handling, storage or transfer of pesticides or
10 devices refused entry into Guam *shall* be at the risk and expense of the importer.

11 **§15404. Sample of Imports.**

12 Upon the request of the Administrator, either on the NOA or otherwise written
13 request, the Customs Officer *shall* allow the Administrator, or his designee, to collect
14 samples from a shipment. If the sample is found to be in compliance with local and
15 federal requirements, the Administrator *shall* notify the Customs Officer in writing that
16 the shipment may be released to the importer or his designee.

17 If upon the examination or analysis, the sample demonstrates that there is a
18 violation of local or federal requirements, the Administrator, or his designee, *shall*
19 promptly notify the importer, who *shall* be provided with an opportunity to introduce
20 testimony to show cause why the shipment should not be refused entry. If after
21 consideration of all the evidence presented, it remains the opinion of the Administrator
22 that the shipment is in violation of local or federal requirements; the Administrator
23 shall notify the Customs Officer that the shipment *shall* be refused entry and treated as a
24 prohibited importation.

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Article 5
Special Pesticides

1 §15501. Mixtures and Seeds.

2 §15502. Treated Articles.

3 §15503. Minimal Risk Pesticides.

4 §15504. Locally Designated Restricted Use Pesticides.

5 **§15501. Mixtures and Seeds.**

6 Fertilizer-pesticide mixtures and seeds treated with pesticides are considered
7 pesticides and, as such, are subject to all local and federal requirements.

8 **§15502. Treated Articles.**

9 An article or substance treated with or containing a pesticide itself if the pesticide
10 is registered for this use is exempt from the provisions of the Act and this Chapter when
11 intended for use and used only in the manner specified. Examples include paint to
12 protect the paint coating, or wood products treated to protect the wood against insect or
13 fungus infestation, as long as the pesticide used to protect the paint coating or the wood
14 products are registered for that purpose.

15 If an article or substance is treated with a pesticide that is not registered with
16 USEPA for that use, the article or substance *shall* be considered a pesticide and as such

1 is regulated by the Act and this Chapter and must be registered with USEPA prior to
2 import, sale, or distribution.

3 **§15503. Minimal Risk Pesticides.**

4 All pesticides that are considered Minimal Risk Pesticides (MRP) must meet all
5 requirements specified in 40 CFR Section 152.25, FIFRA Section 25(b), and any other
6 applicable local or federal requirements. If a pesticide meets the federal requirements
7 for MRP, the pesticide is considered an MRP under this Chapter.

8 Active Ingredients must be listed in the most current USEPA list of MRPs. Inert
9 ingredients must be listed in the most current USEPA List 4A.

10 **(a) Minimal Risk Pesticide Import Requirements.** In order for an MRP to be
11 allowed into Guam, the importer must first obtain a signed and approved Notice of
12 Arrival from Guam EPA prior to the arrival of any shipment, as described in Article
13 4 of this Chapter. Additionally, the product must not be intended for use in such a
14 way as to control or mitigate micro-organisms that pose a threat to human health
15 including, but not limited to, disease-transmitting bacteria or viruses, or claims to
16 control insects or rodents carrying specific diseases including, but not limited to,
17 ticks that carry Lyme Disease or mosquitoes that could transmit West Nile Virus.
18 Additionally, the product label or labeling must meet the following requirements:

19 **(1)** The label or labeling must include:

20 **(A)** The name and percentage by weight of each active ingredient; and

21 **(B)** The names of each inert ingredient.

22 **(2)** The label or labeling must *not* include:

23 **(A)** Claims to either control or mitigate micro-organisms that pose a
24 threat to human health including, but not limited to, disease-transmitting
25 bacteria or viruses; or

1 **(B)** Claims to control insects or rodents carrying specific diseases
2 including, but not limited to, ticks that carry Lyme Disease or mosquitoes that
3 could transmit West Nile Virus; or

4 **(C)** False or misleading statements including, but not limited to, those
5 listed in 40 CFR Section 156.10(a)(5)(i) through (viii).

6 **(b) Minimal Risk Pesticide Listing.** Pesticides listed in this section have been
7 determined to be of a character not requiring regulation under FIFRA; and are also
8 exempt from all local requirements, except import requirements, when intended for
9 use, and used, only in the manner specified.

10 **(1)** Embalming fluids used to preserve animal or animal organ specimens in
11 mortuaries, laboratories, hospitals, museums and institutions of learning;

12 **(2)** Products used to preserve the integrity of milk, urine, blood, or other
13 body fluids or laboratory analysis;

14 **(3)** Products consisting of foods which contain no active ingredient which are
15 used to attract pests.

16 **(4)** Natural cedar blocks, chips, shavings, balls, chests, drawer liners,
17 paneling, and needles that meet all of the following criteria:

18 **(A)** The product consists totally of cedarwood or natural cedar.

19 **(B)** The product is not treated, combined or impregnated with any
20 additional substance(s).

21 **(C)** The product bears claims or directions for use solely to repel
22 arthropods other than ticks or to retard mildew, and no additional claims are
23 made in sale or distribution. The labeling must be limited to specific
24 arthropods or must exclude ticks if any general term such as "arthropods,"
25 "insects," bugs," or any other broad inclusive term, is used. The exemption

1 does not apply to natural cedar products claimed to repel ticks. The
2 exemption does not apply to cedar oil, or formulated products which contain
3 cedar oil, other cedar extracts, or ground cedar wood as part of a mixture.

4 **§15504. Locally Designated Restricted Use Pesticides.**

5 **(a) Local Designation Authority.** Pursuant to 10 GCA §50103(3), the Board, or
6 its designee, has the authority to designate a restricted use pesticide. The
7 consideration and designation of a restricted use pesticide must be done in
8 accordance with Title 5, Chapter 9 of Guam Code Annotated – “The Guam
9 Administrative Adjudication Law.” Restricted use pesticides so classified in Guam
10 *shall* be in addition to those USEPA-classified restricted use pesticides.

11 **(b) Chlorine Gas.** All chlorine gas used as a pesticide (including, but not limited
12 to, chlorine gas that has a USEPA registration number and establishment number) is
13 hereby considered a restricted use pesticide in Guam. Persons applying chlorine gas
14 must be hold a valid certification card in Category 7d, “Chlorine Gas”; or must
15 otherwise hold a valid certification card for Core Training *and* must, at the time of
16 application, be under the direct supervision of an applicator who holds a valid
17 certification card in Category 7d.

18 **(c) Designation by Label or Labeling.** If the registered label for a general use
19 pesticide states, or has related statements indicating, that the applicator must be
20 professional, licensed, registered, certified, or trained (for example, “Only For Sale,
21 Use, and storage by Professional Pest Control Operators”, etc...), the applicator
22 must be certified by Guam EPA in the category most related to the pesticide use
23 prior to the application of said pesticide.

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Article 6
Certification

- 1 §15601. Instructor Qualifications.
2 §15602. General Use Pesticide Training Certification.
3 §15603. Restricted Use Pesticide Training Certification.
4 §15604. Course and Exam Offerings.

5 **§15601. Instructor Qualifications.**

6 Basic Training, Core Training, or Category Training may be offered by the
7 University of Guam, the Guam Community College or an independent contractor. Any
8 person intending to provide any type of training must first meet the following
9 qualifications and requirements set forth below.

10 **(a) Conducting “Train-the-Trainer”.** Instructor qualifications and requirements to
11 conduct a “Train-the-Trainer” course are:

12 **(1)** Two (2) Letters of Recommendation from a former or current supervisor, or
13 individual who holds a managerial position, with expertise in pesticide-related
14 activity. Such persons include, but are not limited to, university professors,
15 owners/managers of pesticide companies, or directors of an environmental or public
16 health regulatory agency;

17 **(2)** A Guam EPA approved training plan, as described in §15602(d) below;

1 (3) Practical knowledge of the training material and all applicable local and federal
2 requirements; and

3 (4) The ability to effectively prepare student-instructors for teaching the required
4 course material, including the use of a variety of teaching tools.

5 **(b) Conducting Training.** Instructor qualifications and requirements to conduct
6 Basic, Core or Category Training are:

7 (1) Two (2) Letters of Recommendation from a former or current supervisor, or
8 individual who holds a managerial position, with expertise in pesticide-related
9 activity. Such persons include, but are not limited to, university professors,
10 owners/managers of pesticide companies, or directors of an environmental or public
11 health regulatory agency;

12 (2) Successful completion of a Guam-EPA approved "Train-the-Trainer" course
13 and the passage of any applicable exam;

14 (3) Current certification in the type of training to be conducted (BT-A, BT-B, Core
15 or the applicable Category/ies);

16 (4) A Guam EPA approved training plan, as described in §15602(d) below;

17 (5) Practical knowledge of the training material and all applicable local and federal
18 requirements; and

19 (6) The ability to teach and communicate effectively with student-applicators to
20 prepare them for proper performance of their occupational duties.

21 **(c) Approved Training Plan Required.** An approved training plan must adequately
22 incorporate general standards developed by Guam EPA concerning the use of
23 pesticides as appropriate to the type of activities in which the pesticide applicator will
24 be engaged. An approved training plan must identify the type of training to be

1 provided (Basic Training-A, Basic Training-B, Core Training and/or Category Training),
2 and must include, at a minimum:

3 (1) Instructor information, including:

4 (A) The name and address of each instructor;

5 (B) A description of each instructor's qualifications and experience;

6 (C) A copy of the current certification card for each instructor; and

7 (2) Training information, including a copy of the training agenda and descriptions
8 of:

9 (A) Topics to be covered;

10 (B) The target audience;

11 (C) How the trainer will ensure that the training is provided in a manner and
12 language that the target audience will understand;

13 (D) When, where and how often the training will be conducted;

14 (E) How the exam will be administered and graded, if applicable; and

15 (F) How the training will incorporate information on all relevant local and
16 federal requirements; and Guam-specific challenges and needs.

17 **§15602. General Use Pesticide Training Certification.**

18 **(a) Basic Training.**

19 (1) **Basic Training-A ("BT-A").** BT-A is required for applicants who are paid
20 housekeeping workers including, but not limited to, cleaners and janitors in hotels,
21 hospitals, apartment complexes or condominium complexes, nursing homes, or
22 other non-private residences, and who apply general use antibacterial,
23 antimicrobials, antifungal, disinfectants and other pesticides as part of their
24 occupational duties. BT-A applicants must complete a four (4) hour training course
25 and must successfully pass the open-book BT-A exam.

1 **(2) Basic Training-B (“BT-B”).** BT-B is required for applicants who are paid
2 swimming pool operators and water treatment operators using general use
3 pesticides as part of their occupational duties. BT-B applicants must complete an
4 eight (8) hour training course and must successfully pass the closed-book BT-B
5 exam.

6 Workers in this category *may* satisfy this requirement by attending eight (8)
7 hours of Core Training and passing either the BT-B or Core Training exam.

8 Swimming pool or water treatment operators who intend to use RUP-chlorine
9 products in carrying out their occupations duties must successfully complete Core
10 Training and are not required to complete BT-B. Any applicant who intends to use
11 chlorine gas *must also* obtain certification in Category 7d”.

12 **(b) Core Training.** Core Training is required for any applicant, other than those
13 described in subsection (a) above, who intends to use general use pesticides as part of
14 carrying out his occupational duties. Core Training consists of a sixteen (16) hour
15 training course and a closed-book exam.

16 **§15603. Restricted Use Pesticide Training Certification.**

17 **(a) Certification of RUP-Applicators.** Category Training is required for all
18 restricted use pesticide applicators. Satisfactory completion of Core Training is
19 required as a prerequisite for Category Training. Category Training consists of sixteen
20 hours (16) of a specialized type of training course and a closed-book exam. Applicators
21 applying restricted use pesticides shall be certified either as a commercial applicator or
22 a private applicator.

23 **(1) Commercial Applicators** include persons using, or supervising the use of,
24 restricted use pesticides in pest control work, demonstration work or similar pest
25 control activity. Commercial applicators are paid for their services.

1 **(2) Private Applicators** include persons using, or supervising the use of,
2 restricted use pesticides for the purpose of producing any agricultural commodity
3 on property owned or rented by him, his employer, or another person. Persons in
4 this category are not compensated for their work. For purposes of this section,
5 '*compensation*' does not include the trading of personal services between producers
6 of agricultural commodities.

7 **(b) RUP-Applicator Categories.** Applicators shall be further divided into the
8 following categories and subcategories based on general patterns of use and sites where
9 specific knowledge related to the use patter or site is required to demonstrate
10 competency. A person may be certified in as many categories or subcategories as
11 necessary.

12 **Category 1: Agricultural Pest Control.**

13 **Category 1a: Plants.** This category includes applicators using or
14 supervising the use of restricted use pesticides in production of
15 agricultural crops, including without limiting the foregoing, tobacco,
16 peanuts, cotton, feed grains, soybeans and forage; vegetables, small fruits,
17 fruit trees and nuts, as well as on grasslands and non-crop agricultural
18 lands.

19 **Category 1b: Animals.** This category includes applicators using or
20 supervising the use of restricted use pesticides on animals, including
21 without limiting the foregoing, beef cattle, dairy cattle, swine, sheep,
22 horse, goats, poultry, and livestock, and to places on or in which animals
23 are confined. Doctors of Veterinary Medicine engaged in the business of
24 applying pesticides for hire, publicly holding themselves out as pesticide

1 applicators, or engaged in large scale use of pesticides are included in this
2 category.

3 **Category 2: Forest Pest Control.** This category includes commercial
4 applicators using or supervising the use of restricted use pesticides in forests,
5 forest nurseries, and forest seed producing areas.

6 **Category 3: Ornamental and Turf Pest Control.** This category includes
7 commercial applicators using or supervising the use of restricted use pesticides
8 to control pests in the maintenance and production of ornamental trees, shrubs,
9 flowers, and turf.

10 **Category 4: Seed Treatment.** This category includes commercial
11 applicators using or supervising the use of restricted pesticides on seeds.

12 **Category 5: Aquatic Pest Control.** This category includes commercial
13 applicators using or supervising the use of any restricted use pesticide
14 purposefully applied to any body of water as defined in these regulations,
15 including but not limited to standing or running water; the territorial sea; and
16 bays and harbors of Guam, excluding applicators engaged in public health
17 activities included in Category (8).

18 **Category 6: Right-of-Way Pest Control.** This category includes
19 commercial applicators using or supervising the use of restricted use pesticides
20 in maintenance of public roads, electric power lines, pipelines, railway rights-of-
21 way or other similar areas.

22 **Category 7: Industrial, Institutional, Structural and Health-Related Pest**
23 **Control.**

24 **Category 7a: General and Structural Pest Control.** This category
25 includes commercial applicators using or supervising the use of restricted

1 use pesticides in, on, or around food handling establishments, human
2 dwellings, institutions such as schools and hospitals, industrial
3 establishments, including warehouses and grain elevators, and any other
4 structures and adjacent areas, public or private; and for the protection of
5 stored, processed, or manufactured products.

6 **Category 7b: Structural and Commodity Fumigations.** This
7 category is for applicants who apply fumigants to sites including but not
8 limited to commodity storage or holding sites, buildings, boats, and
9 shipping containers. In addition to being certified, applicators of
10 fumigants must submit a Guam EPA "Notice of Intent: Structural
11 Fumigation" prior to any application of any fumigants, as stipulated in
12 §15305(b) of this Chapter.

13 **Category 7c: Soil Fumigation.** This category is for applicants who
14 apply fumigants to kill organisms such as fungi, insects, nematodes,
15 parasite and other soil-borne diseases. In addition to being certified,
16 applicators of fumigants must submit a Guam EPA "Notice of Intent:
17 Structural Fumigation" prior to any application of any fumigants, as
18 described in §15305 of this Chapter.

19 **Category 7d: Chlorine Gas.** This category is for commercial
20 applicants who use, or supervise the use of, chlorine gas for the treatment
21 of swimming pools, hot tubs, spas and production wells.

22 **Category 8: Public Health Pest Control.** This category includes local,
23 federal or other governmental employees using or supervising the use of
24 restricted use pesticides in public health programs for the management and
25 control of pests having medical and public health importance.

1 **Category 9: Regulatory Pest Control.** This category includes local, federal
2 or other governmental employees who use or supervise the use of restricted use
3 pesticides in the control of regulated pests.

4 **Demonstration and Research Pest Control.** This category includes
5 individuals who demonstrate, or supervise a demonstration, to the public the
6 proper use and techniques of applications of restricted use pesticides. Examples
7 of such persons include, but are not limited to, extension specialists and local
8 agents, commercial representatives demonstrating pesticide products, and those
9 individuals demonstrating methods used in public programs. Category 10 also
10 includes persons conducting field research with pesticides and in doing so, use,
11 or supervise the use of, restricted use pesticides. This includes, but is not limited
12 to, local, federal, other governmental employees, or other commercial
13 applicators.

14 **(c) Standards for Certification.**

15 **(1) Commercial Applicators.**

16 **(A) Determination of Competency.** Competence in the use and handling
17 of pesticides *shall* be determined on the basis of written examinations and, as
18 appropriate, performance testing based upon the standards set forth below, both
19 of which *shall* be approved by the Administrator. Such examination and testing
20 *shall* include the general standards applicable to all categories and the additional
21 standards specifically identified for each category or subcategory in which an
22 applicator is to be classified, and to the pesticide or class of pesticides covered by
23 the persons certification.

24 **(B) General Standards of Competency.** All commercial applicators *shall*
25 demonstrate practical knowledge of the principles and practices of pest control

1 and safe use of pesticides as described below. Testing shall be based on
2 examples of problems and situations appropriate to the particular category or
3 subcategory of the applicator's certification and the following areas of
4 competency:

5 **(i) Label and Labeling Comprehension.** Including factors such as:

6 (aa) General format of labels and terminology that are used on
7 pesticide labels and labeling;

8 (bb) Instructions, warnings, terms, symbols, and other
9 information commonly appearing on pesticide labels;

10 (cc) Classification of the product, general or restricted; and

11 (dd) Necessity for use consistent with the label.

12 **(ii) Safety.** Including factors such as:

13 (aa) Pesticide toxicity and hazard to man and common exposure
14 routes;

15 (bb) Common types and causes of pesticide accidents;

16 (cc) Precautions necessary to guard against injury to applicators
17 and other individuals in or near treated areas;

18 (dd) Need for and use of protective clothing and equipment;

19 (ee) Symptoms of pesticide poisoning;

20 (ff) First Aid and other procedures to be followed in case of a
21 pesticide accident; and

22 (gg) Proper identification, storage, transport, handling, mixing
23 procedures and disposal methods for pesticides and used pesticide
24 containers, including precautions to be taken to prevent children from
25 having access to pesticides and pesticide containers.

1 **(iii) Potential Environmental Consequences of the Use and Misuse**
2 **of Pesticides.** Including influential factors such as:

3 (aa) Weather and other climatic conditions;

4 (bb) Types of terrain, soil or other substrate;

5 (cc) Presence of fish, wildlife and other non-target organisms;

6 and

7 (dd) Drainage patterns.

8 **(iv) Pests.** Including factors such as:

9 (aa) Common features of pest organisms and characteristics of
10 damage needed for pest recognition;

11 (bb) Recognition of relevant pests; and

12 (cc) Pest development and biology as it may be relevant to
13 problem identification and control.

14 **(v) Pesticides.** Including factors such as:

15 (aa) Types of pesticides;

16 (bb) Types of formulations;

17 (cc) Compatibility, synergism, persistence and animal and plant
18 toxicity of the formulations;

19 (dd) Hazards and residues associated with use;

20 (ee) Factors which influence effectiveness or lead to such
21 problems as resistance to pesticides; and

22 (ff) Dilution procedures, including calculations to achieve
23 correct application rate.

24 **(vi) Equipment.** Including factors such as:

1 (aa) Types of equipment and advantages and limitations of each
2 type; and

3 (bb) Use, maintenance and calibration.

4 **(vii) Application techniques.** Including factors such as:

5 (aa) Methods of procedure used to apply various formulations of
6 pesticides, solutions, and gases, together with knowledge of which
7 technique of application to use in a given situation;

8 (bb) Relationship of discharge and placement of pesticides to
9 proper use, unnecessary use, and misuse; and

10 (cc) Prevention of drift and pesticide loss into the environment.

11 **(viii) All local and federal requirements.**

12 **(C) Specific Standards of Competency.** Commercial Applicators should
13 demonstrate additional competence and knowledge appropriate to their
14 particular category of certification, described as follows:

15 **Category 1: Agricultural Pest Control.**

16 **Category 1a: Plants.** Applicators must demonstrate practical
17 knowledge of the crops grown and the specific pests on these crops on
18 which they may be using RUPs. The importance of such competency is
19 amplified by the extensive areas involved, the quantities of pesticides
20 needed, and the ultimate use of many commodities as food and feed.
21 Practical knowledge is required concerning soil and water problems, pre-
22 harvest intervals, re-entry intervals, phytotoxicity, and potential for
23 environmental contamination, non-target injury and community problems
24 from the use of restricted use pesticides in agricultural areas.

1 **Category 1b: Animals.** Persons applying pesticides directly to
2 animals must demonstrate knowledge of such animals and their
3 associated pests. A practical knowledge is also required concerning
4 specific pesticide toxicity and residue potential, since host animals will
5 frequently be used for food. Further, the applicator must know the
6 relative hazards associated with such factors as formulation application
7 techniques, age of animals, and focus and extent of treatment.

8 **Category 2: Forest Pest Control.** Applicators shall demonstrate practical
9 knowledge of the extent and types of forests, forests nurseries, and seed
10 production in Guam and the pests involved. They should demonstrate practical
11 knowledge of the cyclic occurrence of certain pests and specific population
12 dynamics as a basis for programming pesticide applications. A practical
13 knowledge is required of the relative biotic agents and their vulnerability to
14 pesticides to be applied. Because forest stands frequently include aquatic
15 habitats and harbor wildlife, the consequences of pesticide use may be difficult to
16 assess. The applicators must therefore demonstrate practical knowledge of
17 control methods that will minimize the possibility of secondary problems such as
18 unintended effects on wildlife. Proper use of specialized equipment must be
19 demonstrated, especially as it may relate to meteorological factors and adjacent
20 land use.

21 **Category 3: Ornamental and Turf Pest Control.** Applicators shall
22 demonstrate practical knowledge of pesticide problems associated with the
23 production and maintenance of ornamental trees, shrubs, plantings, and turf,
24 including cognizance of potential phytotoxicity due to a wide variety of plant
25 material, drift, and persistence beyond the intended period of pest control.

1 Because of the frequent proximity of human habitations to application activities,
2 applicators in this category must demonstrate practical knowledge of the
3 hazards to humans, pets, and other domestic animals.

4 **Category 4: Seed Treatment.** Applicators shall demonstrate practical
5 knowledge of types of seeds that require chemical protection against pests and
6 factors such as seed coloration, carriers, and surface active agents which
7 influence pesticide binding and may affect germination. They must demonstrate
8 practical knowledge of hazards associated with handling, sorting and mixing,
9 and misuse of treated seed such as introduction of treated seed into food and
10 feed channels, as well as proper disposal of unused treated seed.

11 **Category 5: Aquatic Pest Control.** Applicators shall demonstrate practical
12 knowledge of the secondary effects which can be caused by improper application
13 rates, incorrect formulations, and faulty application of restricted use pesticides
14 used in this category. They shall demonstrate practical knowledge of various
15 water use situations and the potential of downstream effects. Further, they must
16 have practical knowledge concerning potential pesticide effects on plants, fish,
17 birds, beneficial insects and other organisms which may be present in aquatic
18 environments. These applicators shall demonstrate practical knowledge of the
19 principles of limited area application.

20 **Category 6: Right-of-way Pest Control.** Applicators shall demonstrate
21 practical knowledge of a wide variety of environments since rights-of-ways can
22 traverse many different terrains, including waterways. They shall demonstrate
23 practical knowledge of the problems of runoff, drift, and excessive foliage
24 destruction and ability to recognize target organisms. They shall also
25 demonstrate practical knowledge of the nature of herbicides and the need for

1 containment of these pesticides within the right-of-way area, and the impact of
2 their application activities in the adjacent areas and communities and special
3 drift control methods and procedures.

4 **Category 7: Industrial, Institutional, Structural and Health-Related Pest**
5 **Control.**

6 **Category 7a: General and Structural Pest Control.** Applicators must
7 demonstrate practical knowledge of a variety of pests including their life
8 cycles, as well as types of formulations appropriate for their control and
9 methods of application that avoid contamination of food and damage and
10 contamination of habitat, and exposure of people and pets. Since human
11 exposure, especially to babies, children, pregnant women, and elderly
12 people, is frequently a potential problem, applicators must demonstrate
13 practical knowledge of the specific factors which may lead to a hazardous
14 condition, including continuous exposure in the various situations
15 encountered in this category. Because health related pest control may
16 involve outdoor applications, applicators in this category must also
17 demonstrate practical knowledge of environmental conditions particularly
18 related to this activity.

19 **Category 7b: Structural and Commodity Fumigation.** In this
20 subcategory, types of structures include, but are *not* limited to inhabited
21 buildings, containers, boat. Applicators must demonstrate practical
22 knowledge of core requirements covering fumigant and fumigation use
23 laws and regulations, the basic principles of fumigant use, of handler and
24 worker safety requirements especially pesticide safety training, preventing

1 heat-related illnesses, of fumigant labels, how to interpret and follow label
2 directions and requirements.

3 Applicators must demonstrate practical knowledge of the hazards
4 associated with fumigant use and preventing human exposure,
5 environmental contamination, off-site movement/drift, and phytotoxicity,
6 of safe fumigant handling practices, proper PPE selection, use, and care,
7 and responding to fumigant emergencies.

8 Applicators must demonstrate practical knowledge of proper
9 fumigant application procedures, selecting and using appropriate
10 application equipment and its calibration, and of hazards and safe use
11 practices.

12 **Category 7c: Soil Fumigation.** Applicators must demonstrate
13 practical knowledge of core requirements covering fumigant and
14 fumigation use laws and regulations, the basic principles of fumigant use,
15 of handler and worker safety requirements especially pesticide safety
16 training, preventing heat-related illnesses, of fumigant labels, how to
17 interpret and follow label directions and requirements.

18 Applicators must demonstrate practical knowledge of the hazards
19 associated with fumigant use and preventing human exposure,
20 environmental contamination, off-site movement/drift, and phytotoxicity,
21 of safe fumigant handling practices, proper PPE selection, use, and care,
22 and responding to fumigant emergencies.

23 Applicators must demonstrate practical knowledge of proper
24 fumigant application procedures, selecting and using appropriate

1 application equipment and its calibration, and of hazards and safe use
2 practices.

3 **Category 7d: Chlorine Gas.** Applicators must demonstrate practical
4 knowledge of the toxicity of liquefied chlorine gas; the dispersion
5 properties and other characteristics of gaseous chemicals; equipment types;
6 calibration procedures; application techniques; air and water monitoring
7 procedures; use and maintenance of personal protective equipment and
8 clothing; and factors that may lead to a hazardous conditions, including
9 handling of pressurized chemicals and direct or continuous exposure to
10 chlorine gas.

11 **Category 8: Public Health Pest Control.** Applicators must demonstrate
12 practical knowledge of pests of public health importance, vector-disease
13 relationships, and etiology of disease-host relationships. Since a wide variety of
14 pests are involved, these pests must be known and recognized by public health
15 control applicators, and the life's cycles and habitats of each thoroughly
16 understood. These applicators should be familiar with a great variety of
17 environmental conditions ranging from streams to dwellings. They should also
18 be cognizant of such non-chemical control methods as sanitation, waste disposal,
19 and drainage.

20 **Category 9: Regulatory Pest Control.** Applicators shall demonstrate
21 practical knowledge of regulated pests, applicable law relating to quarantine and
22 other regulation of pests, and the potential impact on the environment of
23 restricted use pesticides used in suppression and eradication programs. They
24 shall demonstrate knowledge of factors influencing introduction, spread, and
25 population dynamics of relevant pests. Their knowledge shall extend beyond

1 that required by their immediate duties, since their services are frequently
2 required in Guam and other areas of the country where emergency measures are
3 invoked to control regulated pests and where individual judgments in new
4 situations must be made.

5 **Category 10: Demonstration and Research Pest Control.** Persons
6 demonstrating the safe and effective use of pesticides to other applicators and the
7 public will be expected to meet comprehensive standards reflecting a broad
8 spectrum of pesticide uses. Many different pest problems situations will be
9 encountered in the course of activities associated with demonstration, and
10 practical knowledge of problems, pests, and population levels occurring in each
11 demonstration situation is required. Further, they should demonstrate an
12 understanding of pesticide-organism interactions and the importance of
13 integrating pesticide use with other control methods.

14 Applicators doing demonstration pest control work, conducting field
15 research or method improvement work with RUPs should possess a practical
16 knowledge of all of the general standards detailed in §15603(c)(2) of this Chapter.
17 In addition, they shall be expected to know the specific standards described in
18 §15603(c)(3)(A) through (I) of this Chapter as may be applicable to their
19 particular activity.

20 For the purposes of this Chapter, the above standards do not apply to
21 persons conducting laboratory-type research involving RUPs; or Doctors of
22 Medicine or Doctors of Veterinary Medicine applying pesticides as drugs or
23 medication during the course of their normal practice.

24 **(2) Private Applicators.**

1 **(A) Determination of Competency.** Competence in the use and handling of
2 pesticides *shall* be determined on the basis of written examinations and, as
3 appropriate, performance testing based upon the standards set forth below both
4 of which *shall* be approved by the Administrator. Such examination and testing
5 *shall* include the standards applicable to Category 1, 1a and 1b in which an
6 applicator is to be classified.

7 **(B) Standards of Competency.** Competence in the use and handling of
8 pesticides by a private applicator *shall* be determined by the procedures set forth
9 below. As a minimum requirement for certification, a private applicator must
10 show that s/he possesses a practical knowledge of the pest problems and pest
11 control practices associated with his agricultural operations; proper storage, use,
12 handling and disposal of the pesticides and containers; and his related legal
13 responsibility. The practical knowledge includes ability to:

14 (i) Recognize common pests to be controlled and damage caused by
15 them;

16 (ii) Read and understand the label and labeling information including
17 the common name of pesticides he applied; pest(s) to be controlled, timing
18 and methods of application; safety precautions; any pre-harvest or re-entry
19 restrictions; and any specific disposal procedures;

20 (iii) Apply pesticides in accordance with label instructions and
21 warnings, including the ability to prepare the proper concentrations of
22 pesticide to be used under particular circumstances taking into account
23 such factors as area to be covered, speed at which application equipment
24 will be driven, and the quantity dispersed in a given period of operation;

1 (iv) Recognize local environmental situations that must be considered
2 during application to avoid contamination;

3 (v) Recognize poisoning symptoms and procedures to follow in case of
4 pesticide accident; and

5 (vi) Consult reliable sources of information on the safe and proper use
6 of each pesticide related to the applicator's certification.

7 **(3) Standards for Supervision of Non-Category Certified Applicators.** The
8 supervisor of a non-category certified applicator must ensure that the applicator
9 holds a valid Core Training Certification Card and is someone who follows
10 instructions. In addition, the supervisor must be certified in the appropriate
11 category for the type of application he/she is directly supervising; he must
12 demonstrate practical knowledge of all local and federal requirements; and he must
13 be physically present on site observing the application of the pesticide at the time of
14 application. The non-category certified applicator must complete the appropriate
15 category training *no later than* ninety (90) days from his date of hire.

16 **§15604. Course and Exam Offerings.**

17 Training course and exam offerings are subject to space and instructor availability.

18 Exams, however, will be offered at least once per month.

22 GARR – Guam Environmental Protection Agency

Division 3
Guam Pesticide Regulations

Chapter 15
Pesticides

Article 7
Licenses, Permits, Certification Cards and Fees.

1 §15701. Special Licenses.

2 §15702. Permits.

3 §15703. Certification Cards.

4 §15704. Fees.

5 **§15701. Special Licenses.**

6 (a) **Pest Control Operator (PCO) License.** Any person intending to conduct
7 structural pest control in or around residential and commercial buildings *shall* obtain
8 a PCO License from Guam EPA prior to conducting any structural pest control.

9 (b) **Pesticide Trainers License.** Any person intending to provide Basic
10 Training, Core Training or Category Training must obtain a Pesticide Trainers
11 License from Guam EPA. This licensure requirement is in addition to the training
12 instructor qualifications and requirements stipulated in §15601 of this Chapter. All
13 applicable requirements must be satisfied prior to the start of any pesticide training.

14 (c) **Pesticide Dealers License.** Any person intending to sell restricted use
15 pesticides must first obtain a Pesticide Dealers License from Guam EPA.
16 Additionally, a Pesticide Dealers License *shall* be required for each sales outlet
17 operating in Guam. Each Pesticide Dealers License issued *shall* expire on December
18 31 of the year in which the license was issued. The application for a Pesticide

1 Dealers License *shall* be on a form prescribed by the Administrator and shall include,
2 at minimum:

- 3 a. The name and address of the applicant;
- 4 b. The physical address of the sales outlet (primary and all branch outlets,
5 when applicable); and
- 6 c. The name, address, and certified applicator number of the Certified
7 Pesticide Sales Manager (CPSM) at each sales outlet.

8 **§15702. Permits.**

9 **(a) Commodity Fumigation Permit.** Any person intending to perform fumigation of
10 any commodity must first obtain a Commodity Fumigation Permit from Guam EPA. An
11 application for a Commodity Fumigation Permit *shall* be on a form prescribed by the
12 Administrator and shall include, at minimum:

13 **(1)** The date and time of proposed application; and

14 **(2)** Information on the pesticide to be used:

15 **(A)** The name, registration number, and an electronic copy of the label or
16 labeling on the container for each pesticide to be used;

17 **(B)** A calculation of the amount of the pesticides to be applied; and

18 **(C)** A description of the equipment to be used;

19 **(3)** Information on the applicator:

20 **(A)** The name and certification number of each certified pesticide applicator
21 involved in the project; and

22 **(B)** The name of the entity for which the applicator is performing the
23 application;

24 **(4)** Information on the permanent application site, or any temporary sites, if
25 applicable:

1 (A) The physical address of the application site;

2 (B) A description of the application site, including the size of the area to be
3 treated;

4 (C) A map showing all residential homes, schools, hospitals, places of
5 worship and businesses within seventy-five (75) feet of the site;

6 (5) General Information on the Project:

7 (A) The names and contact numbers of the facility owner and the project
8 manager;

9 (B) Description or history of the company's work experience with using the
10 fumigant that is proposed for application;

11 (C) A standard operating procedure for the project;

12 (D) A health and safety plan;

13 (E) Any additional information required in a Fumigant Management Plan
14 by the product label;

15 (F) A listing of the target pests.

16 The permittee must submit a notice of intent for commodity fumigation to the Agency,
17 *no later than* fourteen (14) working days prior to the proposed application. A yearly
18 permit is required for Commodity Fumigation. Persons applying fumigants must
19 estimate the amount of fumigant to be used for each permit period.

20 (b) **Chemigation Permit.** Any person intending to conduct any chemigation, must
21 first obtain a Chemigation Permit from Guam EPA; and must meet the following
22 conditions:

23 The applicator must provide sufficient written evidence to Guam EPA in advance of
24 the application that a chemigation application is the only viable method for pest
25 control. In order to demonstrate to Guam EPA that there are no other viable

1 methods of pest control, the applicator must provide a list of target pests, location of
2 proposed chemigation, a description of equipment to be used, including required
3 back flow prevention devices to prevent contamination of the water sources, a copy
4 of the label for the pesticide(s) proposed for use, and a description of the other types
5 of pest control methods that have been attempted and the results of these methods.
6 The copy of the label submitted to Guam EPA must be a copy of the label on the
7 container(s) of the pesticide to be used. Upon review of the applicator's submission
8 and the EPA accepted label for the product to be used, Guam EPA will make a
9 determination as to whether the chemigation application will be allowed. If Guam
10 EPA allows the application, a written permit will be issued by Guam EPA. The
11 pesticide to be used must be registered by U.S. EPA for use in chemigation.

12 (1) Areas to be chemigated must be posted with a sign when 1) any part of a
13 treated area is within 300 feet of sensitive areas such as residential areas, labor
14 camps, businesses, day care centers, hospitals, in-patient clinics, nursing homes or
15 any public areas such as schools parks, playgrounds, or other public facilities not
16 including public roads., or 2) when the chemigated areas is open to the public such
17 as golf courses or retail greenhouses.

18 (2) Application areas must be posted by the pesticide applicator with signs in
19 English at all usual points of entry and along likely routes of approach from the
20 listed sensitive area. When there are not usual point of entry, signs must be posted
21 in the corners of the treated areas and in any other locations affording maximum
22 visibility to sensitive areas. The printed side of the sign must face away from the
23 treated area towards the sensitive area. The signs must be printed in the English
24 language. Signs must be posted prior to the application and remain posted until
25 foliage has dried and soil surface water as disappeared. Signs must remain in place

1 indefinitely as long as they are composed of materials to prevent deterioration and
2 maintain legibility for the duration of the posting period. Applicators are
3 responsible to remove the signs from the treated areas.

4 (3) Effective posting consists of letters at least 2 ½ inches tall, with all letters and
5 symbols in color which sharply contrasts with their immediate background. At the
6 top of the sign must be the words "KEEP OUT", followed by an octagonal stop sign
7 symbol at least 8 inches in diameter containing the word "STOP". Below the stop
8 sign symbol must be the words "PESTICIDE IN IRRIGATION WATER."

9 (c) **Aerial Pesticide Application Permit.** Any person intending to apply pesticides
10 by aircraft must first obtain and Aerial Pesticide Application Permit from Guam EPA.
11 An application for a Aerial Pesticide Application Permit *shall* be on a form prescribed
12 by the Administrator and shall include, at minimum:

13 (1) Information on the pesticide to be used:

14 (A) The name and registration number of each pesticide to be applied;

15 (B) A Copy of the label or labeling on the container for each pesticide to be
16 used;

17 (C) The formulation, dilution and application rates for each pesticide to be
18 applied;

19 (D) A description of the equipment to be used;

20 (2) Information on the applicant, pilot and/or applicator:

21 (A) The name, certification number, and certification expiration date of the
22 applicant and pilot/applicator, if different from the applicant;

23 (B) A copy of the certification card for the applicant and pilot/applicator, if
24 different from the applicant;

25 (C) A copy of the pilot license and any other licenses needed in Guam to

1 operate an aircraft;

2 **(3) Information on the application site:**

3 **(A)** The physical address of the proposed application site; and

4 **(B)** A sketch or map of the site, indicating general wind directions,
5 surrounding homes, bodies of water, schools, hospitals, places of worship,
6 roadways, and crop plantings within five hundred (500) feet of the application
7 site. The Administrator may require additional information to ensure that
8 waters of Guam are protected.

9 **(4) General Information on the Project:**

10 **(A)** A description of the purpose of aerial application and why aerial
11 application is desired;

12 **(B)** The method of aerial application of the proposed pesticides to be
13 applied;

14 **(C)** The number of application to be made, and the proposed time and date
15 of each application;

16 **(D)** A description of prior attempts to control the subject pest by other
17 application methods and the results of those efforts;

18 **(E)** An indication of what measures will be taken to prevent drift or
19 overspray of non-target sites.

20 The Administrator may refuse to issue an Aerial Pesticide Application Permit if
21 it is determined that the proposed aerial treatment may cause unreasonable adverse
22 effects to human health or the environment.

23 Any Aerial Pesticide Application Permit issued pursuant to this Chapter *shall*
24 specify the time period for which the permit is valid. The Administrator may specify
25 and limit the Aerial Pesticide Application Permit to cover a single treatment or multiple

1 and continued treatments when conditions are not expected to change or vary during
2 subsequent treatments that are conducted in the same designated area. In no case *shall*
3 any pesticide be applied contrary to the U.S. EPA accepted label.

4 The issuance of an Aerial Pesticide Application Permit *shall* not relieve the
5 permittee from the penalty provisions of the Act or any litigation for any damage or
6 contamination of crops or plants, animals, man and the environment resulting from
7 such aerial treatment.

8 **§15703. Certification Cards.**

9 Any person intending to apply pesticides as part of their occupational duties must
10 first obtain a certification card from Guam EPA. Certification cards *shall* be issued after
11 successful completion of the appropriate training. Successful completion is measured
12 by the applicator's attendance at the appropriate training course (as certified by the
13 training instructor), together with passing the appropriate exam with a score of seventy
14 percent (70%) or higher (as certified by the exam administrator).

15 **(a) Temporary Certification Cards.** Temporary Certification Cards may be issued
16 to individuals who are unable to attend a the appropriate training course (due to the
17 availability of classes) within approximately one month's time from the date he has
18 submitted his application for certification to Guam EPA. Temporary Certification
19 Cards issued pursuant to this Chapter *shall* expire on the last day of the month in which
20 the next appropriate training course will be offered.

21 **(b) Basic Training Certification Cards.**

22 **(1) Basic Training-A Certification Card.** Any person intending to apply
23 general use antibacterial, antimicrobials, antifungal, disinfectants and other
24 pesticides as part of their occupational duties must first obtain a Basic Training-A
25 Certification Card from Guam EPA prior to any pesticide application.

1 **(2) Basic Training-B Certification Card.** Any person who is a paid
2 swimming pool operator or water treatment operator intending to use general use
3 pesticides as part of his occupational duties must first obtain a Basic Training-B
4 Certification Card from Guam EPA prior to any pesticide application. This
5 requirement does not apply to paid swimming pool operators or water treatment
6 operators who intend to use RUP-chlorine products. Such applicators must obtain
7 Category Certification as described below, in Category 7d as described in §15604 of
8 this Chapter.

9 **(c) Core Training Certification Card.** Any person, other than those described in
10 subsection (a) above, intending to use general use pesticides as part of carrying out his
11 occupational duties must first obtain a Core Training Certification Card from Guam
12 EPA prior to any pesticide application. Applicants for Core Training Certification must
13 be at least seventeen (17) years of age.

14 **(d) Category Training Certification Card.** Any person intending to apply restricted
15 use pesticides must first obtain a Category Training Certification Card from Guam EPA.
16 Applicants for Category Training Certification must be at least eighteen (18) years of
17 age. RUP-Applicators *shall* be certified either as a

18 **(1) Commercial Applicator,** in the category or subcategory most related to the
19 pesticide he will be using; or

20 **(2) Private Applicator,** in Category 1, 1a, or 1b, as described in §15604 of this
21 Chapter.

22 **(e) Renewal.** All Certification Cards issued pursuant to this Chapter *shall* be
23 renewed every three (3) years. Individuals may submit applications for renewal *no more*
24 *than* thirty (30) days prior to the expiration date of their certification. Individuals
25 intending to renew their certification must successfully pass the appropriate exam.

1 Training for each applicant is required upon initial application for certification. All
2 individuals who hold "Core Training Certification Cards" older than three (3) years
3 from the effective date of this Chapter must renew their certification.

4 **§15704. Fees.**

5 In order to fulfill the duties and responsibilities associated with the implementation
6 of these regulations, the Agency hereby establishes conditions and fees as set forth in
7 Table 1 of this Chapter. All fees *shall* be paid to and deposited into "The Pesticide
8 Management Fund" as specified in 10 GCA §50119, which shall be maintained separate
9 and apart from any other government of Guam bank account. All fees are non-
10 refundable and must be paid in the following manner:

11 **(a) Certification Card Fees.** Fees must be paid upon issuance of the certification
12 card or a replacement card.

13 **(b) Training/Exam Fees.** Fees must be paid prior to each training/exam session.

14 **(c) License/Permit Fees.** Fees must be paid at the time a license/permit
15 application is submitted.

16 **(d) Notice of Arrival Fees.** Fees must be paid at the time the NOA form is
17 submitted; or based upon an agreed payment plan between the importer and the
18 Agency.

22 GARR – Guam Environmental Protection Agency

Division 3
Guam Pesticide Regulations

Chapter 15
Pesticides

Article 8
Enforcement

- 1 §15801. Enforcement Authorities.
- 2 §15802. Enforcement Procedures.
- 3 §15803. Denial, Suspension, and Revocation.
- 4 **§15801. Enforcement Authorities.**

5 The rules and regulations in this Chapter are promulgated by the Agency
6 pursuant to 10 GCA Chapter, “The Guam Pesticides Act”. The Act also specifies the
7 Agency’s authority to inspect and take necessary enforcement actions to carry out the
8 provisions of the Act or this Chapter.

9 In addition, the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”) is
10 applicable to Guam. Pursuant to Section 23 of FIFRA, the Guam Environmental
11 Protection Agency and the U.S. Environmental Protection Agency have entered into a
12 Cooperative Agreement. Under this agreement, Guam EPA has primary enforcement
13 responsibility for pesticide use violations.

14 The provisions of “The Guam Pesticide Act” and this Chapter are intended to
15 meet minimal requirements of FIFRA. Should there arise a conflict between local and
16 federal requirements, the more stringent requirement applies.

- 17 **§15802. Enforcement Procedures.**

18 All enforcement procedures *shall* comply with 5 GCA Chapter 9 – “The Guam

1 Administrative Adjudication Law” and 10 GCA Chapter 50 – “The Guam Pesticides
2 Act”.

3 **(a) Notice of Violation and Order of Compliance (NOV/OC).** If – from an
4 inspection, complaint, examination or analysis – there appears to be a violation of the
5 regulations of “The Guam Pesticides Act” or this Chapter, a written NOV/OC *shall* be
6 sent by the Agency to the person against whom proceedings are contemplated. The
7 NOV/OC *shall* state the violation, the manner in which the alleged violator failed to
8 meet the requirement of “The Guam Pesticides Act” or this Chapter, and what should
9 be done to correct the violation.

10 When a violation has been alleged, and a NOV/OC has been issued, and the
11 respondent has received the NOV/OC, the respondent has the option of: (1) within ten
12 (10) working days, entering into a “Voluntary Compliance Agreement” (See Section 8.5)
13 with Guam EPA to come into compliance with the violated provision; said settlement
14 agreement shall be prepared in accordance with the requirements of this Chapter; or (2)
15 within fifteen (15) working days, appealing the NOV/OC to the Board.

16 **(b) Notice of Defense.** A “Notice of Defense” form *shall* be included with the
17 issued NOV/OC. Should the respondent wish to appeal the NOV/OC to the Board, the
18 respondent must submit a completed “Notice of Defense” form to the Board. The
19 Notice must be received by the Board within fifteen (15) working days from receipt of
20 the NOV/OC. Once the Board receives the “Notice of Defense,” any administrative
21 action upon the case *shall* be suspended until a “Notice of Judgment” has been issued
22 by the Board.

23 **(c) Prosecution.** Pursuant to “The Guam Pesticides Act,” the Administrator may
24 impose fines before an appeal has been filed or before the violation has been corrected.
25 Enforcement actions may include monetary fines based on civil/administrative penalties
26 and/or license suspension, revocation, non-renewal, and/or permit cancellation.

27 **(d) Voluntary Compliance Agreement (VCA).** If the respondent wishes to

1 resolve the NOV/OC without appealing to the Board, the respondent has the option of
2 entering into a Voluntary Compliance Agreement (VCA) with the Agency, which must
3 be reached within ten (10) working days. The respondent must immediately notify the
4 Agency of such intentions upon receipt of the NOV/OC. The Agency may work in
5 conjunction with the respondent to determine the terms and conditions of a VCA. The
6 Agency *shall* inform the respondent that he may exercise his right to appeal the
7 NOV/OC to the Board at any time during the fifteen (15) working day time frame by
8 submitting a completed "Notice of Defense" Form.

9 The purpose of the VCA option is to provide an opportunity to resolve the
10 NOV/OC without going through the appeal process with the Board or the referral
11 process with the Attorney General of Guam.

12 **§15803. Denial, Suspension, and Revocation.**

13 The issuance, suspension, or revocation of any certification card, license or
14 permit issued under these regulations *shall* not relieve an individual from the criminal
15 and civil penalty provisions of the Act or any litigation for any damage or
16 contamination resulting from pesticide related activities.

17 **(a) Probable Denial of Application for Certification, License or Permit.** An
18 application for any certification card, license or permit issued pursuant to this Act or
19 this Chapter, may be denied by the Board as provided in §57135 of the Act, for the
20 following causes:

21 **(1)** Falsification of any information required in the application process.

22 **(2)** Falsification of or failure to maintain records as required by the Act and
23 this Chapter.

24 **(3)** Conviction in a court of competent jurisdiction within a five (5) year
25 period immediately preceding the date of application of any violation of the Act
26 or this Chapter.

1 (4) Failure to comply with any order of the Board made pursuant to the Act
2 and this Chapter.

3 (5) A suspension of applicant's certification under the Act and this Chapter
4 within a five (5) year period immediately preceding the date of application.

5 (6) Misuse of a pesticide as defined by the Act and this Chapter.

6 **(b) Denial of Application for Certification, License or Permit.** An application
7 for any certification card, license or permit issued pursuant to this Act or this Chapter,
8 *shall* be denied by the Board as provided in §57135 of the Act, for the following causes:

9 (1) Applicant has been convicted in a court of competent jurisdiction within a
10 five (5) year period immediately preceding the date of the application of two (2)
11 or more violations of the Act or this Chapter or of the Federal Insecticide,
12 Fungicide and Rodenticide Act as amended, or the rules and regulations
13 promulgated pursuant thereto.

14 (2) Two (2) or more suspensions of applicant's certification, license or permit
15 under this Act and this Chapter within a five (5) year period immediately
16 preceding the date of application.

17 (3) Revocation of applicant's certification, license or permit under this Act
18 and this Chapter within a one (1) year period immediately preceding the date of
19 application.

20 **(c) Probable Suspension of Certification, License or Permit.** A certification
21 card, license or permit issued pursuant to this Act or this Chapter may be suspended
22 pursuant to §57135 of the Act for the following causes.

23 (1) Falsification of any information required in the application process or
24 falsification of or failure to maintain records required by the Act and this
25 Chapter.

26 (2) Misuse of a pesticide as defined by the Act and this Chapter.

1 **(d) Suspension of Certification, License or Permit.** A certification card, license
2 or permit issued pursuant to this Act or this Chapter *shall* be suspended for not less
3 than thirty (30) days and not more than one hundred eighty (180) days for the following
4 causes:

5 **(1)** Conviction in a court of competent jurisdiction of a violation of §57131 of
6 the Act.

7 **(2)** Failure to comply with two (2) warning notices issued by GEPA within a
8 two (2) year period.

9 **(e) Probable Revocation of Certification, License or Permit.** A certificate,
10 license or permit issued pursuant to this Act or this Chapter may be revoked for cause.
11 Revocation *shall* be effectuated by a written statement of the Administrator indicating
12 the effective date of the revocation and causes for such action. Possible causes include,
13 but are not limited to, the following:

14 **(1)** Conviction in a court of competent jurisdiction of a violation of §57131 of
15 the Act.

16 **(2)** Misuse of a pesticide as defined by the Act and this Chapter.

17 **(3)** Falsification of any information required in the application process or
18 falsification of or failure to maintain records required by the Act and this
19 Chapter.

22 GARR – Guam Environmental Protection Agency

**Division 3
Guam Pesticide Regulations**

**Chapter 15
Pesticides**

**Article 9
Severability**

1 **§15901. Severability.**

2 *If* any provision of this Chapter or its application to any person or circumstance
3 is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions
4 or applications of this Chapter which can be given effect without the invalid provision
5 or application, and to this end the provisions of this Chapter are severable.

22 GARR – GUAM ENVIRONMENTAL PROTECTION AGENCY
DIVISION III, CHAPTER 15 – PESTICIDES
TABLE 1 – GUAM PESTICIDE REGULATION FEES

TYPE OF DOCUMENTATION	COST	EXPLANATION
1. Notice of Arrival (NOA)	\$3/case for up to 10 cases; \$1/additional case Chlorine tabs/gas \$5/1000 lbs or \$5/1,000 gallons (Note: Min. \$5)	Each Shipment
2. Termite Soil Application	\$50 < 250 gal. of emulsion mix \$100 ≥ 250 gal. of emulsion mix	Each application
3. Fumigation Application Fee (Permits/Notices of Intent)	\$1,000	Yearly*
4. Chemigation Permit Fee	\$100/Chemigation Permit	Each application
5. Pesticide Dealers License	\$250/Primary Sales Outlet \$50/Branch Sales Outlet	Expires Dec 31 (Each Year*)
6. Certification Cards – Category Training	a. Cards \$15 b. Training \$100 (16 hours) c. Exam only \$50 d. Replacement Cards \$10	3 Years*
7. Certification Cards – Core and Basic Training	a. Cards Only \$15 (Core); \$15 for (Basic Training-A/B) b. Training \$75 (Core); \$35 (BT-B), \$15 (BT-A) c. Exam Only \$25 (Core); \$15 for (BT-A/B) d. Replacement Cards \$10 e. Exam Study Materials \$15	3 Years*
8. Pest Control Operators License	\$150	Expires Dec 31 (Each Year*)
9. Pesticide Trainers License	a. Cards \$15 b. Training \$100 (16 hours) c. Exam only \$50 d. Replacement Cards \$10	Yearly*

*Annual fees are pro-rated