



**Department of Agriculture  
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**Eddie Baza Calvo**  
Governor

**Ray Tenorio**  
Lt. Governor

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Plant Nursery	734-3949
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**Mariquita F. Taitague**  
Director

**Manuel P. Duenas II**  
Deputy Director

July 1, 2013

TO: Legislative Secretary, 32<sup>nd</sup> Guam Legislature

FROM: Director of Agriculture

SUBJECT: This is a Transmittal to *I Liheslaturan Guåhan* of Proposed Rules and Regulations pursuant to the Administrative Adjudication Law

RE: Proposed New Invasive Species Inspection Fee Regulation as Required in P.L. 31-43

2013 JUL - 1 PM 1:33  
MFB

Enclosed are documents related to the proposed new regulation in accordance with the Administrative Adjudication Law [5 G.C.A. Section 9303(b)]. Please note that a public hearing was held on October 18, 2012 as indicated in the attached newspaper advertisement. Dr. Russell K. Campbell of our Biosecurity Division was the hearing officer in attendance. No other person attended the hearing and no oral or written comments were received either before or after the hearing.

The Compiler of Laws has reviewed the proposed regulation as to form and approved of it.

The Attorney General has reviewed the proposed regulation as to form and content and approved of it.

The Governor has reviewed the proposed regulation and approved of its submittal to you.

32-13-539  
Office of the Speaker  
Judith T. Won Pat, Ed. D.  
Date 7/1/13  
Time 1:25 PM  
Received by Faith SN  
539

*M. F. Taitague*  
MARIQUITA F. TAITAGUE  
Director

**8 GAR – FOOD AND AGRICULTURE**  
**CH. 14 – INVASIVE SPECIES INSPECTION FEE**

**DIVISION 4**

**INVASIVE SPECIES INSPECTION FEE**

**CHAPTER 14**

**INVASIVE SPECIES INSPECTION FEE**

**§ 14100. Fee Established.**

The Department of Agriculture establishes a fee for the inspection, quarantine and eradication of invasive species contained in any freight, including, but not limited to, marine commercial container shipments, air freight, or any other means of transporting freight, foreign or domestic, that is brought into Guam. The fee shall be paid by the person responsible for paying the freight charges to the transportation company, who shall collect the fee and forward the payment to the Department of Agriculture; provided that the transportation company shall not be liable for any fee that is not paid by the person responsible for paying the freight charges to the transportation company.

**§ 14101. Fee Assessment.**

The fee shall be assessed and collected on the net weight of imported freight computed on the basis of 75 cents for every one thousand pounds of freight brought into Guam, or part thereof. Exempted from this assessment is bulk sand and quarried product freight, cement bulk freight, coal bulk freight, or liquid bulk freight. All fees collected shall be deposited into the Guam Invasive Species Inspection Fee Fund and expended as mandated in Public Law 31-43.

**§ 14102. Failure to Pay or Remit Assessed Fee.**

The following fees shall be imposed for failure to pay, bill, or remit the Guam Invasive Species Inspection Fee provided for above:

- (a) A person responsible for paying the freight charges to the transportation company who fails to pay the fee; or
- (b) A transportation company that fails to:
  - (1) Bill the fee, within fifteen days of the delivery of the freight, to the person responsible for paying the freight charges to the transportation company;
  - (2) Remit the fee to the Department of Agriculture within forty-five days of collecting the fee from the person responsible for paying the freight charges to the transportation company,

shall pay two times the amount of the fee or \$50, whichever is higher.

sting wednesday that showed  
e problem was not resolved.  
Amata Kabua International  
irport Manager Thomas  
addison said the status of  
nited landing in Majuro on the  
stbound flight to Honolulu is  
an hour-to-hour basis pend-  
g the results from the jet fuel  
sting.

"The plane calls into Mairu

fuel line. Officials continued to  
work on it with testing ongoing  
Wednesday.

On Tuesday, United flew its  
regular flight from Honolulu to  
Majuro but did not board any  
Majuro-bound passengers from  
Honolulu because the airline  
needed to carry additional  
fuel to reach Kwajalein in the  
absence of a refueling option in

for the fiscal year 2013.

Chairman Dohsis Halbert,  
of the Congressional Standing  
Committee on Ways and Means,  
reported to Congress this morn-  
ing that after consolidation of  
the proposed national govern-  
ment budget, the committee  
recommended the \$40.5 million  
FY2013 budget to maintain  
throughout the FY2012 opera-

budget for two offices. a) the  
office of the Secretary of the  
Department of Education which  
the committee recommended  
\$93,473 from local funding  
due to JEMCO's disapproval  
of amended Compact Sector  
funding for the office; and  
b) the National Public Audi-  
tor with a reduced budget to  
reflect the absence of a Chuuk

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**ENVI**

**NMI DEMOCRATS ENDORSE  
KILILI'S RE-ELECTION**

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# Marianas Variety

The Local & Regional Newspaper

Guam  
Edition



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Friday • September 28, 2012

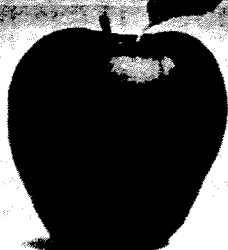
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on a mutually agreed upon

as approved by the Congress has  
been transmitted to the Office  
of the President as Congressio-  
nal Act 17-64.

## NOTICE OF PUBLIC HEARING

Date: October 18, 2012  
Time: 5:30 PM  
Location: Plant Inspection Facility, 17-3306  
Neptune Ave., Tiyan, Barrigada

The Department of Agriculture is proposing to implement a new fee to support its Biosecurity Division as authorized in Public Law 31-43. Pursuant to the Administrative Adjudication Law any interested party may present relevant information concerning the proposed fee. Copies of the proposed rule and other information may be inspected at the above location or obtained by calling 475-1427.

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# **ECONOMIC IMPACT STATEMENT**

Guam Department of Agriculture, Biosecurity Division

## **Guam Invasive Species Inspection Fee**

### **A. Background**

Section 3 of Public Law 31 – 43 authorized the Guam Department of Agriculture to establish a fee pursuant to the Administrative Adjudication Law for the inspection, quarantine and eradication of invasive species contained in any freight, including but not limited to, marine commercial container shipments, air freight or any other means of transporting freight, foreign or domestic, that is brought into Guam. The law stipulated that the fee shall be paid by the person responsible for paying the freight charges to the transportation company, which shall collect the fee and forward the payment to the Department of Agriculture at the port of disembarkation. Another provision of the law was that the transportation company would not be made liable for any fee that is not paid by the person responsible for paying the freight charges to the transportation company. Section 4 of the law created the Guam Invasive Species Inspection Fee Fund into which all of the fees collected are to be deposited. The law mandated the fees collected shall be expended to 1. recruit and hire a Territorial Invasive Species Coordinator, 2. establish and provide staffing for a Biosecurity Division within the Department of Agriculture to provide inspection quarantine and eradication of invasive species contained in any freight brought to Guam, 3. suppress and eradicate invasive species present in Guam, and 4. develop the Guam Invasive Species Management Plan and its updates. Section 5 of the law authorized the Department of Agriculture to create a Biosecurity Division which will take the lead role for the Government of Guam in efforts towards prevention, control, monitoring, rapid response, eradication, enforcement, and education of the public concerning invasive species in Guam.

In order for the Department of Agriculture to establish a fee in accordance with the above stated requirements, an economic impact statement must be prepared in accordance with 5 Guam Code Annotated, Section 9301. This section of the Administrative Adjudication Law requires that six specific areas be addressed in the economic analysis. These six specific areas are delineated below in the analysis section.

## B. Proposed Fee

The proposed fee is closely modeled on a similar fee imposed a few years ago by the State of Hawaii, Department of Agriculture, and amendments thereto. The fee is established for the inspection, quarantine and eradication of invasive species contained in any freight, including, but not limited to, marine commercial container shipments, air freight, or any other means of transporting freight, foreign or domestic, that is brought into Guam. The fee shall be paid by the person responsible for paying the freight charges to the transportation company, who shall collect the fee and forward the payment to the Department of Agriculture at the port of disembarkation; provided that the transportation company shall not be liable for any fee that is not paid by the person responsible for paying the freight charges to the transportation company. The fee shall be assessed and collected on the net weight of imported freight computed on the basis of 75 cents for every one thousand pounds of freight brought into Guam, or part thereof. Exempted from this assessment is bulk sand and quarried product freight, cement bulk freight, coal bulk freight, or liquid bulk freight. All fees collected shall be deposited into the Guam Invasive Species Inspection Fee Fund and expended as mandated in Public Law 31-43. The proposal also includes a penalty for non-compliance: The following fees shall be imposed for failure to pay, bill, or remit the Guam Invasive Species Inspection Fee provided for above:

- (1) A person responsible for paying the freight charges to the transportation company who fails to pay the fee; or
- (2) A transportation company that fails to :
  - a. Bill the fee, within fifteen days of the delivery of the freight, to the person responsible for paying the freight charges to the transportation company;
  - b. Remit the fee to the Department of Agriculture within forty-five days of collecting the fee from the person responsible for paying the freight charges to the transportation company,

Shall pay two times the amount of the fee or \$50, whichever is higher.

Aggregate total revenue from the proposed fee is forecast to be about \$2.1 million per year. This is based upon the following calculations. Port Authority of Guam data indicates an average of 1.25 million tons/year imported over the last five years. This includes containerized cargo plus break bulk cargo. The proposed fee on this average would be 2.75 million pounds/year times \$0.75/1000 pounds = \$2,062,500/year from sea cargo imported. Air cargo imported equals about 31 million pounds/year (Customs and Quarantine Agency data), which projects to generate about \$23,000/year in new fees. The fees would increase

with increased imports thus allowing increased inspection efforts to be applied to the increased risks imposed by increased amounts of cargo imported.

### **C. Fee Analysis**

#### **(1) Purpose and Need**

Guam has suffered serious environmental degradation due to invasive species since World War II and continues to be invaded with new alien species every year. The brown tree snake's effects on Guam is one of the most well known and documented instances of such ecological destruction worldwide. Guam's position as a transportation hub and its island nature make it especially vulnerable to invasive species introductions and their adverse effects on the environment and economy. Recent serious introductions include the Asian cycad scale and coconut rhinoceros beetle. Species such as these can destroy and/or upset the native forest environment and affect the tourism industry by making it much more difficult and expensive to maintain Guam as a tropical paradise destination. Guam is threatened by other, even more dangerous species that have not found their way here yet. Some of these could completely destroy Guam's tourism industry, impact public health, and cut the economy to a small fraction of what it now is.

Funding has never been adequate to develop and maintain a modern and comprehensive biosecurity system to stem the flow of invasive species into Guam's environment, and to do something about those species that do manage to escape initial detection at the ports of entry. The only way to protect Guam from the serious threats that it faces, and to protect its society, people and environment, is to implement a fee to provide such an improved and modern biosecurity system. The proposed fee is imposed on imported cargo since that is how most invasive species reach the island.

#### **(2) Financial Impact**

The proposed new fee is 75 cents per 1000 pounds of imported cargo. This fee will have little to no effect on those persons or corporate entities directly affected by the proposed fee, since they will simply pass its implementation costs on to the ultimate consumer. The impact upon the people and economy of Guam will be negligible as it is such a small quantity. The fee would amount to about \$33 on an average forty-foot sea container load of cargo. This is a small percentage of total transportation costs<sup>1</sup>, which fluctuate much more than this due to fluctuations in fuel costs. In fact, the overall financial impact will be greatly beneficial because it will fund improved protection from invasive species, thereby saving the people and economy of Guam from substantial ongoing and future losses.

(3) Potential Increase or Decrease in Cost of Living

The proposed fee will have a negligible impact upon the cost of living on Guam or any specific increase in the price or availability of any good or service. As an example, the proposed fee would raise the price of a can of Spam® by much less than one-thousandth of one cent.

(4) Direct or Indirect Impact upon Employment

The proposed fee will have a small beneficial impact upon employment on Guam because it is expected that the Department of Agriculture, Biosecurity Division will hire additional staff to establish a more comprehensive and effective biosecurity system.

(5) Increase or Decrease in the Cost of Doing Business

The proposed fee will cause a slight increase in the cost of doing business since the fee will necessitate additional billing and collection efforts. However, this should be very minimal since the additional fee can be included by the transportation company in the already existing transportation billing process. Some additional efforts will be necessary for accounting and periodic payments to the Department of Agriculture.

(6) Adverse or Beneficial Economic Impacts

There will be an overall beneficial economic impact for the Guam economy by virtue of the improved biosecurity protections that will be implemented using the proceeds of the new fee.

<sup>1</sup>Retail value of a forty-foot container ranges from \$30,000 to \$300,000 with a median value of \$165,000. Transportation costs range from \$4,500 to \$7,500 with a median of \$6,000. The average weight of such a container load is 44,000 pounds. Proposed fee is 44 times \$0.75 = \$33/container (40ft) = 0.02% of value of container's contents or 0.55% of container transportation costs.