

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

Bill No. 441-30 (COR)

As substituted by the Committee on Rules,
Natural Resources, and Federal, Foreign
& Micronesian Affairs and amended on the Floor.

Introduced by:

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**AN ACT TO REPEAL AND ADOPT A NEW TITLE 22,
GUAM ADMINISTRATIVE RULES AND
REGULATIONS, DIVISION III, CHAPTER 15; AND TO
AMEND 10 GCA CHAPTER 50 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 Guåhan* finds that
3 the current provisions of the Pesticides Regulations in Title 22, Division III,
4 Chapter 15 of Guam Administrative Rules and Regulations (GARR) were
5 established in 1981. The 1997 version that is available from the Compiler of Laws
6 is a re-numbering of the 1981 version, however, no substance was changed.

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

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

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

22 It is also the intent of *I Liheslatura* to *repeal* and *reenact* §50107(d) of Title
23 10 GCA Chapter 50 – “The Guam Pesticides Act” to accurately reflect the changes
24 made to the applicator training requirements set forth in the regulations herein.

25 **Section 2.** Title 10, GCA, §50107(d) is hereby *repealed* and *reenacted* to
26 read:

1 “(d) Training. Any person who applies general use pesticides as the
2 primary part of his/her job or duties *shall* be required to meet specific
3 training requirements as set forth in the regulations promulgated under this
4 Chapter.”

5 **Section 3.** Title 22, Guam Administrative Rules and Regulations, Division
6 III, Chapter 15 is hereby *repealed*. Hereby *adopted* in its place are the provisions
7 set forth in “Appendix 1”.

8 **Section 4. Effective Date.** *Except* for Title 22 GARR §15602(a), “Basic
9 Training”, and Title 22 GARR §15703(b), “Basic Training Qualification Cards”,
10 the provisions of this Act *shall* be effective upon enactment. The provisions set
11 forth in Title 22 GARR §§ 15602(a) and 15703(b) *shall* be effective on October 1,
12 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, restricted use 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, restricted use 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 restricted use pesticides.

25 (j) *‘Certified Pesticide Sales Manager’* shall mean a person in charge of the sale of
26 restricted use pesticides and who has successfully passed an examination of any

1 category to qualify for that position.

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

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

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

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

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

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

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

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

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

24 (t) *'Non-Refillable Container'* shall mean a container that is designed and constructed
25 for one time containment of a pesticide for sale or distribution. Reconditioned
26 containers are considered to be *non-refillable containers*.

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

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

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

6 (x) *'Qualification Card' shall* mean an identification card issued by Guam EPA to an
7 individual, evidencing that he has successfully completed the process required for an
8 individual to be authorized to use or supervise the use of general use pesticides.

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

11 (z) *Respondent shall* mean an alleged violator.

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

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

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

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APPENDIX 1

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
19 any change of personnel in this position.

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

21 Dealers and sales outlets *shall* keep a monthly record of each sale of each

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

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

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

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

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

4 (f) Target pests;

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

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

8 **§15302. Disposal.**

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

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

15

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

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

20 **§15303. Storage and Display.**

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

24 (a) No pesticide, empty pesticide container (or parts thereof), or equipment that
25 holds (or has held) a pesticide *shall* be stored, displayed, or left unattended under
26 conditions:

- 1 **(1)** Where food, food containers, animal feed or any other products are likely
2 to become contaminated; or
- 3 **(2)** That may create a hazard or cause injury to humans, vegetation, crops,
4 live-stock, wildlife, beneficial insects or aquatic life.
- 5 **(b)** Pesticides must be stored in a locked, well-ventilated, cool and dry storage area.
- 6 **(c)** Restricted Use Pesticide storage areas must be posted with a warning sign that
7 states any, all, or any combination, of the following statements, as applicable:
- 8 **(1)** “Danger”;
- 9 **(2)** “Poison Storage Area”;
- 10 **(3)** “All Unauthorized Persons Keep Out”; or
- 11 **(4)** “Keep Door Locked When Not In Use”.
- 12 **(d)** Pesticides must not be stored in places where flooding is possible or in places
13 where pesticides might spill or leak into wells, drains, groundwater, or any body of
14 water.
- 15 **(e)** Pesticides must be stored or displayed in such a way that they are kept out of
16 reach of children and pets.
- 17 **(f)** Pesticides must not be stored near flammable liquids or solids; or near a source
18 of ignition including, but not limited to, a furnace, car, gas grill, or lawnmower.
- 19 **(g)** Pesticides must be stored in their original containers with the complete original
20 label, which includes, but is not limited to, the USEPA Registration number &
21 establishment number, ingredient statement, directions for use, personal protective
22 equipment and first aid steps in case of accidental poisoning.
- 23 **(h)** Pesticides must not be transferred to any container including, but not limited to,
24 soft drink bottles or other food or drink containers other than proper mixing and
25 application equipment.
- 26 **(i)** Pesticides must not be stored near incompatible chemicals.

1 **§15304. Transportation.**

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

7 **§15305. Notice of Intent.**

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

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

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

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

16 **(i)** An electronic copy of the label or labeling for each pesticide to be
17 used;

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

19 **(iii)** A description of the proposed application method;

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

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

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

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

26 **(i)** The physical address of the application site, including a map to

1 the site and the site lot number;

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

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

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

9 (A) After the chemical pesticide application is completed, the treated
10 area is adequately protected from the elements to protect rainwater from
11 reaching the treated area.

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

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

20 (b) **Notice of Intent: Structural Fumigation (NOI: SF).** Any person intending to
21 perform fumigation of any structure including, but not limited to, buildings and any
22 fumigation of soil, must submit a notice of intent for structural fumigation to the
23 Agency *at least* two (2) days prior to the proposed application.

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

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

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

2 **(i)** An electronic copy of the label or labeling for each pesticide to be
3 used;

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

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

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

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

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

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

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

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

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

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

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

21 **(i)** The names and contact numbers of the facility owner and the
22 project manager;

23 **(ii)** A standard operating procedure for the project;

24 **(iii)** A health and safety plan;

25 **(iv)** Any additional information required in a Fumigant Management
26 Plan by the product label;

1 (v) A listing of the target pests.

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

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

5 (B) The Pest Control Operator must provide written notices to each
6 household and business that is located within seventy-five (75) feet of the
7 proposed application. If the application area is a single-owner complex with
8 multiple units, then The PCO must inform the owner and manager of the site
9 to be fumigated. Notices to the residents must be made by the applicator *at*
10 *least* two (2) days prior to the fumigation project. In the event of an
11 emergency, the Administrator may waive the two (2) day notice requirement.

12 (C) A Pest Control Company who proposes to apply a fumigant must
13 have in its possession an occupant's fumigation notice that has been signed
14 by the primary occupant of the household or business, or the designated
15 agent of the structure. The occupant's fumigation notice must state the pest
16 to be controlled, the proposed pesticide(s) to be applied including the active
17 ingredients and the registration number, and all applicable precautionary
18 statements. This form must state that the lethal gas will be used in the
19 indicated areas during the indicated date(s) and time(s), and that it is unsafe
20 to return to the indicated area until a notice of re-entry is posted by the
21 licensee in charge of the fumigation. In the event the primary occupant of the
22 household or business, or the designated agent of the structure, is unavailable
23 or unwilling to sign that he has received the fumigation notice, the PCO *shall*
24 provide proper documentation to Guam EPA evidencing all attempts made,
25 including, *but not limited to*, a written statement signed by the PCO
26 representative and a witness, along with a photograph of the fumigation

1 notice being left at the household, business or other structure.

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

7 **§15306. Posting of Signs.**

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

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

19 (b) **Public Right-of-Way or Roadside Areas.** *At least* one (1) hour prior to any
20 pesticide application on or along a roadside, the project manager *shall* assure that
21 warning signs are posted *at least* one (1) hour prior to the pesticide application. Signs
22 must be written in the English language and must be visible from all usual points of
23 entry to the treated area including each access road, border, footpath and other walking
24 route that leads to the treated area. When there are no usual points of entry, signs must
25 be posted in the corners of the treated area or in any other location affording maximum
26 visibility. The signs must include the appropriate wording, as indicated on the label or

1 labeling.

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

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

13 (1) The phrase: “DO NOT ENTER: PESTICIDE FUMIGATION IN
14 PROGRESS”;

15 (2) The date of application;

16 (3) The name of a contact person;

17 (4) 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 fumigation fumes in the area. Project managers are responsible for removing the signs
21 at the appropriate times.

22 **§15307. Special Requirements for Foggers.**

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

1 place before anyone is allowed into the treated area.

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

7 (5) The phrase: "DO NOT ENTER: PESTICIDE FOGGING IN PROGRESS";

8 (6) The date of application;

9 (7) The name of a contact person;

10 (8) A telephone number where the contact person can be reached.

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

15 **§15308. Special Requirements for Aerial Pesticide Application.**

16 **(a) Aerial Pesticide Application Permit Required.** No person *shall* apply any
17 pesticides by aircraft unless specifically permitted by the accepted USEPA label; and
18 unless he has obtained a Guam EPA "Aerial Pesticide Application Permit". In addition,
19 the permittee *shall* notify the Administrator in writing at least three (3) days in advance
20 of any aerial pesticide application.

21 **(b) Pesticide Application Equipment Safety and Maintenance Requirements.**
22 Equipment used for aerial pesticide application shall be kept and maintained according
23 to the following conditions:

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

26 (2) Flexible hoses carrying liquid pesticides under pressure shall not pass

1 unshielded through the cockpit of an airplane or helicopter.

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

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

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

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

15 **§15309. Worker Protection Standard (WPS).**

16 Worker Protection Standard (WPS) is a federal regulation aimed at reducing the
17 risk of pesticide poisoning and injuries among workers, handlers, and volunteer
18 workers who work in any farm, forest, greenhouse or nursery.

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

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

26 For the purposes of this section, *'handler'* shall mean anyone who mixes or loads

- 1 pesticides on an agricultural establishment including, but not limited, to flaggers, those
- 2 handling or cleaning application equipment, those performing soil incorporation, and
- 3 those disposing of pesticides or pesticide containers.

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Division 3
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
26 examination of the shipment it appears to violate local or federal requirements, such

1 shipment *shall* be refused entry and treated as prohibited importation.

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

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

10 **§15404. Sample of Imports.**

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

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

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Division 3
Guam Pesticide Regulations

Chapter 15
Pesticides

Article 5
Special Pesticides

1 §15501. Exemptions.

2 §15502. Determination by Use.

3 §15503. Locally Designated Restricted Use Pesticides.

4 **§15501.Exemptions.** The pesticides or classes of pesticides listed in this section have been
5 determined to be of a character not requiring regulation under FIFRA, and are therefore exempt
6 from all provisions of FIFRA, the Act and this Chapter when intended for use, and used, only in
7 the manner specified.

8 (a) **Treated articles or substances.** An article or substance treated with, or containing, a
9 pesticide to protect the article or substance itself (for example, paint treated with a pesticide to
10 protect the paint coating, or wood products treated to protect the wood against insect or fungus
11 infestation), if the pesticide is registered for such use.

12 (b) **Pheromones and pheromone traps.** Pheromones and identical or substantially
13 similar compounds labeled for use only in pheromone traps (or labeled for use in a manner
14 which the Administrator determines poses no greater risk of adverse effects on the environment
15 than use in pheromone traps), and pheromone traps in which those compounds are the sole
16 active ingredient(s).

17 (1) For the purposes of this paragraph, a pheromone is a compound produced by
18 an arthropod which, alone or in combination with other such compounds, modifies the
19 behavior of other individuals of the same species.

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1 (2) For the purposes of this paragraph, a synthetically produced compound is
2 identical to a pheromone only when their molecular structures are identical, or when the
3 only differences between the molecular structures are between the stereochemical
4 isomer ratios of the two compounds, except that a synthetic compound found to have
5 toxicological properties significantly different from a pheromone is not identical.

6 (3) When a compound possesses many characteristics of a pheromone but does
7 not meet the criteria in paragraph (b)(2) of this section, it may, after review by the
8 Agency, be deemed a substantially similar compound.

9 (4) For the purposes of this paragraph, a pheromone trap is a device containing a
10 pheromone or an identical or substantially similar compound used for the sole purpose
11 of attracting, and trapping or killing, target arthropods. Pheromone traps are intended
12 to achieve pest control by removal of target organisms from their natural environment
13 and do not result in increased levels of pheromones or identical or substantially similar
14 compounds over a significant fraction of the treated area.

15 **(c) Preservatives for biological specimens.**

16 (1) Embalming fluids.

17 (2) Products used to preserve animal or animal organ specimens, in mortuaries,
18 laboratories, hospitals, museums and institutions of learning.

19 (3) Products used to preserve the integrity of milk, urine, blood, or other body
20 fluids for laboratory analysis.

21 **(d) Foods.** Products consisting of foods and containing no active ingredients, which are
22 used to attract pests.

23 **(e) Natural cedar.**

24 (1) Natural cedar blocks, chips, shavings, balls, chests, drawer liners, paneling,
25 and needles that meet all of the following criteria: (i) The product consists totally of
26 cedarwood or natural cedar. (ii) The product is not treated, combined, or impregnated
27 with any additional substance(s). (iii) The product bears claims or directions for use
28 solely to repel arthropods other than ticks or to retard mildew, and no additional claims

1 are made in sale or distribution. The labeling must be limited to specific arthropods, or
2 must exclude ticks if any general term such as arthropods, insects, bugs, or any other
3 broad inclusive term, is used. The exemption does not apply to natural cedar products
4 claimed to repel ticks.

5 (2) The exemption does not apply to cedar oil, or formulated products which
6 contain cedar oil, other cedar extracts, or ground cedar wood as part of a mixture.

7 **(f) Minimum risk pesticides.**

8 **(1) Exempted products.** Products containing the following active ingredients are
9 exempt from the requirements of FIFRA, alone or in combination with other substances
10 listed in this paragraph, provided that all of the criteria of this section are met.

11 Castor oil (U.S.P. or equivalent)

12 Cedar oil Cinnamon and cinnamon oil

13 Citric acid

14 Citronella and citronella oil

15 Cloves and clove oil

16 Corn gluten meal

17 Corn oil

18 Cottonseed oil

19 Dried blood

20 Eugenol

21 Garlic and garlic oil

22 Geraniol

23 Geranium oil

24 Lauryl sulfate

25 Lemongrass oil

26 Linseed oil

27 Malic acid

28 Mint and mint oil

1 Peppermint and peppermint oil
2 2-Phenethyl propionate (2-phenylethyl propionate)
3 Potassium sorbate
4 Putrescent whole egg solids
5 Rosemary and rosemary oil
6 Sesame (includes ground sesame plant) and sesame oil
7 Sodium chloride (common salt)
8 Sodium lauryl sulfate
9 Soybean oil
10 Thyme and thyme oil
11 White pepper
12 Zinc metal strips (consisting solely of zinc metal and impurities)

13 **(2) Permitted inerts.** A pesticide product exempt under paragraph (g)(1) of this
14 section may only include inert ingredients listed in the most current List 4A. This list is
15 updated periodically and is published in the Federal Register. The most current list may
16 be obtained by writing to Registration Support Branch (4A Inerts List) Registration
17 Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200
18 Pennsylvania Ave., NW., Washington, DC 20460.

19 **(3) Other conditions of exemption.** All of the following conditions must be met
20 for products to be exempted under this section: (i) Each product containing the
21 substance must bear a label identifying the name and percentage (by weight) of each
22 active ingredient and the name of each inert ingredient.

23 (ii) The product must not bear claims either to control or mitigate
24 microorganisms that pose a threat to human health, including but not limited to
25 disease transmitting bacteria or viruses, or claims to control insects or rodents
26 carrying specific diseases, including, but not limited to ticks that carry Lyme
27 disease.

1 (iii) The product must not include any false and misleading labeling
2 statements, including those listed in 40 CFR 156.10(a)(5)(i) through (viii).

3 **§15502. Determination by Use.**

4 Some products are not pesticides because they are not deemed to be used for a pesticidal
5 effect. A product that is not intended to prevent, destroy, repel, or mitigate a pest, or to
6 defoliate, desiccate or regulate the growth of plants, is not considered to be a pesticide. The
7 following types of products or articles are not considered to be pesticides unless a pesticidal
8 claim is made on their labeling or in connection with their sale and distribution:

9 (a) Deodorizers, bleaches, and cleaning agents;

10 (b) Products not containing toxicants, intended only to attract pests for survey or
11 detection purposes, and labeled accordingly;

12 (c) Products that are intended to exclude pests only by providing a physical
13 barrier against pest access, and which contain no toxicants, such as certain pruning
14 paints to trees.

15 **§15503. Locally Designated Restricted Use Pesticides.**

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

22 (b) **Chlorine Gas.** All chlorine gas used as a pesticide (including, but not limited
23 to, chlorine gas that has a USEPA registration number and establishment number) is
24 hereby considered a restricted use pesticide in Guam. Persons applying chlorine gas
25 must be hold a valid certification card in Category 7d, “Chlorine Gas”; or must
26 otherwise hold a valid certification card for Core Training *and* must, at the time of

1 application, be under the direct supervision of an applicator who holds a valid
2 certification card in Category 7d.

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

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Chapter 15
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Article 6
Certification

- 1 §15601. Instructor Qualifications.
- 2 §15602. General Use Pesticide Training Qualification.
- 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 requirements set
9 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;

18 **(3)** Practical knowledge of the training material and all applicable local and federal
19 requirements; and

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

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

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

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

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

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

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

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

19 **(c) Approved Training Plan Required.** An approved training plan must adequately
20 incorporate general standards developed by Guam EPA concerning the use of
21 pesticides as appropriate to the type of activities in which the pesticide applicator will
22 be engaged. An approved training plan must identify the type of training to be
23 provided (Basic Training-A, Basic Training-B, Core Training and/or Category Training),
24 and must include, at a minimum:

25 (1) Instructor information, including:

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

1 (B) A description of each instructor’s qualifications and experience;

2 (C) A copy of the current qualification/certification card for each instructor;

3 and

4 (2) Training information, including a copy of the training agenda and descriptions

5 of:

6 (A) Topics to be covered;

7 (B) The target audience;

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

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

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

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

14 **§15602. General Use Pesticide Training Qualification.**

15 **(a) Basic Training.**

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

23 The Basic Training-A curriculum *shall* be developed by the Agency in
24 conjunction with USEPA. The Agency *shall* also establish and consult a local task
25 force, which *shall* include representative from the public and private sectors,

1 including but *not limited to* the University of Guam, the Guam Community College,
2 and the Guam Hotel and Restaurant Association.

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

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

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

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

18 **§15603. Restricted Use Pesticide Training Certification.**

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

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

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

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

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

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

22 **Category 1b: Animals.** This category includes applicators using or
23 supervising the use of restricted use pesticides on animals, including
24 without limiting the foregoing, beef cattle, dairy cattle, swine, sheep,
25 horse, goats, poultry, and livestock, and to places on or in which animals
26 are confined. Doctors of Veterinary Medicine engaged in the business of

1 applying pesticides for hire, publicly holding themselves out as pesticide
2 applicators, or engaged in large scale use of pesticides are included in this
3 category.

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

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

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

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

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

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

25 **Category 7a: General and Structural Pest Control.** This category
26 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
26 and safe use of pesticides as described below. Testing shall be based on

1 examples of problems and situations appropriate to the particular category or
2 subcategory of the applicator's certification and the following areas of
3 competency:

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

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

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

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

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

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

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

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

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

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

18 (ee) Symptoms of pesticide poisoning;

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

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

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

- 1 (aa) Weather and other climatic conditions;
- 2 (bb) Types of terrain, soil or other substrate;
- 3 (cc) Presence of fish, wildlife and other non-target organisms;
- 4 and
- 5 (dd) Drainage patterns.
- 6 **(iv) Pests.** Including factors such as:
- 7 (aa) Common features of pest organisms and characteristics of
- 8 damage needed for pest recognition;
- 9 (bb) Recognition of relevant pests; and
- 10 (cc) Pest development and biology as it may be relevant to
- 11 problem identification and control.
- 12 **(v) Pesticides.** Including factors such as:
- 13 (aa) Types of pesticides;
- 14 (bb) Types of formulations;
- 15 (cc) Compatibility, synergism, persistence and animal and plant
- 16 toxicity of the formulations;
- 17 (dd) Hazards and residues associated with use;
- 18 (ee) Factors which influence effectiveness or lead to such
- 19 problems as resistance to pesticides; and
- 20 (ff) Dilution procedures, including calculations to achieve
- 21 correct application rate.
- 22 **(vi) Equipment.** Including factors such as:
- 23 (aa) Types of equipment and advantages and limitations of each
- 24 type; and
- 25 (bb) Use, maintenance and calibration.
- 26 **(vii) Application techniques.** Including factors such as:

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

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

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

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

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

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

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

21 **Category 1b: Animals.** Persons applying pesticides directly to
22 animals must demonstrate knowledge of such animals and their
23 associated pests. A practical knowledge is also required concerning
24 specific pesticide toxicity and residue potential, since host animals will
25 frequently be used for food. Further, the applicator must know the

1 relative hazards associated with such factors as formulation application
2 techniques, age of animals, and focus and extent of treatment.

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

16 **Category 3: Ornamental and Turf Pest Control.** Applicators shall
17 demonstrate practical knowledge of pesticide problems associated with the
18 production and maintenance of ornamental trees, shrubs, plantings, and turf,
19 including cognizance of potential phytotoxicity due to a wide variety of plant
20 material, drift, and persistence beyond the intended period of pest control.
21 Because of the frequent proximity of human habitations to application activities,
22 applicators in this category must demonstrate practical knowledge of the
23 hazards to humans, pets, and other domestic animals.

24 **Category 4: Seed Treatment.** Applicators shall demonstrate practical
25 knowledge of types of seeds that require chemical protection against pests and
26 factors such as seed coloration, carriers, and surface active agents which

1 influence pesticide binding and may affect germination. They must demonstrate
2 practical knowledge of hazards associated with handling, sorting and mixing,
3 and misuse of treated seed such as introduction of treated seed into food and
4 feed channels, as well as proper disposal of unused treated seed.

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

14 **Category 6: Right-of-way Pest Control.** Applicators shall demonstrate
15 practical knowledge of a wide variety of environments since rights-of-ways can
16 traverse many different terrains, including waterways. They shall demonstrate
17 practical knowledge of the problems of runoff, drift, and excessive foliage
18 destruction and ability to recognize target organisms. They shall also
19 demonstrate practical knowledge of the nature of herbicides and the need for
20 containment of these pesticides within the right-of-way area, and the impact of
21 their application activities in the adjacent areas and communities and special
22 drift control methods and procedures.

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

25 **Category 7a: General and Structural Pest Control.** Applicators must
26 demonstrate practical knowledge of a variety of pests including their life

1 cycles, as well as types of formulations appropriate for their control and
2 methods of application that avoid contamination of food and damage and
3 contamination of habitat, and exposure of people and pets. Since human
4 exposure, especially to babies, children, pregnant women, and elderly
5 people, is frequently a potential problem, applicators must demonstrate
6 practical knowledge of the specific factors which may lead to a hazardous
7 condition, including continuous exposure in the various situations
8 encountered in this category. Because health related pest control may
9 involve outdoor applications, applicators in this category must also
10 demonstrate practical knowledge of environmental conditions particularly
11 related to this activity.

12 **Category 7b: Structural and Commodity Fumigation.** In this
13 subcategory, types of structures include, but are *not* limited to inhabited
14 buildings, containers, boat. Applicators must demonstrate practical
15 knowledge of core requirements covering fumigant and fumigation use
16 laws and regulations, the basic principles of fumigant use, of handler and
17 worker safety requirements especially pesticide safety training, preventing
18 heat-related illnesses, of fumigant labels, how to interpret and follow label
19 directions and requirements.

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

25 Applicators must demonstrate practical knowledge of proper
26 fumigant application procedures, selecting and using appropriate

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

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

9 Applicators must demonstrate practical knowledge of the hazards
10 associated with fumigant use and preventing human exposure,
11 environmental contamination, off-site movement/drift, and phytotoxicity,
12 of safe fumigant handling practices, proper PPE selection, use, and care,
13 and responding to fumigant emergencies.

14 Applicators must demonstrate practical knowledge of proper
15 fumigant application procedures, selecting and using appropriate
16 application equipment and its calibration, and of hazards and safe use
17 practices.

18 **Category 7d: Chlorine Gas.** Applicators must demonstrate practical
19 knowledge of the toxicity of liquefied chlorine gas; the dispersion
20 properties and other characteristics of gaseous chemicals; equipment types;
21 calibration procedures; application techniques; air and water monitoring
22 procedures; use and maintenance of personal protective equipment and
23 clothing; and factors that may lead to a hazardous conditions, including
24 handling of pressurized chemicals and direct or continuous exposure to
25 chlorine gas.

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

10 **Category 9: Regulatory Pest Control.** Applicators shall demonstrate
11 practical knowledge of regulated pests, applicable law relating to quarantine and
12 other regulation of pests, and the potential impact on the environment of
13 restricted use pesticides used in suppression and eradication programs. They
14 shall demonstrate knowledge of factors influencing introduction, spread, and
15 population dynamics of relevant pests. Their knowledge shall extend beyond
16 that required by their immediate duties, since their services are frequently
17 required in Guam and other areas of the country where emergency measures are
18 invoked to control regulated pests and where individual judgments in new
19 situations must be made.

20 **Category 10: Demonstration and Research Pest Control.** Persons
21 demonstrating the safe and effective use of pesticides to other applicators and the
22 public will be expected to meet comprehensive standards reflecting a broad
23 spectrum of pesticide uses. Many different pest problems situations will be
24 encountered in the course of activities associated with demonstration, and
25 practical knowledge of problems, pests, and population levels occurring in each
26 demonstration situation is required. Further, they should demonstrate an

1 understanding of pesticide-organism interactions and the importance of
2 integrating pesticide use with other control methods.

3 Applicators doing demonstration pest control work, conducting field
4 research or method improvement work with RUPs should possess a practical
5 knowledge of all of the general standards detailed in §15603(c)(2) of this Chapter.
6 In addition, they shall be expected to know the specific standards described in
7 §15603(c)(3)(A) through (I) of this Chapter as may be applicable to their
8 particular activity.

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

13 **(2) Private Applicators.**

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

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

1 (i) Recognize common pests to be controlled and damage caused by
2 them;

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

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

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

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

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

18 (3) **Standards for Supervision of Uncertified Applicators.** The supervisor of a
19 uncertified applicator must ensure that the applicator holds a valid Core Training
20 Qualification Card and is someone who follows instructions. In addition, the
21 supervisor must be certified in the appropriate category for the type of application
22 he/she is directly supervising; he must demonstrate practical knowledge of all local
23 and federal requirements; and he must be physically present on site observing the
24 application of the pesticide at the time of application. The uncertified applicator
25 must complete the appropriate category training *no later than* ninety (90) days from
26 his date of hire.

1 **§15604. Course and Exam Offerings.**

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

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

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Division 3
Guam Pesticide Regulations

Chapter 15
Pesticides

Article 7
Licenses, Permits, Cards and Fees.

1 §15701. Special Licenses.

2 §15702. Permits.

3 §15703. Qualification and 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) Fumigation Permit.** Any person intending to perform any fumigation must first
10 obtain a Fumigation Permit from Guam EPA. An application for a Fumigation Permit
11 *shall* be on a form prescribed by the Administrator and shall include, at minimum:

12 **(1)** Information on the pesticide to be used:

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

15 **(B)** A description of the equipment to be used; and

16 **(C)** An estimated amount of the fumigant to be used for each permit period.

17 **(2)** Information on the applicator:

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

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

22 **(3)** Information on the permanent application site, or any temporary sites, if
23 applicable:

24 **(A)** The physical address of the application site;

25 **(B)** A description of the application site, including the size of the area to be
26 treated;

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

3 (4) General Information on the Project:

4 (A) The names and contact numbers of the facility owner and the project
5 manager;

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

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

9 (D) A health and safety plan;

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

12 (F) A listing of the target pests.

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

16 The applicator must provide sufficient written evidence to Guam EPA in advance of
17 the application that a chemigation application is the only viable method for pest
18 control. In order to demonstrate to Guam EPA that there are no other viable
19 methods of pest control, the applicator must provide a list of target pests, location of
20 proposed chemigation, a description of equipment to be used, including required
21 back flow prevention devices to prevent contamination of the water sources, a copy
22 of the label for the pesticide(s) proposed for use, and a description of the other types
23 of pest control methods that have been attempted and the results of these methods.
24 The copy of the label submitted to Guam EPA must be a copy of the label on the
25 container(s) of the pesticide to be used. Upon review of the applicator's submission
26 and the EPA accepted label for the product to be used, Guam EPA will make a

1 determination as to whether the chemigation application will be allowed. If Guam
2 EPA allows the application, a written permit will be issued by Guam EPA. The
3 pesticide to be used must be registered by U.S. EPA for use in chemigation.

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

10 (2) Application areas must be posted by the pesticide applicator with signs in
11 English at all usual points of entry and along likely routes of approach from the
12 listed sensitive area. When there are not usual point of entry, signs must be posted
13 in the corners of the treated areas and in any other locations affording maximum
14 visibility to sensitive areas. The printed side of the sign must face away from the
15 treated area towards the sensitive area. The signs must be printed in the English
16 language. Signs must be posted prior to the application and remain posted until
17 foliage has dried and soil surface water as disappeared. Signs must remain in place
18 indefinitely as long as they are composed of materials to prevent deterioration and
19 maintain legibility for the duration of the posting period. Applicators are
20 responsible to remove the signs from the treated areas.

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

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

5 **(1)** Information on the pesticide to be used:

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

7 **(B)** An electronic copy of the label or labeling for each pesticide to be used;

8 **(C)** The formulation, dilution and application rates for each pesticide to be
9 applied;

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

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

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

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

16 **(C)** A copy of the pilot license and any other licenses needed in Guam to
17 operate an aircraft;

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

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

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

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

26 **(A)** A description of the purpose of aerial application and why aerial

1 application is desired;

2 (B) The method of aerial application of the proposed pesticides to be
3 applied;

4 (C) The number of application to be made, and the proposed time and date
5 of each application;

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

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

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

13 Any Aerial Pesticide Application Permit issued pursuant to this Chapter *shall*
14 specify the time period for which the permit is valid. The Administrator may specify
15 and limit the Aerial Pesticide Application Permit to cover a single treatment or multiple
16 and continued treatments when conditions are not expected to change or vary during
17 subsequent treatments that are conducted in the same designated area. In no case *shall*
18 any pesticide be applied contrary to the U.S. EPA accepted label.

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

23 **§15703. Qualification and Certification Cards.**

24 Any person intending to apply pesticides as part of their occupational duties must
25 first obtain a qualification/certification card from Guam EPA. Qualification/Certification
26 cards *shall* be issued after successful completion of the appropriate training. Successful

1 completion is measured by the applicator's attendance at the appropriate training
2 course (as certified by the training instructor), together with passing the appropriate
3 exam with a score of seventy percent (70%) or higher (as certified by the exam
4 administrator).

5 **(a) Temporary Cards.** Temporary cards may be issued to individuals who are
6 unable to attend a the appropriate training course (due to the availability of classes)
7 within approximately one month's time from the date he has submitted his application
8 for qualification/certification to Guam EPA. Temporary cards issued pursuant to this
9 section *shall* expire on the last day of the month in which the next appropriate training
10 course will be offered.

11 **(b) Basic Training Qualification Cards.**

12 **(1) Basic Training-A Qualification Card.** Any person intending to apply
13 general use antibacterial, antimicrobials, antifungal, disinfectants and other
14 pesticides as part of their occupational duties must first obtain a "Basic Training-A
15 Qualification Card" from Guam EPA prior to any pesticide application. Any new or
16 transferred employee may be granted a three (3) month grace period to come into
17 compliance with the qualification requirements of this section.

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

1 **(c) Core Training Qualification Card.** Any person, other than those described in
2 subsection (a) above, intending to use general use pesticides as part of carrying out his
3 occupational duties must first obtain a “Core Training Qualification Card” from Guam
4 EPA prior to any pesticide application. Applicants for Core Training Qualification must
5 be at least seventeen (17) years of age.

6 **(d) Certification Card.** Any person intending to apply restricted use pesticides must
7 first obtain a Certification Card from Guam EPA for the appropriate category(ies).
8 Applicants for RUP-Certification Training must be at least eighteen (18) years of age.
9 RUP-Applicators *shall* be certified either as a

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

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

14 **(e) Renewal.** All Certification Cards issued pursuant to this Chapter *shall* be
15 renewed every three (3) years. Individuals may submit applications for renewal *no more*
16 *than* thirty (30) days prior to the expiration date of their certification. Individuals
17 intending to renew their certification must successfully pass the appropriate exam.
18 Training for each applicant is required upon initial application for certification. All
19 individuals who hold “Core Training Certification Cards” older than three (3) years
20 from the effective date of this Chapter must renew their certification.

21 **§15704. Fees.**

22 In order to fulfill the duties and responsibilities associated with the implementation
23 of these regulations, the Agency hereby establishes conditions and fees as set forth in
24 Table 1 of this Chapter. All fees *shall* be paid to and deposited into “The Pesticide
25 Management Fund” as specified in 10 GCA §50119, which shall be maintained separate
26 and apart from any other government of Guam bank account. All fees are non-

1 refundable and must be paid in the following manner:

2 **(a) Qualification/Certification Card Fees.** Fees must be paid upon issuance of
3 the qualification/certification card or a replacement card.

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

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

7 **(d) Notice of Arrival Fees.** Fees must be paid at the time the NOA form is
8 submitted; or based upon an agreed payment plan between the importer and the
9 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
19 Administrative Adjudication Law” and 10 GCA Chapter 50 – “The Guam Pesticides

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APPENDIX 1

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1 Act”.

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

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

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

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

26 (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 qualification/certification card, license or permit issued pursuant to
19 this Act or this Chapter, may be denied by the Board as provided in §57135 of the Act,
20 for the 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 qualification/certification under the Act and
4 this Chapter within a five (5) year period immediately preceding the date of
5 application.

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

7 **(b) Denial of Application for Qualification/Certification, License or Permit.**

8 An application for any qualification/certification card, license or permit issued pursuant
9 to this Act or this Chapter, *shall* be denied by the Board as provided in §57135 of the
10 Act, for the following causes:

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

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

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

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

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

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

5 **(d) Suspension of Qualification/Certification, License or Permit.** A
6 qualification/certification card, license or permit issued pursuant to this Act or this
7 Chapter *shall* be suspended for not less than thirty (30) days and not more than one
8 hundred eighty (180) days for the following causes:

9 (1) Conviction in a court of competent jurisdiction of a violation of §57131 of
10 the Act.

11 (2) Failure to comply with two (2) warning notices issued by GEPA within a
12 two (2) year period.

13 **(e) Probable Revocation of Qualification/Certification, License or Permit.** A
14 qualification/certification card, license or permit issued pursuant to this Act or this
15 Chapter may be revoked for cause. Revocation *shall* be effectuated by a written
16 statement of the Administrator indicating the effective date of the revocation and causes
17 for such action. Possible causes include, but are not limited to, the following:

18 (1) Conviction in a court of competent jurisdiction of a violation of §57131 of
19 the Act.

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

21 (3) Falsification of any information required in the application process or
22 falsification of or failure to maintain records required by the Act and this
23 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)	Note: Effective January 1, 2010
2. Termite Soil Application	\$50 < 250 gal. of emulsion mix \$100 ≥ 250 gal. of emulsion mix	Each application
3. Fumigation Permit Fee	\$1,000	Per Year*
4. Chemigation Permit Fee	\$100	Per Permit
5. Pesticide Dealers License	\$250/Primary Sales Outlet \$50/Branch Sales Outlet	Expires Dec 31 (Each Year*)
6. Certification Cards	a. Cards \$15 b. Training \$100 (16 hours) c. Exam \$50 d. Replacement Cards \$10	3 Years*
7. Qualification Cards – (Basic & Core Training)	a. Cards \$15 (Core); \$15 for (Basic Training-A/B) b. Training \$75 (Core); \$35 (BT-B), \$15 (BT-A) c. Exam \$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 \$50 d. Replacement Cards \$10	Per Year*

*Annual fees are pro-rated

Substitute Bill No. 441-30 (COR)

APPENDIX 1

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