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Division III Chapter 15-22 GAR Division III  
Draft Pesticide Regulation Revisions

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PART I. GENERAL PROVISIONS

§15101. GENERAL PROVISIONS. Words used in the singular form in these regulations shall include the plural, and vice-versa, as the case may be.

§15102. TERMS DEFINED AND CONSTRUED. All terms used in these regulations shall have the meanings set forth for such terms in the Act. In addition, as used in this Section, the following terms shall have meanings stated below:

- 2.1. “Act” shall mean the revised Guam Pesticide Act of 10 GCA, Chapter 50, of Title X, Government Code of Guam.
- 2.2. “Agricultural Commodity Applicator” shall mean a person who applies pesticide on or around any Agricultural Commodity. {Agricultural Commodity is defined in the Act.}
- 2.3. “Agricultural Establishment” shall mean a farm, plant nursery, greenhouse or forest area.
- 2.4. “Agricultural Operator” shall mean any person such as a landowner, grower, lease holder or pesticide applicator who is responsible for management or condition of an agricultural establishment that hires or uses such persons. Agricultural operator includes any person who hires, contracts for or uses the services of any person (compensated or uncompensated) to perform activities related to the production of agricultural plants.
- 2.5. “Basic Training” shall mean a type of pesticide training for housekeeping workers.
- 2.6. “Body of Water” shall mean any surface water resource within the borders of Guam including, but not limited to lakes, rivers, streams, bays, lagoons, harbors, intertidal areas, wetlands and coastal ocean waters.

2.7. *“Certification”* shall mean that a person is authorized by Guam EPA to use or supervise the use of restricted use pesticides.

2.8. *“Certified Pesticide Sales Manager”* shall mean a person in charge of the sales of restricted use pesticides and who has successfully passed an examination of any category to qualify for that position.

2.9. *“Chemigation”* Shall mean application of pesticides through any type of irrigation system including any sprinkler, food, furrow, drip or greenhouse system.

2.10. *“Competent person”* shall mean being properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and the associated responsibility. A competent person must have successfully completed appropriate training and must have obtained the appropriate card from Guam EPA.

2.11. *“Dealer”* shall mean any person, company or corporation engaged in purchasing and selling pesticide products and devices.

2.12. *“Distributor”* shall mean any company other than a Dealer or Sales outlet that sells general use pesticide.

2.13. *“Guam EPA”* shall mean Guam Environmental Protection Agency.

2.14. *“Hazard”* shall mean a situation where there exists a possibility that a given pesticide will cause injury or have an adverse effect on the environment.

2.15. *“Handler”* shall mean anyone who uses, mixes or loads pesticides on an agricultural establishment, including but not limited to flaggers, those handling or cleaning application equipment, those performing soil incorporation, and those disposing of pesticides or pesticide containers.

2.16. *“Integrated Pest Management”* shall mean an ecologically based pest management strategy that provides long-term management of pest problems with minimum impact on human health, the environment and non-target organisms.

2.17. *“Keep Out of Reach of Children”* shall mean that children under the age of 18 shall not open or remove without parental supervision.

2.18. *“Owner”* shall mean any person who has present possessory interest (fee, leasehold, rental or other) in any type of operation that uses or sells or distributes pesticides.

2.19. *“Pest Control Operator or PCO”* shall mean a company that provides pest control activities for hire and that has obtained a PCO license from Guam EPA.

2.20. “*Pesticide Control Advisor or PCA*” shall mean a person who is engaged in the business of offering or supplying technical advice or supervision, inspecting for or identifying pests, or recommending the use of specific pesticides for the purpose of controlling pests.

2.21. “*Pheromone*” shall mean a compound produced by an arthropod which alone, or in combination with other such compounds, modifies the behavior of other individuals of the same species. They are considered pesticides and must comply with provisions of the Act and regulations unless exemptions are specifically noted.”

2.22. “*Program*” shall mean the Guam EPA Pesticide Enforcement Program.

2.23. “*Recertification*” shall mean to renew a certification by attending sixteen (16) hours of certification training or successfully passing the appropriate certification exam.

2.24. “*Respondent*” shall mean an alleged violator.

2.25. “*Restricted Use Pesticide or RUP*” shall mean a pesticide so designated by regulation under Section 3 (d) of FIFRA or as determined in writing by the Board to be unsafe for use by persons other than a certified applicator.

2.26. “*Sales Outlet*” shall mean a location where any pesticide is stored for sale or distribution, kept for sale or distribution, or is sold or distributed and where records of such sales and distribution are kept.

2.27. “*Substantially Affected Party*” shall mean a person who lives, works or will likely be present in areas where pesticides are stored as specified in Section 15.17 of this Regulation. In the case of distance to the nearest body of water, anyone on Guam is considered to be an affected party.

2.28. “*Treated Article*” shall mean an article or substance treated with or containing a pesticide to protect the integrity of the article or substance itself. Examples include paint treated with a pesticide to protect the paint coating, or wood products treated to protect the wood against insect or fungus infestation.

2.29. “*Under the direct supervision of a certified applicator*” shall mean that a restricted use pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of certified applicator who is required to be physically present on site and observing the application of pesticides at the time of application. The person supervising must be certified for the type of pesticide application he is directly supervising. The person that is being supervised must complete the Basic Training or Core Training prior to applying any pesticides.

2.30. “*Worker*” shall mean any person who is performing activities relating to the

production of agricultural plants on an agricultural establishment.

2.31. *“Worker Protection Standard (WPS) shall mean a regulation aimed at reducing the risk of pesticide poisoning and injuries among workers, handlers, family members, and volunteer workers who work in any farm, forest, greenhouse or nursery. Under Section V of these regulations, the WPS includes requirements for pesticide safety training, notification of pesticide applications, use of personal protection equipment, restricted-entry intervals after pesticide applications, decontamination supplies, and emergency medical assistance.*

#### §15103. ENFORCEMENT AUTHORITIES.

FIFRA is applicable to Guam. Under Section 50117 of the Guam Act and Section 23 of FIFRA, the Guam Environmental Protection Agency and the U.S. Environmental Protection Agency have entered into a Cooperative Agreement. Under this agreement, Guam EPA has primary enforcement responsibility for pesticide use violations. The Guam Pesticides Act and these regulations are intended to meet minimal requirements of FIFRA. If FIFRA conflicts with the Guam Pesticides Act or the Guam Pesticide Regulations, the more stringent requirement shall apply.

### PART II. PESTICIDE REGISTRATION AND SALE

§15104. LABEL REQUIRED. Every pesticide product sold and distributed in Guam must be registered with the USEPA and shall bear a label conforming to Section 50108 of the Act, applicable with FIFRA requirements, and current Rules and Regulations promulgated under FIFRA. All applicators must maintain the integrity of the original pesticide label, including readability and completeness.

§15105. COLORATION. Coloration standards shall meet the requirements of Section 50109 of the Act as well as applicable FIFRA requirements and Federal Rules and Regulations.

§15106. REGISTRATION. When the Administrator made a determination that there is a need, he may allow local registration of pesticides to meet special local needs as specified in Section 50106 of the Guam Pesticide Act and in compliance with the FIFRA Section 24(c) and 40 Code of Federal Regulations (CFR) Part 162. Any article or substance treated with an unregistered pesticide is itself considered a pesticide and must be registered with USEPA.

#### §15107. PHEROMONES, PESTICIDE TREATED FERTIZERS AND SEEDS.

7.1. Attractants such as pheromones are pesticides and are regulated under the Guam Pesticides Act and these regulations. Pheromones and identical or substantially similar compounds labeled for use only in pheromone traps and pheromone traps in which those compounds are the sole active ingredient are not required to be registered with USEPA. For the purposes of these regulations, in order to be exempt from the requirement to be registered with USEPA, a

synthetically produced pheromone must be identical to its natural counterpart so that their molecular structures are identical, or when the only differences between the molecular structures are between the stereochemical isomer ratios of the two compounds, except that a synthetic compound found to have toxicological properties significantly different from a pheromone is not identical the shipment. Any products claiming to attract pests, whether for experimental purposes or management of pest whether it is natural or chemically produced are considered pesticides.

7.2. Fertilizers and seeds treated with pesticides must follow all USEPA requirements.

#### §15108. ENFORCEMENT PROCEDURES.

8.1. All enforcement procedures shall comply with the Guam Administrative Adjudication Act (5 GCA Chapter 9).

8.2. Notice of Violation and Order of Compliance (NOV/OC). If, from an inspection, complaints, examination or analysis, a pesticide, device or treated article appears to be in violation of the Act or the Guam Pesticides Act or these Regulations, a written Notice of Violation and Order of Compliance shall be sent to the person against whom proceedings are contemplated, stating the violation, and giving the person thirty (30) calendar days to correct the violation. The NOV/OC shall state the manner in which the alleged violator failed to meet the requirements of the Act or these Regulations, and what should be done to correct the violation(s). When a violation has been alleged, and a NOV/OC has been issued, the respondent has the option of accepting the settlement agreement prepared in accordance with the requirements of this regulation or requesting a hearing with the Guam EPA Board of Directors.

8.3. Notice of Defense. A Notice of Defense shall be included with the NOV/OC, which will allow the recipient fifteen (15) calendar days to request a hearing by the Guam EPA Board of Directors. If the respondent wants to request a hearing with the Guam EPA Board of Directors, the respondent must complete a Notice of Defense form and submit it to the Guam EPA Board of Directors. The Notice must be received by the Guam EPA Board of Directors within fifteen (15) calendar days from the respondent's receipt of the NOV/OC. Once the Guam EPA Board receives the Notice of Defense, further action upon the case will be suspended until a Notice of Judgment has been issued by the Board.

8.4. Prosecution. Based on the Penalty Matrix specified in Table 2 of these Regulations, the Administrator may impose fines before a hearing is requested or before the violation (s) has been corrected. Enforcement actions based on the Penalty Matrix (Table 2) will include monetary fines based on Civil/Criminal Penalties and /or license suspension, revocation, non-renewal, and/or permit cancellation.

8.5. Voluntary Compliance Agreement (VCA). If the respondent wishes to resolve

the NOV/OC without going through a Guam EPA Board hearing, the respondent must contact the Guam EPA Pesticide Program within 10 days after Guam EPA informed the respondent of the potential violation to request a Voluntary Compliance Agreement. During the Voluntary Compliance Agreement meeting, Guam EPA will specify the rights of the respondent to request for a hearing with the Board. If, during the VCA meeting an agreement between Guam EPA and the respondent cannot be reached, the respondent can request a hearing with the Guam EPA Board by submitting a completed Notice of Defense form. If the respondent requests a Board hearing, Guam EPA will provide a Notice of Defense form for the respondent to complete and submit to the Guam EPA Board. The purpose of the Voluntary Compliance Agreement meeting is to provide an opportunity to resolve the NOV/OC without going through a Guam EPA Board hearing or referral to the Attorney General's Office.

8.6. Referral to USEPA. The Program may refer any case to USEPA for possible enforcement action even if an enforcement action has been issued against the violator based on the Guam Pesticide Act or these regulations.

**§15109. "STOP-SALE", "STOP USE", AND "REMOVAL FROM SALE" ORDERS.**

9.1. Whenever a pesticide, device or treated article is found by the Administrator or his designated agent and there is reason to believe that the pesticide, device, or treated article has been or is intended to be distributed, used, sold, stored or disposed of in violation of the Guam Pesticides Act or these regulations, the Administrator may:

9.1.1. Issue a written or printed order to stop the importation, distribution, sale, use, storage, or disposal, of the pesticide, device or treated article and to remove the pesticide, device or treated article in accordance with the Guam Pesticides Act or these regulations, and;

9.1.2. Seize the pesticides, device or treated articles.

9.2. Any pesticide, device or treated article seized hereunder shall, after entry of decree, be disposed of by destruction or sale as the Administrator directs. Proceeds, if sold, shall be paid to the Pesticide Management Fund, provided that the pesticide or device shall not be sold contrary to the provisions of this Chapter, and provided that upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be disposed of unlawfully, the Administrator may direct the pesticide or device to be delivered to the owner thereof.

9.3. When a decree of condemnation is entered against the pesticide, device, or treated article, court costs, fees, storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide, device or treated articles.

9.4. No person shall remove, deface or tamper with any “Stop-Sale” or “Removal from Sale” notices.

9.5. Nothing in these Regulations shall prevent the Agency from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means. Failure to comply with a Stop Sale, Stop Use or Removal from Sales Order will result in enforcement action by Guam EPA and will result in penalties. It shall be a criminal offense to violate a Stop Sale, Stop Use or Removal from Sale notice.

#### §15110. RESTRICTED USE PESTICIDE SALES OUTLET DEALERS LICENSE.

10.1. No person shall sell a restricted use pesticide unless such person has obtained a **dealer’s** license from GEPA which shall expire on December 31 of each year. A **dealer’s** license shall be required for each sales outlet located within **Guam**. Application for a license for each **primary** sales outlet and each branch shall be accompanied by an annual fee **as outlined in Section 15132 and Table One (1) of these Regulations**. The **dealer’s license issued by Guam EPA** shall be on a form prescribed by the Administrator and shall include name and address of applicant, location and address of principal and all branch sales outlet and names and **certified applicator’s number(s)** of the **certified** pesticide sales manager at each sales outlet.

10.2. **Each dealer** and sales outlet of restricted use pesticides shall have a Certified Pesticide Sales Manager (**CPSM**). The names of such qualified sales managers will be submitted together with the application for a **dealer’s** license for sales outlets. The Administrator **must be notified in writing by the sales outlet within fifteen (15) days of any change of personnel in this position by the owner of the company**.

10.3. Persons seeking to be **a CPSM shall be first certified by Guam EPA in any certification category**.

10.4. Every licensed **sales outlet owner** shall hold joint responsibility with his **CPSMS**. The **dealer’s license of the Sales Outlet and/or the pesticide certification sales managers** may be suspended or revoked **if found to be in violation of any provision of the Act or these Regulations**.

§15111. SALES OF RESTRICTED USE PESTICIDES. No restricted use pesticide shall be sold to a person who is not a certified applicator **on Guam**. All **RUP invoices must be signed by the CPSM at the time of each sale**.

### PART III. PESTICIDE USE, STORAGE, AND TRANSPORTATION

#### §15112. RECORDS AND REPORTS OF PESTICIDE SALE AND APPLICATION.

##### **Dealers**

12.1. Licensed dealers **and sales outlets** shall keep a monthly record of each sale

of any amount of restricted use pesticides and each sale of over one (1) gallon or one pound of any agricultural general use pesticides on forms prescribed by the Administrator. Dealers, sales outlets and must prepare sales records in duplicate and shall show the name and address of purchaser; certification number of purchaser; date that purchaser's certification expires; date of sale, USEPA Registration number(s) of RUPs sold; quantity of each RUP sold, brand name of each RUP sold ; and CPSM's signature.

12.2. The original copy of the monthly sales record required under Section 12.1 shall be submitted to the Administrator within five (5) working days after the end of each month and the duplicate copy shall be kept at the sales outlet or dealer location where the sales were made for a period of two (2) years.

#### Distributors

12.3. A distributor shall keep a monthly sales record of each sale of any agricultural general use pesticide that is over one gallon or one pound. The distributor's manager must prepare a sales records in duplicate and shall show the following information: name and address of purchaser: name and address of user: date of sale: EPA Registration number(s) of pesticide(s) sold: quantity of each pesticide sold: brand name of each pesticide sold; and sales manager's signature.

12.4. The original copy of the monthly sales record required under Section 12.3 shall be submitted to the Administrator within five (5) working days after the end of each month and the duplicate copy shall be kept at the sales outlet or dealer location where the sales were made for a period of two (2) years.

#### Applicators

12.5. Record keeping is required for all applicators who apply any amount of restricted use pesticides and record keeping is required if the applicator applies more than one gallon or one pound of any agricultural general use pesticides of any type per month.

12.6. Applicators shall keep and maintain for the period of at least two (2) years routine operational records containing information: Name and Address of the person who applied the pesticide(s); certification number of applicator; date that applicator's certification expires; name and address of the person, company or corporation for whom the pesticide was applied; registration number of pesticide(s); location of pesticide application; target pests; target site (such as specific crop or commodity, residence, school, etc.); date and time of application; method of application; Trade name and EPA registration number of the pesticide(s) applied; rate of pesticide used; and where or how any rinsate, remaining pesticide and the pesticide container is stored or disposed of. Any applicator who is hired to apply pesticide must prepare and keep a copy of application records and provide a duplicate copy to the site owner.

### §15113. STORAGE, DISPLAY, AND SALES OF PESTICIDES.

All Pesticides dealers, distributors, sales outlets, pest control operators described under Sections 15112.1, 15112.3 and 15112.3 must store pesticides in the following manner:

13.1. No pesticide, empty pesticide container or parts thereof, or equipment that holds or has held a pesticide shall be stored, displayed, placed for sale, transported or left unattended under conditions where food and food containers, animal feed or any other products are likely to become contaminated or in a manner or place where any pesticide, empty pesticide container or parts thereof, or equipment that holds or has held a pesticide may create a hazard or cause injury to humans, vegetation, crops, live-stock, wildlife, beneficial insects and aquatic life.

13.2. Pesticides must be stored in a locked cabinet in a well-ventilated utility area or garden shed.

13.3. Pesticide storage areas must be posted with a warning sign that states:

Danger;

Poison storage area;

All Unauthorized Persons Keep Out

Keep Door Locked When Not In Use

13.4. Pesticides must be stored in a cool and dry place.

13.5. Pesticides must not be stored in places where flooding is possible or in places where pesticides might spill or leak into wells, drains, groundwater, or any body of water.

13.6. Pesticide storage areas should not be used as food or drink preparation or eating areas.

13.7. Pesticides must not be stored near food, feed, drink or seeds.

13.8. Pesticides must be stored, displayed, placed for sale and transported so that they are out of reach of children and pets.

13.9. Pesticides must not be stored near flammable liquids or solids or near a source of ignition such a furnace, a car, an outdoor grill, or a power lawn power.

13.10. Pesticides must be stored in their original containers with the complete original label, which includes but is not limited to the ingredient statement, directions for use, personal protective equipment and first aid steps in case of accidental poisoning.

13.11. Pesticides must not be transferred to any container including but not limited to soft drink bottles or other food or drink containers, other than proper application equipment.

#### §15114. DISPOSAL OF UNWANTED PESTICIDES AND EMPTY CONTAINERS AND MANAGEMENT OF EMPTY CONTAINERS.

14.1. Disposal of Empty Containers. Pesticides, emptied containers or parts thereof, or equipment that holds or has held a pesticide, shall not be handled, emptied, disposed of, or left unattended in such a manner or at any place where they may present a hazard to persons, animals (including bees), food, feed, crops or property. Empty pesticide containers must be triple rinsed and punctured to render useless. To dispose of any pesticide container that cannot be triple rinsed and punctured, the user must follow directions on the container's pesticide label. Some pesticides are considered hazardous wastes; it may be a violation of FIFRA and/or RCRA to dispose of a pesticide or pesticide container in a landfill that is not approved for hazardous waste.

#### §15115. TRANSPORTATION OF PESTICIDES ON GUAM HIGHWAYS.

15.1. All pesticide applicators who apply pesticides for a fee or as a service or dealers engaged in pesticide activities must have a company logo, readily recognizable to the public on all vehicles that carry pesticides or pesticide equipment. Vehicles that are used to transport pesticide equipment such as but not limited to service containers, power sprayers and hand sprayers must not be used for transporting human passengers in the back bed at any time.

#### §15116. RESTRICTED USE PESTICIDES.

16.1. In addition to USEPA's classification of Restricted Use Pesticides, the Administrator has the authority to classify a general use pesticide as a restricted use pesticide in Guam. Prior to classifying a general use pesticide as a restricted use pesticide, Guam EPA will review available data regarding the pesticide's potential to harm human health and the environment in Guam.

16.2. All chlorine gas used as a pesticide (including but not limited to, chlorine gas that has an USEPA registration number and establishment number) is considered a restricted use pesticide on Guam. Before applying chlorine gas for pest control activities, applicators must obtain and have current certification in Public Health or Category Eight (8) or be under the direct supervision of an applicator with a current certification in Category eight (8).

16.3. If the label for a general use pesticide states or has related statements indicating that the applicator must be licensed, certified, or trained, the applicator must be certified by Guam EPA in the category most related to the pesticide use prior to the use of the pesticide.

### PART IV. APPLICATORS TRAINING REQUIREMENTS

Core Training, Basic Training and Certification may be offered by the University of Guam, by Guam EPA or Guam by a Guam EPA approved training provider. Core Training must be renewed every five years by completing sixteen (16) hours of classroom training and successfully passing the exam. Basic training must be renewed every five (5) years by completing four (4) hours of Basic Training and successfully passing the exam. Certification must be renewed every three years by completing sixteen (16) hours of classroom training and successfully passing the appropriate exam. Refer to Section 15120 for training exemptions.

Applicants may obtain a training card by only successfully passing the appropriate exam.

#### §15117. BASIC, CORE, AND CERTIFICATION TRAINING

17.1. Core Training General Information. Farmers, business owners, and persons who apply any pesticide, as part of their occupational duties except housekeepers, and swimming pool operators and water operators as described in 17.2 of this section must complete all requirements as specified in Section 50107 (d) of the Act.

17.2. Basic Training – Housekeeping Category. Paid housekeeping workers, including but not limited to swimming pool operators, water operators, cleaners and janitors in a hotel, hospital, apartment complexes or condominium complexes, nursing homes, or other non-private residences who apply general use antibacterial, antimicrobials, antifungals, disinfectants and other pesticides must take the Basic Training-Housekeeping Category. Applicants in this category must take four (4) hours of classroom training and pass an open-book exam.

17.3. Certification for use of Restricted Use Pesticides and Categories of Applicators:

Satisfactory completion of Core Training is required as a prerequisite for all categories of restricted use pesticides that are classified as such by U.S. EPA or Guam EPA.

17.4. Qualifications for Core Training, Basic Training or Certification Instructors:

17.4.1. To conduct a Train-the-Trainer course for Basic Training – Housekeeping, the qualification requirements are:

- 1). Two (2) Letters of Recommendation from a University, Pesticide Company or an environmental or public health regulatory agency; and
- 2) A training plan that has been approved in writing by Guam EPA.

17.4.2. To conduct Basic Training – Housekeeping, the qualification requirements are:

- 1) Successfully complete a Guam-EPA approved Train-the-Trainer course and any required exam for the course; and
- 2) A training plan that has been approved in writing by Guam EPA.

- 3) Knows the material to be taught
- 4) Able to teach and be understood

17.4.3 To conduct Core and Certification Training, the qualification requirements are:

- 1) Hold a current restricted use pesticide certification in the category to be taught.
- 2) A training plan that has been approved in writing by Guam EPA.
- 3) Knows the material and
- 4) Able to teach and be understood

17.4.4. The training plan at a minimum must include:

- 1) Name(s) and addresses of all instructors;
- 2) A description of the training provider's qualifications and experience;
- 3) The type of training to be provided (core, basic or certification);
- 4) A description of topics to be covered;
- 5) A copy of the training agenda;
- 6) A description of the target audience;
- 7) How the trainer will ensure that the training is provided in a manner and language that the target audience will understand;
- 8) When, where and how often the training will be conducted;
- 9) How the exam will be administered and graded;
- 10) How the training will incorporate the different related legal requirements; and Guam specific challenges and needs.

17.4.5. Guam EPA Administrator will revoke the Pesticide Training License as required in Section 15126.3 of these regulations if the provisions of the training plan are not met or he or she mis-represents his or her qualifications.

17.4.5. Training offered by the University of Guam is based on a Memorandum of Understanding with Guam EPA which will specify the Certification and Training procedures for different trainings to be offered. UOG may utilize its qualified staff or contract a private trainer to offer the training. The qualification of the private contractor will follow the requirements as specified in 17.4.2.

17.4.6 Training courses provided by other instructors can satisfy training requirements only if the instructor's qualifications and curriculum are approved in advance in writing by Guam EPA. Business organizations and private groups may provide their employees with Basic Training – Housekeeping provided that the trainers have completed a Guam-EPA approved Train-The Trainer workshop.

The following categories, procedures, conditions and standards for certification shall apply.

17.5. Restricted Use Pesticide certification shall be categorized based on the following numbering system:

- (1) Agricultural pest control
  - (a) Plant
  - (b) Animal
- (2) Forest pest control
- (3) Ornamental & turf pest control
- (4) Seed treatment
- (5) Aquatic pest control
- (6) Right-of-Way pest control
- (7) Industrial, institutional, structural and health related pest control
  - (7a) Fumigation
- (8) Public health pest control
- (9) Regulatory pest control
- (10) Demonstration and research pest control

#### 17.6.1. Class I. Commercial Applicators

##### Categories

Persons **applying or supervising** the use of restricted use pesticides in pest control work, demonstration work or similar pest control activity **must be certified in the appropriate category or categories as follows:**

##### (1) Agricultural Pest Control.

(a) Plant: This category includes commercial and applicators using or supervising the use of restricted use pesticides in production of agricultural crops, including without limiting the foregoing, vegetables, **fruit** trees and nuts, as well as on grasslands and non-crop agricultural lands.

(b) Animal: This category includes commercial applicators **using** or supervising the use of restricted use pesticides on animals, including without limiting the foregoing, beef cattle, dairy cattle, swine, sheep, horse, goats, poultry, and livestock, and to places on or in which animals are confined. Doctors of Veterinary Medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large scale use of pesticides are included in this category.

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

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

(4) **Seed Treatment.** This category includes commercial applicators using or supervising the use of restricted pesticides on seeds.

(5) **Aquatic Pest Control.** This category includes commercial applicators using or supervising the use of any restricted use pesticide purposefully applied to standing or running water; the territorial sea; and bays and harbors of Guam, excluding applicators engaged in public health activities included in **category (8)**.

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

(7) **Industrial, Institutional, Structural and Health Related Pest Control.** This category includes commercial applicators using or supervising the use of restricted use pesticides in, on, or around food handling establishments, human dwellings, institutions such as schools and hospitals, industrial establishments, including warehouses and grain elevators, and any other structures and adjacent areas, public or private; and for the protection of stored, processed, or manufactured products. **Category seven (7) is also required for all employees who work with chlorine gas that is used for water treatments.**

**7(a) Fumigations.** This category is for applicants who apply fumigants to non-agricultural and agricultural sites including but not limited to farm land, buildings, boats, and shipping containers. In addition to being certified, applicators of fumigants must obtain a Fumigation Permit per Section 15129 of these regulations prior to any application of any fumigants.

(8) **Public Health Pest Control.** Guam or Federal employees using or supervising the use of restricted use pesticides in public health programs for the management and control of pests having medical and public health importance.

(9) **Regulatory Pest Control.** This category includes Territory of Guam, Federal or other governmental employees who use or supervise the use of restricted use pesticides in the control of regulated pests.

(10) **Demonstration and Research Pest Control.** This category allows a person to use or supervise the use of a restricted use pesticide when demonstrating proper application techniques or conducting field research. This category is not required of applicators who demonstrate proper techniques provided they hold all specific categories covering the type of pest control being performed.

## 17.6.2. Class II. Private Applicators

This class includes persons using or supervising the use of restricted use pesticides for the purpose of producing any agricultural commodity on property owned or rented by him or his employer, or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

## 17.7. Standards for Certification of Commercial Applicators

### 17.7.1. Determination of Competency

Competence in the use and handling of pesticides shall be determined on the basis of written examinations, and, as required by the Administrator, performance testing based upon standards set forth below and that which are approved by the Administrator. Such examination and testing shall include the general standards applicable to all categories for each category or subcategory (if any) in which an applicator is to be classified, and to the pesticide or class of pesticides covered by the person's certification.

### 17.7.2. General Standards for all Categories of Certified Commercial Applicators

All commercial applicators shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides. Testing shall be based on examples of problems and situations appropriate to the particular category or subcategory of the applicator's certification and the following areas of competency:

- (1) Label and labeling comprehension.
  - (a) The applicant must demonstrate knowledge of the general format of labels and terminology that are use on pesticide labels and labeling.
  - (b) The applicant must have understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels; the format for this section needs to be revisited.
  - (c) The applicant must have knowledge of Classification of the product, general or restricted; and
- (2) Safety. Factors including:
  - (a) The applicant must have knowledge of Pesticide toxicity and hazard to man and common exposure routes;
  - (b) Common types and causes of pesticides accidents;
  - (c) The applicant must have knowledge of Precautions necessary to guard against injury to applicators and other individuals in or near treated areas;
  - (d) The applicant must have knowledge of Need for and use of protective clothing and equipment;
  - (e) The applicant must have knowledge of symptoms of pesticide poisoning;

- (f) The applicant must have knowledge of First Aid and other procedures to be followed in case of a pesticide accident; and
  - (g) The applicant must have knowledge of proper identification, storage, transport, handling, mixing procedures and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticides and pesticide containers.
- (3) The applicant must have knowledge of the potential environmental consequences of the use and misuse of pesticides as may be influenced by such factors as:
- (a) Weather and other climatic conditions;
  - (b) Types of terrain, soil or other substrate;
  - (c) Presence of fish, wildlife and other non-target organisms; and
  - (d) Drainage patterns.
- (4) The applicant must have knowledge of Pests. Factors such as:
- (a) Common features of pest organisms and characteristics of damage needed for pest recognition;
  - (b) Recognition of relevant pests; and
  - (c) Pest development and biology as it may be relevant to problem identification and control.
- (5) The applicant must have knowledge of Pesticides factors such as:
- (a) Types of pesticides;
  - (b) Types of formulations;
  - (c) Compatibility, synergism, persistence and animal and plant toxicity of the formulations;
  - (d) Hazards and residues associated with use;
  - (e) Factors which influence effectiveness or lead to such problems as resistance to pesticides; and
  - (f) Dilution procedures, including **calculations to achieve correct application rate.**
- (6) The applicant must have knowledge of Equipment. Factors including:
- (a) Types of equipment and advantages and limitations of each type; and
  - (b) Uses, maintenance and calibration.
- (7) Application techniques. Factors including:
- (a) The applicant must have knowledge of **Methods and** procedure used to apply various formulations of pesticides, solutions, and gases, together with knowledge of which technique of application to use in a given situation;
  - (b) Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse; and
  - (c) Prevention of drift and pesticide loss into the environment.
- (8) The applicant must have knowledge of **applicable** Territorial and Federal

laws and regulations.

## 17.8. Specific Standards of Competency for Commercial Applicators.

Applicators should demonstrate additional competence and knowledge appropriate to their particular category of certification.

### A. Agricultural Pest Control (Category 1)

(1) Plant (Category 1(a)): Applicators must demonstrate practical knowledge of the crops grown and the specific pests on these crops on which they may be using **RUPs**. An operational knowledge is needed concerning soil and water problems, pre-harvest intervals, re-entry intervals, phytotoxicity, and potential for environmental contamination, non-target injury and community problems from the use of restricted use pesticides in agricultural areas.

(2) Animal (Category 1(b)): Persons applying pesticides directly to animals must demonstrate knowledge of such animals and their associated pests. Special understanding is needed concerning pesticide toxicity to host animals and the hazards associated with such factors as formulation application techniques, age of animals, streets and extent of treatment.

### B. Forest Pest Control (Category 2)

Applicators should demonstrate practical knowledge of the extent and types of forests, forests nurseries, and seed production in this Territory and the pests involved. They should demonstrate practical knowledge of the cyclic occurrence of certain pests, population dynamics, and the impact of biotic agents and their vulnerability to pesticide application. Because forest stands frequently include aquatic situations and harbor wildlife, the applicators must demonstrate knowledge of control methods **that** will minimize the possibility of secondary problems. Proper use of specialized equipment must be demonstrated, especially as it may relate to meteorological factors and adjacent land use.

### C. Ornamental and Turf Pest Control (Category 3)

Applicators should demonstrate practical knowledge of problems associated with the production and maintenance of ornamental trees, shrubs, plantings, and turf, including cognizance of potential phytotoxicity, drift, and persistence beyond the intended period of pest control. They must demonstrate practical knowledge of the hazards to humans, pets, and other domestic animals associated with the **RUPs** utilized in this category.

### D. Seed Treatment (Category 4)

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

#### E. Aquatic Pest Control (Category 5)

Applicators shall demonstrate practical knowledge of the secondary effects which can be caused by improper application rates, incorrect formulations, and faulty application of restricted use pesticides used in this category. They shall demonstrate practical knowledge of various water use situations and the potential of downstream effects. Further, they must have practical knowledge concerning potential pesticide effects on plants, fish, birds, beneficial insects and other organisms which may be present in aquatic environments. These applicators shall demonstrate practical knowledge of the principles of limited area application.

#### F. Right-of-way Pest Control (Category 6)

Applicators should demonstrate practical knowledge of wide variety of environments since rights-of-ways can traverse many different terrains, including waterways. They should demonstrate thorough knowledge of the problems of runoff, drift, and excessive foliage destruction and should be able to immediately identify target organism. They should demonstrate practical knowledge of the nature of herbicides. Aerial applicators doing right-of-way work should demonstrate practical knowledge of application equipment, contaminant of the pesticide within the right-of-way area, and special drift control methods and procedures.

#### G. Industrial, Institutional, Structural and Public Health Related Pest Control (Category 7)

Depending on the subdivisions of this Category, specific requirements may vary. In general, applicators must demonstrate practical knowledge of a variety of pests including their life cycles, as well as types of formulations appropriate for their control and methods of application that avoid contamination of food and habitation and do not cause hazards to children and pets. Since human exposure is frequently a potential problem, applicators must demonstrate practical knowledge of the toxicity of the pesticides used and factors that may constitute a hazard.

Because public health related pest control generally involves outdoor applications, applicators in this category must demonstrate practical knowledge of environmental conditions particularly related to their sub classification.

Applicators must demonstrate practical knowledge of core requirements covering fumigant and fumigation use laws and regulations, the basic principles of fumigant use, of handler and worker safety requirements especially pesticide safety training, preventing heat-related illnesses, of fumigant labels, how to interpret and follow label directions and requirements. Applicators must demonstrate practical knowledge of the hazards associated with fumigant use and preventing human exposure, environmental contamination, off-site movement/drift, and phytotoxicity, of safe fumigant handling practices, proper PPE selection, use, and care, and responding to fumigant emergencies. Applicators must demonstrate practical knowledge of proper fumigant application procedures, selecting and using appropriate application equipment and its calibration, and of hazards and safe use practices.

#### H. Public Health Pest Control (Category 8)

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

#### I. Regulatory Pest Control (Category 9)

Applicators shall demonstrate practical knowledge of applicable laws, safety, regulated pests, pesticides and the impact of restricted use introduction, spread, and population dynamics of relevant pests. Applicators shall demonstrate practical knowledge over and above that required by their immediate duties since emergency measures are frequently required and individual judgments in new situations must be made.

#### J. Demonstration and Research Pest Control (Category 10)

Persons demonstrating the safe and effective use of pesticides to other applicators and the public will be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problems situations will be encountered in the course of activities associated with demonstration, and practical knowledge of problems, pests, and population levels occurring in each demonstration situation is required. Further, they should demonstrate an understanding of a pesticide-organism interactions and the importance of integrating pesticide use with other control methods. In general, it would be expected that applicators doing demonstration pest control work possess a practical knowledge of all of the standards detailed in 17.7.2. In addition, they shall meet the specific standards required for paragraphs 17.8 (A) through (I) of this section as may be applicable to their particular activity.

Persons conducting field research or method improvement work with restricted use pesticides should be expected to know the general standards detailed in 17.2.2. In addition, they shall be expected to know the specific standards required for paragraphs 17.8 (A) through (I) of this section, applicable to their particular activity, or alternatively, to meet the more inclusive requirements listed under "Demonstration."

The above standards do not apply to the following persons for purposes of these regulations. (1) Persons conducting laboratory type research involving restricted use pesticides; and (2) Doctors of Medicine and Doctors of Veterinary Medicine applying pesticides as drugs or medication during the course of their normal practice.

#### 17.9. Standards for Certification of Private Applicators.

Competence in the use and handling of pesticides by a private applicator will be

determined by **the** procedures set forth below. As a minimum requirement for certification, a private applicator must show that s/he possesses a practical knowledge of the pest problems and pest control practices associated with his agricultural operations or other uses; proper storage, use, handling and disposal of the pesticides and containers; and his related legal responsibility. The practical knowledge includes ability to:

(1) Recognize common pests to be controlled and damage caused by them.

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

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

(4) Recognize local environmental situations that must be considered during application to avoid contamination.

(5) Recognize poisoning symptoms and procedures to follow in case of pesticide accident.

(6) Be aware of sources of advice and guidance necessary for the safe and proper use of each pesticide related to his certification.

17.10. Certification of private applicators. Applications for certification as a private applicator shall be on forms prescribed by the Administrator. To qualify, applicants must pass an examination based on standards contained in 18.3.

17.11. Standards for Supervision of Non-Certified Applicators by Certified Private and Commercial Applicators.

(1) Certified applicators whose activities indicate a supervising role must demonstrate a practical knowledge of **Guam Pesticide Act and Regulations**.

(2) **The supervisor of a non-certified applicator who is applying a restricted use pesticide must ensure that the non-certified applicator is a competent person who follows his instructions. In addition, the supervisor is required to be physically present on site observing the application of the pesticide at the time of application. The supervisor must be certified in the appropriate category for the type of application his directly supervising. The non-certified applicator must complete the Core Training prior to being supervised to apply any restricted use**

pesticide.

§15118. CONDITIONS AND LIMITATIONS ON APPLICATION OF RESTRICTED USE PESTICIDES BY AIRCRAFT; **CONDITION OF APPLICATION EQUIPMENT**

18.1. No person shall apply restricted use pesticides by aircraft unless specifically permitted by the accepted USEPA label and by special permit issued **in writing** by the Administrator.

18.2. **To request an aerial application of a pesticide, the applicant must provide a written statement with Guam EPA.**

**18.2.1** The written statement shall include date, name, address and certification number of applicant, purpose of aerial treatment, **pesticide registration number**, pesticide formulation, dosage, method of aerial treatment and the proposed number of treatments to be made. **The applicant must describe why an aerial application is desired and describe attempts to control the subject pest by other application methods and the results of those efforts.** A sketch or map to indicate general wind directions, proposed site(s) to be treated, surrounding homes, roadways, **bodies of water** and crop plantings **within five hundred feet of the application site** shall be submitted together with the written statement.

**18.3.** Upon receipt of the written statement and other information deemed necessary by the Administrator, the Administrator may refuse to issue a Special Permit if **he or she** determines that the proposed aerial treatment may cause unreasonable adverse effects to **human health or the** environment.

**18.4.** A Special Permit issued under **18.1** shall specify the time period for which the special permit is valid. The Administrator may specify and limit **Special Permits** to cover a single treatment or to permit multiple and continued treatments when conditions are not expected to change or vary during subsequent treatments that are conducted in the same designated area or areas.

**18.5.** Any Special Permit issued under **these Regulations** may be cancelled by the Administrator before its stated expiration date for reasonable cause. Such cancellation shall be in writing and reasons for cancellation stated.

**18.6.** If a **Special Permit is issued, the applicator shall notify the** Administrator at least three (3) days in advance of any aerial pesticide **application** except in an emergency, a notice of at least twenty-four (24) hours **shall** be given before **an aerial application** is made.

**18.7.** The issuance of a Special Permit to apply a restricted use pesticide by aircraft under this **Section** shall not relieve the permittee from the penalty provisions of the Act or any litigation for any damage or contamination of crops or plants, animals, man and the environment resulting from such aerial treatment.

## 18.8 Pesticide Application Equipment Safety and Maintenance

18.8.1 Spray equipment on aircraft shall be leak-proof. Spray nozzles shall be equipped with a device to prevent dribble when spray is turned off.

18.8.2 Flexible hoses carrying liquid pesticides under pressure shall not pass unshielded through the cockpit of an airplane or helicopter.

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

18.8.4 Power rigs, mist blowers, boom sprayers and other pesticide application equipment shall be in good working order with no leaks along the pesticide material flow

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

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

## §15119. POSTING OF SIGNS IN AREAS TREATED WITH PESTICIDES.

19.1. Areas treated with RUPs: One hour prior to any restricted use pesticide application, the owner of the property and applicator shall assure that warning signs are posted in all entrances leading to the application site. Signs must be placed within fifty (50) feet of all entrances leading to the application site. The signs must read: "CAUTION: RESTRICTED PESTICIDE APPLICATION AREA." The sign must stay in place for the duration of any label mandated re-entry and be removed no later than 24 hours after the re-entry interval has expired. In the event that the pesticide label does not specify when re-entry to the site is permitted, applicators must leave the sign(s) in place for at least one hour after and no longer than 24 hours after the pesticide application is completed.

19.2. Public Right of Way or Roadside Application. One hour prior to any pesticide application on or at a roadside, the owner or manager of the pesticide company shall assure that warning signs are posted at least one hour prior to the pesticide application. Signs must be placed at all entrances leading to the application site or every 50 feet around the application site. The signs must read: "CAUTION: PESTICIDE APPLICATION IN PROGRESS." The sign must stay in place for the duration of any label mandated re-entry and be removed no later than 24 hours after the re-entry interval has expired. In the event that the pesticide label does not

specify when re-entry to the site is permitted, applicators must leave the sign(s) in place for at least one hour after and no longer than 24 hours after the pesticide application is completed.

## §15120. ELIGIBILITY, DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATES.

20.1. Applicants applying for a Core Training, Basic Training and Certification Training must be at least 18 years of age.

20.2 Applicants wishing to obtain a certification in any Category, Core Training or Basic Training Identification Card must pass a written exam with a score of at least Seventy Percent (70%).

20.3 Denial-An application for any certificate issued pursuant to this Act or any regulation promulgated there under may be denied by the Administrator as provided in Section 50104 of the Act, for the following causes:

20.3.1. Falsification of any information required in the application process.

20.3.2. Falsification of or failure to maintain records required by the Act and the regulations promulgated pursuant thereto.

20.3.3. Conviction in a court of competent jurisdiction within a five (5) year period immediately preceding the date of application of any violation of the Act or rules and regulations promulgated pursuant thereto.

20.3.4. Failure to comply with any Administrative Order made pursuant to the Act and rules and regulations promulgated pursuant thereto.

20.3.5. A suspension of applicants certification under this Act and the rules and regulations promulgated pursuant thereto within a five (5) year period immediately preceding the date of application.

20.3.6. Misuse of a pesticide as defined by the Act and regulations promulgated pursuant thereto.

20.3.7. An application for any certificate issued pursuant to the Pesticide Act or these regulations shall be denied by the Administrator as provided for the following:

20.3.7.1. Applicant has been convicted in a court of competent jurisdiction within a five (5) year period immediately preceding the date of the application of two (2) or more violations of the Act or rules and regulations promulgated pursuant thereto or of the Federal insecticide, Fungicide, and Rodenticide Act as amended, or the rules and regulations promulgated pursuant thereto.

20.3.7.2. Two or more suspensions of applicants certification under **the Act and these regulations** promulgated pursuant thereto within a five (5) year period immediately preceding the date of application.

20.4. Revocation of applicants certification under this Act and the rules and regulations promulgated pursuant thereto within a one (1) year period immediately preceding the date of application.

20.5. A certification issued pursuant to this Act or any regulation promulgated hereunder may be suspended pursuant to Section 50116 of the Act for the following causes:

20.5.1. Falsification of any information required in the application process or falsification of or failure to maintain records required by the Act and the regulations promulgated hereunder.

20.5.2. Misuse of a pesticide as defined by the Act and regulations promulgated pursuant thereto.

20.5.3. A certificate issued pursuant to this Act or any regulation promulgated hereunder shall be suspended for not less than thirty (30) days and not more than one hundred-eighty (180) days for the following causes:

#### 20.6. Examinations in Lieu of Training

In certain situations described in this paragraph, applicants can become certified for any category and Core Training by passing the appropriate exam without attending a classroom training provided that UOG or Guam EPA is able to provide the testing materials and staff. In addition, if Guam EPA and UOG anticipate that there will be no training on Guam for a specific certification category within the next six (6) months, applicants will only be required to pass the applicable certification exam.

### PART V. IMPORTED PESTICIDES AND DEVICES

#### §15121. NOTICE OF ARRIVAL OF PESTICIDES AND DEVICES.

21.1. Any person (or importer or agent on his behalf) desiring to import pesticides, or devices into Guam regardless of origin, type and quantity of pesticide shall submit to the Administrator a completed Notice of Arrival (Form number 81-03N), hereinafter referred to as a Notice of Arrival (NOA), no later than ten (10) days prior to the arrival of shipment in Guam. The Administrator or his designated representative shall complete the Notice of Arrival, indicating the disposition to be made of the shipment of pesticides, or devices.

21.2. A Notice of Arrival Form will be used for every shipment or package of pesticides and devices. Additional information on pesticides and devices to be imported may be attached to the NOA form (Form 81-03N). Importers who apply

for a NOA for the first time for a specific pesticide or device must also provide respective labels for each pesticide or device. Importers will pay a fee based on Table 1 of these regulations.

#### §15122. ARRIVAL OF SHIPMENT.

22.1. Notice of Arrival Presented – Upon the arrival of a shipment of pesticides or devices the importer or his agent shall present to the Guam “Customs Official”. At the port of entry, the Notice of Arrival completed by the Administrator and indicating the Custom’s Official’s Action to be taken with respect to the shipment. The Customs Official Officer shall compare entry documents for the shipment of pesticides or devices with the Notice of Arrival and notify the Administrator of any discrepancies.

22.2. Notice of Arrival Not Presented – When the shipment of pesticides and/or devices arrives into Guam without the presentation by the importer or his agent of the Notice of Arrival completed by the Administrator, the shipment shall be refused entry by Guam Customs Official as required by Section 50114 of the Act. The Pesticide or Device will be detained by the Customs Official at the importer’s risk and expense until the completed Notice of Arrival is presented or until other disposition is ordered by the Administrator, but not to exceed fifteen (15) days, or such extended period, as the Customs Official may authorize. Guam EPA will issue penalties for shipments without NOAs.

22.3. Disposition of Pesticides or Devices Remaining Under Detention. A shipment of pesticides and/or devices that remains detained or undisputed due to failure of the importer or agent to present a completed Notice of Arrival or non-receipt of an Order of the Administrator as to its disposition shall be refused delivery and treated as prohibited importation. The Administrator will issue a NOV/OC with Administrative Fines.

§15123. RELEASE OF SHIPMENT OR REFUSAL OF DELIVERY. If the completed Notice of Arrival directs the Custom Official to release the shipment of pesticides and/or devices, the shipment shall be released to the importer, agent or Consignee. If the completed Notice of Arrival directs the Custom Official to refuse delivery of the shipment, the shipment shall be refused delivery and treated as prohibited importation. The Custom Official shall notify the importer or his agent of the exportation of the shipment refused entry within twenty (20) days. If a shipment of pesticides or devices is refused entry into Guam by Guam EPA, the shipment can be detained at the broker’s storage area pending exportation to the country of origin. However, the shipment shall not be used, sold or distributed or otherwise disposed of until the shipment can be released for exportation. All expenses for the handling and storage of pesticides and devices refused entry into Guam shall be at the risk and expense of the importer.

§15124. SAMPLES. Upon the request of the Administrator, either on the completed Notice of Arrival or otherwise in a written request, the Custom Official shall allow the

Administrator to collect samples from a shipment of pesticides or devices or treated articles. If the sample is found to be in compliance with the Act, the Administrator shall notify the Custom Official in writing that the shipment may be released to the importer, agent or Consignee. If upon the examination or analysis of a sample from a shipment of pesticide and devices or treated article, the sample demonstrates that there is a violation of the Act or these regulations, the importer shall be notified promptly by the Administrator and be provided with an opportunity to introduce testimony, to show cause why the shipment should not be refused entry. If after consideration of all the evidence presented, it is still the opinion of the Administrator that the shipment is still in violation of the Act or these regulations; the Administrator shall notify the Customs Official that the shipment shall be refused entry and treated as a prohibited importation.

## PART VI. WORKER PROTECTION STANDARDS (WPS) REQUIREMENTS

All agricultural operators who have workers and handlers who work on a farm, a plant nursery, green house or forest where a pesticide has been applied within the past thirty (30) days must follow the Worker Protection Standard (WPS) requirements as described at 40 CFR, Part 170. Under Guam Regulations the WPS Requirements also apply to family members, friends, and volunteer workers even if they are not compensated for their work.

The following are exceptions to 40 CFR are described below:

### §15125. WORKER PROTECTION STANDARDS (WPS).

25.1 If a pesticide has been applied within the past thirty (30) days, agricultural operators must ensure that all workers and handlers (as defined in Part I) have received WPS training before starting work on their agricultural establishment(s).

25.2. If a pesticide has been applied within the past thirty (30) days, agricultural operators must ensure that all workers, handlers, family members, friends and volunteer workers on their agricultural establishment(s) have received WPS training as described at 40 CFR 120.130 for workers and 120.230 for handlers within the last three (3) years.

25.3. Agricultural operators must prepare and retain the following records for each worker and handler (as defined in Part I), on their agricultural establishment(s) who has been trained.

25.3.1. Name and signature of each trainee

25.3.2 Type of training (worker or handler)

25.3.3. Date and location of training

25.3.4 Name and qualification of trainer

## PART VII. LICENSES, PERMITS, AND FEES REQUIREMENTS

Every person who applies pesticides for hire must follow the requirements stated in Section 50107 of the Act and must at minimum follow the following permits and license requirements.

### §15126. SPECIAL LICENSES.

26.1. Pest Control Operator (PCO) License – All pesticide companies doing Structural Pest Control in or around residential and commercial buildings including, but not limited to, schools, hospitals, day care centers, and nursing homes shall obtain a PCO License from Guam prior to conducting any structural pest control.

26.2. Pesticide Control Advisor (PCA) License– A Pest Control Advisor (PCA) license is required if a person is engaged in the business of offering or supplying technical advice or supervision, inspecting for or identifying pests, or recommending the use of specific pesticides for the purpose of controlling pests. The requirements and procedures for obtaining and maintaining a pest consultant business license and certificate are: (1) The licensing and certification is from January 1<sup>st</sup> through December 31<sup>st</sup> of each year; (2) A pest control consultant must be certified in the categories of pesticides s/he is recommending.

26.3. Pesticide Training License (PTL)-Any individual or company that provides Basic Training, Core Training and Certification Training must obtain a PTL license in addition to the requirements stated in Section 50117.4 of these regulations prior to any pesticide training.

### §15127. STORAGE PERMIT.

27.1. Permit Requirement – All pesticide companies, golf courses, dealers, sales outlets, farmers, and private owners that store a combined amount of over twenty (20) pounds/gallons of general use pesticides or over five (5) gallons/pounds of Restricted Use Pesticides for a period of at least ten (10) days continuously must apply for a Pesticide Storage Permit with Guam EPA. A written plan describing the storage area must be submitted to the Agency, based on the zoning law, for approval prior to construction and operation of the storage facility. The plan must also address the items in 28.2 of these regulations. A non-refundable fee as described in Table 1 of these regulations must be submitted to Guam EPA with the plan for review by Guam EPA. Existing pesticide companies, golf courses, dealers, sales outlets, farmers, and private owners must have a storage permit within five (5) years after the effective date of these regulations. The permit must be renewed every five (5) years.

27.2. Permit Conditions – The storage permit application must be accompanied

with the following information:

27.2.1. Pesticide Storage layout of the building and where the pesticides will be stored.

27.2.2. Labels for all pesticides proposed for storage.

27.2.3. An Emergency Plan and First Aid Plan in case of pesticide poisoning or fire.

27.2.4. Location: Pesticides shall not be stored in an area less than five hundred (500) feet from the nearest residential home, one thousand (1000) feet from any school, day care center, hospital, church, five hundred (500) feet from a water well, water source or a body of water.

27.2.5. Safety and Emergency Equipment – All storage areas must have all the necessary safety equipment in place such as, but not limited to, fire extinguishers, fire alarm, and a working phone.

#### §15128. STRUCTURAL PESTICIDE APPLICATION PERMIT.

28.1. Permit Requirements – Prior to any structural pesticide treatments for termites, and other soil treatments (including pre-construction treatments and post construction treatments), the applicator or pest control company must obtain a Structural Pesticide Treatment Permit from Guam EPA. (See Table 1 of these regulations.) The following information must be provided as part of the permit application:

- (1) Copies of Labels for pesticides to be used (must be a copy of the label on the containers of the products to be used);
- (2) Date and time of proposed application;
- (3) Calculation on the amount and method of the pesticides to be applied;
- (4) Name of applicator and Pesticide Company performing the application;
- (5) Certification number of each applicator involved in the project;
- (6) Address of the application site;
- (7) Description of the site;
- (8) Size of the area to be treated.
- (9) Map showing all bodies of water within 1,000 feet of the application site.

(10) Fee as described in Table One of these regulations.

28.2. Termite and other soil applications using chemicals that have the potential to run off into surface water or leach into groundwater must not occur less than one thousand feet from a body of water or a well, or if groundwater is shallow (less than 5 meters). If the proposed treatment area is located within one thousand feet from a body of water or well, or if the groundwater is shallow, the applicator must find a suitable less toxic or lower risk alternative for termite treatment at the proposed site. Any alternative used must meet federal and Guam EPA requirements for the intended use.

#### §15129. FUMIGATION PERMIT.

29.1. Prior to all fumigations of any structure including, but not limited to, buildings and containers, and any fumigation of soil, a fumigation permit must be obtained from Guam EPA. The following information must be provided as part of the permit application:

1. Copies of labels for pesticides to be used (must be a copy of the label on the containers of the products to be used);
2. Date and time of proposed application;
- 3.. Address or location of the application site;
4. Description of proposed application site;
5. Calculation on the proposed pesticides to be applied;
6. Description of the equipment to be used;
7. Name of Applicator and Pesticide Company performing the application;
8. Certification number of each Applicator involved in the project;
9. Description or history of the Company's work experience conducting for the fumigant that is proposed for application;
10. A description of any prior problems or issues with fumigations;
11. Standard Operating Procedure for the project;
12. Health and Safety Plan.
13. A map showing all residential homes and businesses within 75 feet of the application site;
14. Any additional information required in a fumigant management plan by the product label;
15. Fee as described in Table One.

29.2. The PCO must provide written notices to all residential homes and businesses that are located within seventy-five (75) feet of the proposed application. If the application area is a single-owner complex with multiple units, then the PCO must inform all tenants of (the) fumigation project. Notices to the residents must be made no less than 14 days prior to the fumigation project.

29.3 A copy of the permit must be placed on the entrance of the building(s) or structures to be fumigated.

§15130. CHEMIGATION REQUIREMENTS. Chemigation is not allowed on Guam unless the applicator can provide sufficient written evidence to Guam EPA in advance that a chemigation application is the only viable method for pest control. In order to demonstrate to Guam EPA that there are no other viable methods of pest control, the applicator must provide a list of target pests, location of proposed chemigation, a description of equipment to be used, including required back flow prevention devices to prevent contamination of the water sources, a copy of the label for pesticides proposed for use, and a description of the other types of pest control methods that have been attempted and the results of these methods. Upon review of the applicator's submission and the EPA accepted label for the product to be used, Guam EPA will make a determination as to whether the chemigation application will be allowed. If Guam EPA allows the application, a written permit will be issued by Guam EPA.

If the pesticide product contains an active ingredient in Toxicity Category 1 (labels with the signal word Danger), the following must be included on the product label. "Areas to be chemigated must be posted when 1) any part of a treated area is within 300 feet of sensitive areas such as residential areas, labor camps, businesses, day care centers, hospitals, in-patient clinics, nursing homes or any public areas such as schools parks, playgrounds, or other public facilities not including public roads., or 2) when the chemigated areas is open to the public such as golf courses or retail greenhouses.

Treated areas must be posted with signs at all usual points of entry and along likely routes of approach from the listed sensitive area. When there are not usual point of entry, signs must be posted in the corners of the treated areas and in any other locations affording maximum visibility to sensitive areas. The printed side of the sign must face away from the treated area towards the sensitive area. The signs must be printed in English. Signs must be posted prior to the application and remain posted until foliage has dried and soil surface water has disappeared. Signs must remain in place indefinitely as long as they are composed of materials to prevent deterioration and maintain legibility for the duration of the posting period.

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

#### §15131. VENTILATION REQUIREMENTS FOR FOGGERS.

31.1. Ventilation Requirements for Foggers – Applicators of foggers must follow all requirements listed on the USEPA accepted label. Applicators must verify that there is no evidence of fogging fumes in the treated area prior to reentry by anyone. Applicators may utilize industrial size fans and or air conditioning after fogging took place before anyone is allowed into the treated area.

31.2. At all times during the application, the applicator must post a sign or signs that read(s):

DO NOT ENTER: PESTICIDE FOGGING IN PROGRESS

Sign(s) must be placed at all entrances to the application site one hour prior to the beginning of the fogging application and must stay in place during the entire time of the application. The sign(s) must stay in place as indicated on the pesticide label or until such time that there is no evidence of fogging fumes in the area, as stated at 15131.1. above.

## PART VIII. MINIMAL RISK PESTICIDES AND OTHER SPECIAL PESTICIDES

### §15132. MINIMAL RISK PESTICIDES.

All pesticides that are considered Minimal Risk Pesticides (MRP) must meet all requirements as specified under 40 CFR Section 152.25 and Section 25 (b) of FIFRA. If a pesticide meets the requirements of MRPs under 40 CFR and FIFRA, the pesticide is considered an MRP under this regulation. Active Ingredients must be listed in the most current USEPA list of minimal risk pesticides and inert ingredients must be listed in the most current List 4A which is updated periodically by USEPA. In order for a minimum risk pesticide to be allowed into Guam, the pesticide product must meet the following requirements: the label must include the name and percentage by weight of each active ingredient and all the names of each inert ingredient; the label or labeling must not bear claims either to control or mitigate micro-organisms that pose a threat to human health including, but not limited to, disease-transmitting bacteria or viruses, or claims to control insects or rodents carrying specific diseases including, but not limited to, ticks that carry Lyme disease; and the label or labeling must not include any false or misleading statements including those listed in 40 CFR Section 156.10(a)(5)(i) through (viii); *and the product is not intended to be used in such a way as to control or mitigate micro-organisms that pose a threat to human health including, but not limited to, disease-transmitting bacteria or viruses, or claims to control insects or rodents carrying specific diseases including, but not limited to, ticks that carry Lyme disease or mosquitoes that could transmit West Nile Virus.* As described in Section 15121 of these regulations, a Notice of Arrival Form is required prior to the arrival of any shipment of MRP on Guam.

### §15133. PESTICIDE MANAGEMENT FEES AND FINES.

In order to fulfill the duties and responsibilities associated with the implementation of these regulations, the Agency hereby establishes conditions and fees for permits, licenses and fines as set forth in Table 1 and 2 of these Regulation(s). All fees are non-refundable and must be paid in the following manner:

33.1. Certification Card – Upon issuance of the certification card or a replacement card

33.2. Training or exam – Prior to each training or exam

33.3. Licenses and Permits – With Application

33.4. NOAs – With NOA Application or based on an agreed payment plan with Guam EPA

#### PART IX. SEVERABILITY

§15134. SEVERABILITY. If any provision of these Regulations is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of these regulations and applicability thereof to other persons and circumstances shall not be affected.

TABLE 1 – GUAM PESTICIDE REGULATION – FEES

TYPE OF PERMIT	COST	EXPLANATION
1. Storage Permit	\$150	5 Years
2. Notice of Arrival (NOA)	1-10 Items \$ 5 Chlorine tabs/gas \$5 per 100 gallon/lbs. 11-25 Items \$ 10 26-50 Items \$ 15 >50 Items \$ 20	Each Shipment
3. Structural Pesticide Permit	a. Foundation Application: \$150 / house or every 2,000 sq. ft. of floor surface. b. Post Construction Application: \$100 c. Barrier Application : \$100	Each house or structure Application
4. Fumigation Permit Fee	\$150 / Structure or Container	Each Project
5. Chemigation Permit Fee	\$100 / Chemigation Permit	Per Year
6. Dealer License	\$250 Primary and \$50 Sales Outlet	1 Year
7. Certification	a. Cards Only \$25 b. If GEPA offers Trainings: \$75 (16 hours); \$50 (4 hours) with Card c. Exam Only \$50 (\$25 Exam + \$25 Card) d. Replacement Cards \$10	3 Years
8. Core/Basic Training	a. Cards Only \$15 for Core; \$10 for Basic Training b. If GEPA offers Trainings: \$50 (16 hours); \$25 (4 hours) with Card c. Exam Only \$20 (\$15 Exam+\$5 Card) d. Replacement \$10	5 Years
9. Pesticide Certified Operator License (PCO)	\$150	3 Years
10. Pesticide Control Advisor	\$150	3 Years
11. Pesticide Training License	\$150	3 Years

**TABLE 2 – GUAM PESTICIDE REGULATION – PENALTY MATRIX**

TYPE OF VIOLATION	NOV/OC VOLUNTARY COMPLIANCE	NOV/OC CHALLENGED OR FAILURE TO COMPLY *	REFERRAL TO AG Maximum amount of \$10,000 will be issued for each violation.																																																												
Label and training violations	Up to \$100	Up to \$200																																																													
No Storage Permit	Up to \$350	Up to \$700																																																													
No Chemigation Permit	Up to \$500	Up to \$1,000																																																													
No NOA for Shipment	<p>PRIVATE</p> <table border="1" data-bbox="569 516 1024 743"> <thead> <tr> <th>Value</th> <th>1<sup>st</sup></th> </tr> </thead> <tbody> <tr><td>Up to \$50</td><td>\$ 50</td></tr> <tr><td>Up to \$100</td><td>\$ 75</td></tr> <tr><td>Up to \$250</td><td>\$ 100</td></tr> <tr><td>Up to \$500</td><td>\$ 150</td></tr> <tr><td>Between \$500 - 5000</td><td>\$ 200</td></tr> <tr><td>Over \$5,000</td><td>\$ 1,000</td></tr> </tbody> </table> <p>COMPANY</p> <table border="1" data-bbox="569 818 1024 1073"> <thead> <tr> <th>Value</th> <th>1<sup>st</sup></th> </tr> </thead> <tbody> <tr><td>Up to \$50</td><td>\$ 100</td></tr> <tr><td>Up to \$100</td><td>\$ 150</td></tr> <tr><td>Up to \$250</td><td>\$ 200</td></tr> <tr><td>Up to \$500</td><td>\$ 400</td></tr> <tr><td>\$500 - \$5,000</td><td>\$ 500</td></tr> <tr><td>\$5000 - \$50,000</td><td>\$ 1,000</td></tr> <tr><td>&gt;\$50,000</td><td>\$ 5,000</td></tr> </tbody> </table>	Value	1 <sup>st</sup>	Up to \$50	\$ 50	Up to \$100	\$ 75	Up to \$250	\$ 100	Up to \$500	\$ 150	Between \$500 - 5000	\$ 200	Over \$5,000	\$ 1,000	Value	1 <sup>st</sup>	Up to \$50	\$ 100	Up to \$100	\$ 150	Up to \$250	\$ 200	Up to \$500	\$ 400	\$500 - \$5,000	\$ 500	\$5000 - \$50,000	\$ 1,000	>\$50,000	\$ 5,000	<p>PRIVATE</p> <table border="1" data-bbox="1157 516 1612 743"> <thead> <tr> <th>Value</th> <th>2<sup>nd</sup></th> </tr> </thead> <tbody> <tr><td>Up to \$50</td><td>\$ 100</td></tr> <tr><td>Up to \$100</td><td>\$ 150</td></tr> <tr><td>Up to \$250</td><td>\$ 250</td></tr> <tr><td>Up to \$500</td><td>\$ 300</td></tr> <tr><td>Up to \$5,000</td><td>\$ 400</td></tr> <tr><td>Over \$5,000</td><td>\$ 2,000</td></tr> </tbody> </table> <p>COMPANY</p> <table border="1" data-bbox="1157 818 1612 1073"> <thead> <tr> <th>Value</th> <th>2<sup>nd</sup></th> </tr> </thead> <tbody> <tr><td>Up to \$50</td><td>\$ 200</td></tr> <tr><td>Up to \$100</td><td>\$ 300</td></tr> <tr><td>Up to \$250</td><td>\$ 400</td></tr> <tr><td>Up to \$500</td><td>\$ 800</td></tr> <tr><td>\$500 - \$5,000</td><td>\$ 1,000</td></tr> <tr><td>\$5,000 - \$50,000</td><td>\$ 2,000</td></tr> <tr><td>&gt;\$50,000</td><td>\$ 10,000</td></tr> </tbody> </table>	Value	2 <sup>nd</sup>	Up to \$50	\$ 100	Up to \$100	\$ 150	Up to \$250	\$ 250	Up to \$500	\$ 300	Up to \$5,000	\$ 400	Over \$5,000	\$ 2,000	Value	2 <sup>nd</sup>	Up to \$50	\$ 200	Up to \$100	\$ 300	Up to \$250	\$ 400	Up to \$500	\$ 800	\$500 - \$5,000	\$ 1,000	\$5,000 - \$50,000	\$ 2,000	>\$50,000	\$ 10,000	
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RUP Sale and Distribution Violation	Up to \$500	Up to \$1,000																																																													