

1 GUAM'S RECYCLING REVOLVING FUND
2 RULES AND REGULATIONS
3 Title 22, Division 4, Chapter 24, Article 3
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GUAM'S RECYCLING REVOLVING FUND
RULES AND REGULATIONS
Title 22, Division 4, Chapter 24, Article 3

SECTION 24301. GENERAL PROVISIONS

§24301.1 Purpose and Applicability

(a) The purpose of this Chapter is to clarify existing statute, provide a uniform competitive business environment to all, establish the minimum standards to properly implement and administer Guam's Recycling Revolving Fund in accordance with Title 10 of the Guam Code Annotated (GCA), Chapter 51, Article 3, under the authority granted by 10 GCA §51307(c).

§24301.2 Definitions

For the purposes of this Chapter, the terms defined in 10 GCA, Chapter 51 Article 3, §51301 shall have the meaning ascribed to them therein, and the following words and phrases, together with all of the common derivations thereof, shall have the meaning ascribed to them as follows:

- (a) **“Beneficial Use”** shall mean the substitution of materials, either as generated or following additional processing, for some or all of the virgin materials in a natural or commercial product in a way that: provides a functional benefit; meets product specifications; and does not pose concerns to human health or the environment.

- (b) **“Best Available Technology”** shall mean a recognized and approved technology by United States Environmental Protection Agency.
- (c) **“Board”** shall mean the Board of Directors of the Guam Environmental Protection Agency.
- (d) **“Disaster Debris”** shall mean any items and materials broken, destroyed, or displaced by a natural or man-made federally or locally declared disaster. Examples of disaster debris include, but are not limited to, trees, construction and demolition material, and personal property.
- (e) **“Disaster Debris Management”** shall mean the removal and disposal of debris that was generated by a disaster and which presents an immediate threat to the public interest.
- (f) **“Electronic Waste”** or **“E-Waste”** shall mean electrical and electronic equipment that is dependent on electric currents or electromagnetic fields in order to function (including all components, subassemblies and consumables, which are part of the original equipment at the time of discarding). For example e-waste may include consumer/entertainment electronics such as televisions, DVD players and tuners; Devices of office, information and communications technology such as computers, circuit boards, telephones and mobile phones.
- (g) **“Import”** shall mean to bring in, or accept delivery of recyclable materials from any source outside of Guam.
- (h) **“Person”** or **“Persons”** shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, or any agency, department, or instrumentality of the Federal or local government, or any other legal representatives, agents or assigns.

- (i) **“Priority Materials”** shall mean all those materials to be targeted by the Fund, in the order specified in section 24302.1(b) of this Article.
- (j) **“Recovered Resources”** shall mean material or solid waste that has been diverted from disposal for the purpose of recycling, composting or mulching. This term does not include incineration or those materials that are generated and normally reused on-site for manufacturing purposes.
- (k) **“Recycling Industry Economic Stimulus Program”** shall mean Public Law 33-136, which is codified under Title 10 of the Guam Code Annotated, Article 3, Chapter 51, §51309.
- (l) **“Solid Waste Management Facility”** means any facility, or any machinery, equipment, vehicles, structures or any part of accessories thereof installed or acquired for the primary purpose of collection, transportation, storage, recycling, processing or disposal of solid waste, and shall include sanitary landfills or resource recovery facilities.
- (m) **“Stimulus Certification Form”** shall mean a form officially issued by Guam EPA to be completed by an eligible Recycling Facility to disclose and certify the types and quantities of recyclable materials shipped off-island to a recycling facility.
- (n) **“Sustainable Materials Management”** means a systemic approach to using and reusing materials more productively over their entire lifecycles.
- (o) **“Special Waste”** means white goods, household hazardous waste, automotive batteries and abandoned vehicles.
- (p) **“Zero Waste”** means a holistic approach to addressing the problem of unsustainable resource flows. Zero Waste encompasses waste eliminated at the source through product design and producer responsibility, and waste reduction strategies further down the supply chain such as recycling, reuse and composting.

SECTION 24302. RECYCLING REVOLVING FUND

§24302.1 Administration of Recycling Revolving Fund

(a) Monies in the *Fund* shall be administered, managed, and maintained by the GEPA Administrator for the implementation of 10 GCA Chapter 51, Article 3, in accordance with the requirements of the Article.

(b) The Administrator shall administer the Fund in accordance with this Chapter to cause the following material/waste to be recycled according to the following priority:

1. First Priority: junk vehicles, tires, batteries, waste oil, white goods/appliances;
2. Second Priority: paper, cardboard, plastic and glass; and
3. Third Priority: other recyclables as determined by the Administrator

(c) The Administrator shall administer no more than ten percent (10%) of Fund towards a portion of the salaries, benefits, and supplies and training directly related to recycling for employees from the Agency who implement any of the initiatives described under §24303 in these Regulations and Guam's Zero Waste Plan; Engage in recycling outreach and education activities; and conduct permitting, compliance and enforcement on recycling facilities.

(d) The Administrator may use the *Fund* for the recycling initiatives described under §24303 in these Regulations.

(e) The Administrator shall determine the funding for each of the initiatives and submit to the Guam EPA Board of Directors for approval by January 31st of the current fiscal year. The approved funding will be effective on the following fiscal year.

SECTION 24303. RECYCLING INITIATIVES

§24303.1 Mayor's Council of Guam (MCOG) Island-wide Environmental Cleanup Program (IECP)

The Administrator may approve contracts between the MCOG and recycling companies for the collection, recycling, disposal and processing or any combination thereof, of automobiles, buses, heavy equipment, trucks, batteries, tires, white goods, and other recyclable materials in accordance with Articles 3 and 4 of Title 10 GCA, Chapter 51, and 24301.B to implement an IECP with the following conditions:

1. All applicable procurement laws must be followed;
 2. Contracts must be conditioned upon proof of all valid permits, inclusive, but not limited to solid waste facility permits, solid waste collection permits, certifications, or other licenses required to collect, remove, recycle or dispose of solid waste and compliance with all solid waste rules and regulations; and
 3. Contracts must require the recycling company to report all recyclables collected by village under this program to Guam EPA upon submittal of invoices to MCOG for payment.
- (b) Prior to any collection, processing or storage of recyclable materials under contract pursuant to this section, a comprehensive *Operation Plan* for the current fiscal year must be submitted by the MCOG for the contractual work described in §24303.1(a) to Guam EPA for the implementation of the IECP must receive approval from the Administrator. The Administrator shall only approve the *Operation Plan* if the

Operation Plan contains in detail the operational systems that address collection, processing, storage, emergency procedures, health and safety, reporting and closeout procedures for each municipality.

(c) The Administrator may use funds to support the recycling initiatives subject to the following conditions:

1. Funds may be expended only in accordance with valid contracts approved under this Section;
2. No funds shall be disbursed prior to the Administrator's approval of the Operation Plan described in §24303.1(b); and
3. Unused funds must be returned to the Recycling Revolving Fund every fiscal year.

§24303.2. Recycling Industry Economic Stimulus Program Applicability and Eligibility

(a) Potential Recycling Facility Participants must establish eligibility by meeting all of the following Criteria:

1. Possess a valid Guam business license issued by the Department of Revenue and Taxation.
2. Possess a valid solid waste management facility permit for processing and/or storage issued by the Guam Environmental Protection Agency.
3. Maintain records of Bills of Lading, and any other documentation required by the Agency, which may include, but is not limited to, the types, quantities, and names of the Destination Companies of eligible Program materials.
4. Maintain records of Stimulus Certification Forms approved by the Agency.
5. Remain in compliance with all solid waste rules and regulations.

(b) This Program applies to recyclable materials solely generated on Guam. Recyclable materials imported into Guam for purposes such as, but not limited to, transit or consolidation shall not qualify under this Program.

§24105.3. Recycling Industry Economic Stimulus Program Payment Calculation

- (a) Recycling facilities which meet all the eligibility requirements specified in Section 24303.2 will receive an economic stimulus payment for each ton of recyclable material transported off Guam to a recycling facility. Based on the availability of funds and funding priorities, some eligible submittals may receive no or partial stimulus payments.
- (b) No later than December 31st of the current fiscal year the Administrator may select the eligible recycling commodities which will be participating in the Economic Stimulus based on global market trends in the previous fiscal year and submit a written recommendations to the Guam EPA Board of Directors for their approval. If there are no recyclables selected the Economic Stimulus will not be in effect for the fiscal year.
- (c) The Administrator may determine the dollar amount of the stimulus to be disbursed to the eligible recycling facilities based on §24105.2(b).
- (d) The Agency shall develop a reasonable and practical Sustainable Recycling Adjustment Plan that shall be evaluated biannually by the Administrator and which may consider such factors as the prioritization of materials, market conditions, economic analyses, and facility operational and processing costs in its assessment.

§24303.4 Guam Beverage Container Recycling

- (a) Upon promulgation of the Rules and Regulations pursuant to 10 GCA Chapter 44, to *Guam Beverage Container Recycling Act (GBCRA)* funds may be expended to initiate, assist and encourage redemption of recyclable beverage containers in the following activities:

1. Funding of administrative, audit, redemption and compliance activities associated with collection and payment of the deposits of the GBCRA;
 2. Conducting of recycling outreach education, capacity building and demonstration projects; and
 3. Promotion and marketing of recycling-related activities.
- (b) Funds may only be expended under this section for the first two years following the date that rules and regulations promulgated pursuant to the GBCRA first become effective.

§24303.5 Integrated Solid Waste Management Plan

§24303.5.1 Applicability

Funds may be expended by the Administrator for any *best available technology* recognized by USEPA, for programs to encourage recycling, composting and waste reduction opportunities in support of the most current Integrated Solid Waste Management Plan, adopted by the Guam EPA Board

§24303.6.2 Green Waste Plan- Composting and Organics **RESERVE**

§24303.7 Disaster Debris Management

§24303.7.1 Applicability

1. Funds may be used for activities that directly support, promotes, and encourages recycling and removal of disaster debris, including citing of transition sites.
2. All transition sites must be permitted by Guam EPA; and
3. Only individuals, entities or companies licensed to do business on Guam are

eligible to receive funds.

§24303.8 Zero Waste Grant Program- **RESERVE**

§24303.9 Subsidize the Recycling/Tipping Fees for Low Income Households

The Administrator may use the funds to subsidize all residential households with priority to low income households to encourage the use of trash collection and recycling services by Guam Solid Waste Authority.

DRAFT

GUAM ENVIRONMENTAL PROTECTION AGENCY

ĀHĪNSĪAN PRUTĒKSIÓN LINĀĀ GUĀHAN



EDDIE BAZA CALVO
GOVERNOR OF GUAM

RAY TENORIO
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17-3304 MARINER AVENUE • TIYAN, BARRIGADA, GUAM 96913-1617

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August 22, 2018

Mr. Lester Carlson Jr.
Deputy Director BBMR
Bureau of Budget and Management Research
Ricardo J. Bordallo Governor's Complex
Adelup, Guam 96910

RECEIVED

AUG 22 2018

Bureau of Budget and
Management Research

RE: BBMR review, recommendations and guidance

Hafa Adai Acting Director Carlson!

The Guam Environmental Protection Agency (Guam EPA) is seeking your review, recommendation and guidance with our draft economic impact statement for our proposed rules and regulations for the Recycling Revolving fund (RRF). Attached herewith are the agency's drafts of the economic impact statement and the proposed rules and regulations.

Pursuant to 9 GCA Chapter 9 §9301(i), an exemption from an economic impact statement may be granted "if the annual economic impact to the general public is Five Hundred Thousand Dollars (\$500,000) or less, as determined by a preliminary cost impact assessment performed by the Bureau of Budget and Management Research, or the department, agency, autonomous agency, office or instrumentality proposing the rule, change of rule, regulation or request to impose or raise fees."

We are seeking BBMR's opinion on whether an exemption to the aforementioned statute may apply to the agency. If the bureau determines that the agency may not be exempt, we request your guidance in producing a statement that will satisfy the legislative requirements.

While it is not the agency's intention to impose or raise any fees since Guam P.L. 27-38 authorizes the levy of recycling fees for deposit into the RRF, we have determined that economic activity, as drafted in our proposed rules and regulations could potentially exceed \$500,000, as evidenced by the payments made to permitted and qualified recycling facilities who participated in the Recycling Industry Stimulus Program in FY 16 and FY17.

The agency looks forward to you and the bureau's financial expertise in assisting us in our efforts to promulgate rules and regulations. Additionally, BBMR's review and/or concurrence will be placed in our administrative adjudication law record for both public review and upon submittal to *I Liheslaturan Guåhan*.

If you have any questions or concerns, or should require assistance, please feel free to contact me at your earliest convenience. We look forward to hearing from you soon.

Very Respectfully,

NIC RUPLEY LEE
Acting Administrator

Guam Environmental Protection Agency

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18-1586



BUREAU OF BUDGET & MANAGEMENT RESEARCH

OFFICE OF THE GOVERNOR

Post Office Box 2950, Hagåtña Guam 96932

EDDIE BAZA CALVO
GOVERNOR

LESTER L. CARLSON, JR.
DEPUTY DIRECTOR

RAY TENORIO
LIEUTENANT GOVERNOR

SEP 21 2018

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SEP 21 2018

MEMORANDUM

To: Administrator, Guam Environmental Protection Agency (GEPA)

Guam Environmental
Protection Agency

From: Deputy Director, Bureau of Budget and Management Research (BBMR)

Subject: Guidance on Draft Economic Impact Statement

The Bureau has reviewed your request for a preliminary fiscal (cost) impact assessment on GEPA's Draft Economic Impact Statement (EIS) for the proposed rules and regulations for the Recycling Revolving Fund (RRF).

As was mentioned in your letter dated August 22, 2018, GEPA had determined that the economic activity, as drafted in the proposed rules and regulations could potentially exceed \$500,000, based on payments made to permitted and qualified recycling facilities who participated in the Recycling Industry Stimulus Program in FY16 in the amount of \$329,390.78 and \$1,004,911.25 in FY17. Therefore, the Bureau is of the opinion that the proposed rules and regulations does not qualify for the exemption under 5 GCA Article 3 Chapter 9 §9301 as the annual economic impact to the general public is projected to be more than \$500,000.

The Bureau does agree that the adoption of the proposed rules and regulations is to comply with Public Law Nos. 29-116:4 and 33-136:4 which provides for the promulgation of the necessary rules and regulations by GEPA as required by those respective measures, and in accordance with the Administrative Adjudication Act.

However, at this time, the Bureau is only able to, affirm that the estimated annual cost of the stimulus would be approximately \$1.2 million based upon the legislative committee report on Bill No. 241-33, now P.L. 33-136. This fiscal cost impact was based on statistics from GEPA that showed that 40,000 tons are recycled annually. Using the data as a base and at \$30.00 per ton, the estimated annual cost would be \$1.2 million or half the projected annual revenues of the Recycling Revolving Fund.

Based on the provisions of the law, both BBMR and the department are granted the discretion to conduct a preliminary cost impact assessment relative to the proposed change in rule, regulation, fee, or increase of fees or services as mandated by P.L. No. 34-22. Due to the Bureau's limited staff expertise and funding resources, it is recommended that GEPA conduct its own preliminary economic cost impact analysis to determine if in fact, the estimated impact to the general public exceeds \$500,000. The Bureau also recommends GEPA seek the assistance of preparing an EIS from the Department of Labor, the Bureau of Statistics and Plans, and/or the Guam Economic Development Authority, as these agencies have Chief Economists on staff.

Should you have any questions on this matter, please contact the Bureau at (671) 475-9412.

A handwritten signature in black ink, appearing to read 'Lester L. Carlson, Jr.', written in a cursive style.

LESTER L. CARLSON, JR.



GUAM ENVIRONMENTAL PROTECTION AGENCY

AGENSIA PROTEKSION LINGKUNGAN

EDDIE BAZA CALVO GOVERNOR OF GUAM RAY TENORIO LT. GOVERNOR OF GUAM

17-33 TARRIGADA AVENUE TARRIGADA, GUAM 96913-1617

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AUG 22 2018

DEPT OF ADMINISTRATION August 22, 2018
DIRECTOR'S OFFICE

Mr. Edward Bim
Director
Department of Administration
590 South Marine Corps Drive Suite 215
Tamuning, Guam 96913

RECEIVED BY	
Print	Title
Signature	Date

Transmitted hand delivery

Re: §9301(e) 5 GCA - Adoption, Repeal, Rescission or Amendment of Rules: Procedure.

Hafa Adai Director Bim,

The Guam Environmental Protection Agency (Guam EPA) has completed a draft of proposed rules and regulations for the use and codified administration of Recycling Revolving Fund (RRF), pursuant to §51307(c) 10 GCA that states:

The Guam Environmental Protection Agency shall promulgate the necessary rules and regulations, in accordance with the Administrative Adjudication Law, to properly implement this Article.

Pursuant to 10 GCA Chapter 51 §51303(2), the RRF appropriates funding towards not more than one (1) full-time (FTE) employee at Guam EEPA whose time is solely dedicated to administering and implementing Article 3 of 10 GCA Chapter 51. While it is the understanding of the agency that the proposed draft of the rules and regulations for RRF do not include any classifications specifications or wage and benefit determination, our intention is to fully comply with §9301(e) 5 GCA, which requires a review from the Department of Administration prior to its transmittal to / *Lilheslaturan Gudhan*. The agency seeking DOA's written concurrence, or approval with our proposed draft so that we may enter it as part of our administrative adjudication record.

For your kind consideration and expeditious review, attached herewith are the agency's proposed rules and regulations. We understand that your department is not without its own personnel challenges, but we appreciate your assistance in helping our agency meets its mission in protecting human and environmental health.

If you have any questions about this matter, please contact Nic Rupley Lee at 671-300-4753. We look forward to hearing from you soon.

Very Respectfully,

Nic Rupley Lee
Acting Administrator, Guam EPA

Cc: Shrac Ngala

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GUAM ENVIRONMENTAL PROTECTION AGENCY

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August 22, 2018

Mr. Shane Ngata
Personnel Services Administrator
Department of Administration
590 South Marine Corps Drive Suite 215
Tamuning, Guam 96913

Transmitted hand delivery

RECEIVED BY	
Print	Title
<i>Winona</i>	
Signature	Date
<i>[Signature]</i>	8/22/18

Re: §9301(e) 5 GCA - Adoption, Repeal, Rescission or Amendment of Rules: Procedure.

Hafa Adai Mr. Ngata,

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The Guam Environmental Protection Agency shall promulgate the necessary rules and regulations, in accordance with the Administrative Adjudication Law, to properly implement this Article.

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For your kind consideration and expeditious review, attached herewith are the agency's proposed rules and regulations. We understand that your department is not without its own personnel challenges, but we appreciate your assistance in helping our agency meets its mission in protecting human and environmental health.

If you have any questions about this matter, please contact Nic Rupley Lee at 671-300-4753. We look forward to hearing from you soon.

Very Respectfully,
[Signature]
Nic Rupley Lee
Acting Administrator, Guam EPA

Cc: Edward Bim

Department of Administration Human Resources Division
AUG 22 2018
Records Branch

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GUAM ENVIRONMENTAL PROTECTION AGENCY

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November 13, 2018

Mr. Carl V. Dominguez
Director
Bureau of Statistics and Plans
Ricardo J. Bordallo Governor's Complex
513 West Marine Corps Drive
Hagåtña, Guam 96910

Transmitted via hand delivery

RE: Request for Assistance – Economic Impact Statement

Hafa Adai Director Dominguez,

The Guam Environmental Protection Agency (Guam EPA) is seeking your review, recommendation and guidance with our draft economic impact statement for our proposed rules and regulations for the Recycling Revolving fund (RRF). Attached herewith are the agency's drafts of the economic impact statement and the proposed rules and regulations.

Pursuant to 9 GCA Chapter 9 §9301(i), an exemption from an economic impact statement may be granted "if the annual economic impact to the general public is Five Hundred Thousand Dollars (\$500,000) or less, as determined by a preliminary cost impact assessment performed by the Bureau of Budget and Management Research, or the department, agency, autonomous agency, office or instrumentality proposing the rule, change of rule, regulation or request to impose or raise fees."

While it is not the agency's intention to impose or raise any fees since Guam P.L. 28-58 authorizes the levy of recycling fees for deposit into the RRF, we have determined that economic activity, as drafted in our proposed rules and regulations could potentially exceed \$500,000, as evidenced by the payments made to permitted and qualified recycling facilities who participated in the Recycling Industry Stimulus Program in FY 16 and FY17.

After consulting with BBMR, Guam EPA was advised to reach out to Bureau of Statistics and Plans for assistance in the agency's efforts to in producing an economic impact statement so that it may entered into our adjudication record for public comment and public hearing. The agency looks forward to you and the BSP's planning expertise in assisting us in our efforts to promulgate rules and regulations.

If you have any questions or concerns, or should require assistance, please feel free to contact me at your earliest convenience. We look forward to hearing from you soon.


WALTER S. LEON GUERRERO
Administrator, Guam EPA

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GUAM ENVIRONMENTAL PROTECTION AGENCY

AHENSIAN PRUTEKSION LINA'LA GUAHAN



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ECONOMIC IMPACT STATEMENT FOR THE RECYCLING REVOLVING FUND PROPOSED RULES AND REGULATIONS AS DETERMINED BY THE GUAM ENVIRONMENTAL PROTECTION AGENCY

AUGUST 16, 2018

Guam EPA's proposed rules and regulations for the Recycling Revolving Fund (RRF) will not seek to impose any fees, nor will it seek to impose raising any fees to the public. Continuing appropriations into this fund have been set forth in 10 GCA Chapter 51 §51305 and enacted by Guam P.L. 28-58, where authorization is given to the Department of Revenue and Taxation (DRT) levies recycling fees from the annual renewal of motor vehicle registrations. In FY16 and FY17, recycling fees levied by DRT are \$2,801,597.77 and \$2,859,696.33 respectively.

The recycling initiatives delineated in proposed rules and regulations are: Mayor's Council of Guam Island-wide Environmental Cleanup Program (IECP), Recycling Industry Economic Stimulus Program Applicability and Eligibility, Economic Stimulus and Sustainability Recycling Adjustment Plan, Guam Beverage Container Recycling, Integrated Solid Waste Management Plan, Green Waste Plan, Disaster Debris Management, Zero Waste Grant Program and a Subsidization of the Recycling/Tipping Fees for Low Income Household. Throughout these initiatives, the agency will not be imposing or raising any fees.

In the pursuit of agency compliance with transparency and open governance, Guam EPA will address items, pursuant to 5 GCA Chapter 9 §9301(f):

1. The purpose and the need for the rule or regulation; an assessment of the risk and the cost of the imposed rule or regulation. In addition, government agencies proposing a new rule or regulation must include with the assessment, the justification for the new rule or regulation.

10 GCA Chapter 51 §51303 authorizes the agency to fund the Recycling Industry Economic Stimulus Program, one (1) full time employee to administer the fund and implement Article 3 of 10 GCA Chapter 51, contractual services for recycling outreach and contractual services to implement the 2013 Guam Zero Waste Plan. Funding for all other expenditures outside of those referenced above are prohibited until the agency promulgates rules and regulations for the RRF. Additionally, a report issued by the Guam Office of the Public Auditor in 2015 questioned expenditures funded by the RRF and subsequently made a recommendation to place a moratorium on funding for items outside of those listed in 10 GCA Chapter 51

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/GuamEPA



@guamepa



guamepa

§51303(1-4).

2. The financial impact of the proposed rule or regulation upon those persons or corporate entities directly affected by the proposed rule or regulation, and upon the people and the economy of Guam.

The agency's proposed rules and regulations for the RRF may enhance the revenues of permitted recycling facilities that participate in the Recycling Industry Economic Stimulus Program. In FY16 and FY17, \$329,390.78 and \$1,004,911.25 respectively, were paid to qualified facilities at a rate of \$30.00 per ton. The authorized levy of recycling fees collected by DRT on motor vehicle registrations remains unchanged.

3. Any potential increase or decrease in the cost of living on Guam, or any specific increase or decrease in the price or availability of any good or service on Guam directly or indirectly attributable to the proposed rule or regulation.

The agency does not anticipate any increase or decrease in the cost of living, nor does it anticipate any specific increase or decrease in the price or availability of any good or service on Guam, as a result of the proposed rules and regulations for the RRF.

4. Any direct or indirect impact upon employment on Guam or any increase or decrease in the availability of a particular job or jobs, or jobs in general, attributable to the proposed rule or regulation.

The agency does not anticipate any negative impact upon employment on Guam, nor does it anticipate any decrease in a particular job or jobs, or jobs in general, as a result of the proposed rules and regulations for the RRF.

5. Any increase or decrease in the cost of doing business as an enterprise or industry on Guam, or any increase or decrease in doing business in general, which is attributable to the proposed rule or regulation.

The agency does not anticipate any increase or decrease in the cost of doing business as an enterprise or industry, nor does it anticipate any increase or decrease in general, as a result of the proposed rules and regulations for the RRF.

6. Any adverse or beneficial economic impact, which is attributable to the proposed rule or regulation.

The agency does not anticipate any adverse economic impact as a result of the proposed rules and regulations for the RRF. Given the \$1,334,302.03 amount paid to qualified and permitted facilities for their participation in the Recycling Industry Economic Stimulus Program, the agency sees a beneficial economic impact to the recycling industry that will likely continue in a similar manner, as a result of the proposed rules and regulations for the RRF.

TOPOYNILALAYTANO MANUNO - ALL LIVING THINGS OF THE EARTH ARE ONE.

Eddie Baza Calvo
Governor of Guam



**BUREAU OF
STATISTICS & PLANS**
SAGAN PLANU SIHA YAN EMIOTMASION



Ray Tenorio
Lieutenant Governor

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Carl V. Dominguez
Director
Manuel Q. Cruz
Deputy Director

November 15, 2018

MEMORANDUM

To: Administrator, Guam EPA

From: Director, Bureau of Statistics and Plans

Subject: Proposed Rules and Regulations: Assistance with Economic Impact Statement

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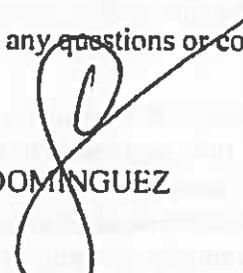
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Guam Environmental
Protection Agency

Thank you for requesting our assistance in completing an assessment as to whether or not GEPA is required to perform an Economic Impact Statement pursuant to 9 GCA Chapter 9 §9301(i), as it proceeds to formally adopt its rules and regulations for its Recycling Revolving Fund through the Administrative Adjudication Act. As this proposed change is administrative in nature and does not affect existing fees we find no significant economic costs imposed unto the general public or relevant participants of the Recycling Revolving Fund.

We agree that GEPA is exempt from the EIS requirement and I am submitting to you findings and justifications collaboratively developed by your staff and the Bureau's Chief Economist for your official use. As GEPA is the lead agency, we recommend incorporating language in the attached Preliminary Cost Impact Assessment re-titled as justification to be exempt from producing the EIS for public record and discussion.

If you have any questions or concerns, please feel free to contact me at 472-4201.



CARL V. DOMINGUEZ

Attachment: Preliminary Cost Impact Assessment

PRELIMINARY COST IMPACT STATEMENT
FOR THE RECYCLING REVOLVING FUND
PROPOSED RULES AND REGULATIONS
AS DETERMINED BY THE
GUAM ENVIRONMENTAL PROTECTION AGENCY*

Guam EPA is required by law to adopt proposed rules and regulations for the Recycling Revolving Fund (RRF) pursuant to 10 GCA Chapter 51 §51307(c). Furthermore, the adoption of said rules and regulations will not affect nor impact statutory fees, currently sufficient for such purposes. Therefore, GEPA will not seek to raise or adjust existing fees pursuant to 10 GCA Chapter 51 §51308.

The recycling initiatives delineated in proposed rules and regulations are: Mayor's Council of Guam Island-Wide Environmental Cleanup Program (II-CP), Recycling Industry Economic Stimulus Program Applicability and Eligibility, Economic Stimulus and Sustainability Recycling Adjustment Plan, Guam Beverage Container Recycling, Integrated Solid Waste Management Plan, Green Waste Plan, Disaster Debris Management, Zero Waste Grant Program and a Subsidization of the Recycling Tipping Fees for Low Income Household.

Appropriations into the RRF are set forth in 10 GCA Chapter 51 §51305 and §51306, as enacted by Guam Public Law No. 28-58, where authorization is given to the Department of Revenue and Taxation (DRT) to levy recycling fees on annual motor vehicle registration renewals. The Recycling Fee is imposed on payers of vehicle registrations, the funds collected of which are deposited as a continuing appropriation into the RRF account separate and apart for this purpose. The proposed rules and regulations do not affect nor impact vehicle registration renewal fees as levied by the Department of Revenue and Taxation.

In FY2016 and FY2017, recycling fees levied by DRT were \$2,801,597.77 and \$2,859,696.33, respectively. Funds disbursed in this program in FY2016 and FY2017 were \$329,390.78 and \$1,004,911.25, respectively. Thus far there are sufficient revenues generated, and GEPA expects that there will be sufficient revenues in FY2018 and FY2019 to fulfill the objectives of this program.

5 Guam Code Annotated, Chapter 9 Administrative Adjudication Law, Article 3 Rule Making Procedures, §9301(i): Exemptions. Any proposed rule, change, change of rule, regulation or request to impose or raise fees or rates shall be exempted from the economic impact statement requirements of Subsection (d),(e),(f),(g) and (h) of this Section if the annual economic impact to the general public is Five hundred Thousand Dollars (\$500,000) or less as determined by a preliminary cost impact assessment performed by the Bureau of Budget Management Research, or by the department, agency, autonomous agency, office or instrumentality proposing the rule, change of rule, regulation or request to impose or raise fee. The preliminary cost impact assessment must be completed and made available to the public prior to any required hearings on the proposed rules and regulations, and must be transmitted to *Liheslatura* (the Legislature) as part of the Agency Record.

Therefore, Guam Environmental Protection Agency has determined that the requirement of §9301(d),(e), (f), (g) and (h) is not applicable to the proposed Recycling Revolving Fund Rules and

Regulations as there are no newly proposed fees or fee increases and will not have a measurable economic impact to the general public of Five Hundred Thousand Dollars (\$500,000) or less.

The preliminary Economic Cost Statement will address the following:

1. The purpose and the need for the rule or regulation: an assessment of the risk and the cost of the imposed rule or regulation. In addition, government agencies proposing a new rule or regulation must include with the assessment, the justification for the new rule or regulation.

The enabling statute, 10 GCA Chapter 51 §51303 authorizes the agency to fund the Recycling Industry Economic Stimulus Program, one (1) full time employee to administer the fund and implement Article 3 of 10 GCA Chapter 51. contractual services for recycling outreach and contractual services to implement the 2013 Guam Zero Waste Plan. Funding for all other expenditures outside of those referenced above are prohibited until the agency promulgates rules and regulations for the RRF. Additionally, a report issued by the Guam Office of the Public Auditor in 2015 questioned expenditures funded by the RRF and subsequently made a recommendation to place a moratorium on funding for items outside of those listed in 10 GCA Chapter 51 §51303(1-4). The proposed rules and regulations, as adopted, will address and resolve issues noted by the Office of the Public Auditor and allow GEPA to hire the program Administrator.

2. The financial impact of the proposed rule or regulation upon those persons or corporate entities directly affected by the proposed rule or regulation, and upon the people and the economy of Guam.

The RRF revenues are collected from vehicle registration renewal fees by the Department of Revenue and Taxation pursuant to 10 GCA Chapter 51 §51305 and §51306. The RRF have consistently averaged \$2.8 million over the past two years and have proven to be a stable source of revenues. Due to enforcement activities and the mandatory liability insurance law, compliance with Guam's vehicle registration program remains a success.

The proposed rules and regulations are administrative in nature and will have no additional financial burden to payers of this fee nor the general public. The GEPA has reviewed the fee and has elected not to adjust the fee at this time. Fees collected are adequate to fulfill program objectives at this time.

Upon adoption of the rules and regulations GEPA expects expenditures made for this program to increase as participating recycling facilities join the Recycling Industry Economic Stimulus Program.

3. Any potential increase or decrease in the cost of living on Guam, or any specific increase or decrease in the price or availability of any good or service on Guam directly or indirectly attributable to the proposed rule or regulation.

The agency does not anticipate any increase or decrease in the cost of living, nor does it anticipate any specific increase or decrease in the price or availability of any good or service on Guam, as a result of the proposed rules and regulations for the RRF. The vehicle registration renewal fee has been imposed several years ago, is negligible relative to the total cost of vehicle ownership and is required by law. Consumers are accustomed to it and budget accordingly.

4. Any direct or indirect impact upon employment on Guam or any increase or decrease in the availability of a particular job or jobs, or jobs in general, attributable to the proposed rule or regulation.

The agency does not anticipate any negative impact upon employment on Guam, nor does it anticipate any decrease in a particular job or jobs, or jobs in general, as a result of the proposed rules and regulations for the RRF. While there may be an increase in participating recyclers it is expected employment within the industry to remain constant in the short term. Waste and recycling efforts respond to shifts in net migration which are typically modest over time.

5. Any increase or decrease in the cost of doing business as an enterprise or industry on Guam, or any increase or decrease in doing business in general, which is attributable to the proposed rule or regulation.

The agency does not anticipate any increase or decrease in the cost of doing business as an enterprise or industry, nor does it anticipate any increase or decrease in general, as a result of the proposed rules and regulations for the RRF. It is expected that the adoption will lead to programmatic and administrative efficiencies, nevertheless.

6. Any adverse or beneficial economic impact, which is attributable to the proposed rule or regulation

Upon enactment of this 10 GCA Chapter 51 as described above, expenditures to stimulate and or encourage recycling companies to "export" local reusable solid waste abroad serves a positive social and economic means to an end that preserves real estate values, frees up land otherwise destined as a solid waste landfill and improves our quality of life in the years to come. This program results in a net economic benefit to the residents of Guam.

Given the preliminary findings discussed above, the agency does not anticipate any adverse economic impact as a result of the proposed rules and regulations for the RRF.

*Assistance provided by the Bureau of Statistics and Plans