



Print: Perry, Joshua

Sign: *John Perry*

Date: 25 JAN 19

AHENSIAN PRUTEKSION LINA'LA GUÁHAN

LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

JAN 22 2019

Lt. Col. Todd Inouye
Base Civil Engineer
Building 18001 Arc Light Blvd.
Andersen Air Force Base
Yigo Guam, 96929

Re: Notice of Violation/Order of Compliance/Administrative Penalty Order (PP- 0119-NOV/OC-001)

Hafa Adai Lt. Col. Inouye:

You are hereby advised that this Notice of Violation and Order of Compliance/Administrative Penalty Order (NOV/OC/APO) is being issued to Andersen Air Force Base Northwest Field Facility.

The Guam Environmental Protection Agency (Guam EPA) is charged with the responsibility of implementing the Guam Pesticides Act, as amended, Chapter 50 of Title 10, Guam Code Annotated (GCA), as amended by Public Law No. 30-197 which adopted the Guam Pesticide Regulations, Title 22, GARR, Division III Chapter 15.

BACKGROUND

On January 3, 2019, representatives from the Guam Environmental Protection Agency's Pesticides Enforcement Program was notified by this Agency's Safe Drinking Water Program (SDWP) of a possible misuse of a product that was being utilized as a disinfection method for water distribution.

On December 28, 2018, a routine Sanitary Survey inspection was conducted on a "0.5 Million Gallon Water Storage Tank" located on Northwest Field service area, Andersen Air Force Base. Violation were cited (SDWP NOV# 2019-001).

During the SDWP inspection, Guam EPA staff discovered that a different form of chlorination from what was approved by Guam EPA had been installed. The system utilized a calcium hypochlorite tablet with the brand name "Chlorinating Tabs (3-in-1 Formula/3" Tablets)" to chlorinate the water supply storage tanks according to the December 28, 2018 report. Mr. Zachary Dela Cruz, Operator 36 CE/WFMS of the facility was present at the time of the inspection.

A photo of the product in question was supplied to GEPA's Pesticides Enforcement Program by GEPA's SDWP, the photo was reviewed and found that Chlorinating Tabs (3-in-1 Formula/3" Tablets) is a pesticide. The product with the active ingredient: Trichlore-s-triazinetriion, EPA REG No. 67262-17 and EPA EST. NO: 5185-GA-1 is used only for swimming pools as per the product labeling.

counsel in support of this petition. Failure to file a Notice of Intent to Appeal and verified petition within the period specified above, or failure to attend or to participate in a hearing that you have requested, will constitute a waiver of your right to a hearing. . If you waive your right to a hearing, the Order of Compliance and Administrative Penalty Order will become final and Guam EPA may proceed upon the orders without a hearing and without further notice to you.

The Guam EPA's Board shall then hold a public hearing, not more than sixty (60) days after receipt of such Notice of Defense, at which time you may appear and present evidence in person or through counsel in support of your verified petition supporting your appeal.

PENALTY SETTLEMENT OPTIONS

In addition to your right to appeal described above, you may enter into a Voluntary Compliance Agreement pursuant to 22 GAR §15802. To enter into a Voluntary Compliance Agreement, you must immediately notify Guam EPA of your intent, and an agreement with Guam EPA must be reached within ten working days of your receipt of this NOV/OC.

If you have any questions regarding the technical aspect of the investigation report or this letter, please contact Darry J. Guzman 300-3187.

Si Yu'us Ma'ase,



WALTER S. LEON GUERRERO
Administrator

Enclosures:

Notice of Intent to Appeal (Notice of Defense) Form
Copy of Interception Report
Photographs

cc: Mr. Carl Goldstein, USEPA Region IX, Guam Program Manager
Ms. Sonam Gill, USEPA Region IX, Guam Pesticide Project Officer
cc Ms. Conchita SN Taitano, Guam EPA, Air & Land Administrator
Mr. Betwin Alokoa, Guam EPA, Pesticide Program Supervisor
Mr. Darry J. Guzman, Guam EPA/Chrono
Guam EPA Safe Drinking Water Program

NOTICE OF VIOLATION

Guam EPA is charged with the responsibility of implementing the Guam Pesticides Act, Title 10, Guam Code Annotated (GCA), Chapter 50 as amended by Public Law No. 30-197, which also adopted the Guam Pesticide Regulations, Title 22, GARR, Division III, Chapter 15.

You are in violation of 10 GCA § 50110(b) which states that it is prohibited “To use, apply, store, transport, mix, dispose, discard or supervise the use of an application of a pesticide or device inconsistent with its labeling or restrictions imposed by the Administrator”. Specifically, you used the pesticide Chlorinating Tabs 3-in-1 Formula/3 Tablets inconsistent with its labeling.

Under 10 GCA 50104(c), the Guam EPA Administrator is empowered to “take actions necessary to protect human health, welfare, or the environment.” The Administrator further has the power to “issue, amend, rescind, and enforce orders as may be necessary to ensure compliance with any provision of [10 GCA Chapter 50], or of any rules, regulations, license, certification, registration, standards, or requirements issued pursuant to this Chapter including, but not limited to, an administrative penalty order, “not limited to” an emergency order, an administrative penalty or order requiring whatever remedial measures may be necessary or appropriate to implement or effectuate the provisions and purposes of this Chapter.” 10 GCA §50104(i).

Based on the facts and law cited above, Guam EPA has reasonable grounds to believe that you have violated the Guam Pesticides Act and Rules and Regulation provisions of 10 GCA, Chapter 50 of the Guam Pesticides Act and therefore, are subject to administrative penalties and orders.

ADMINISTRATIVE PENALTY ORDER

The Guam EPA Administrator, pursuant to 10 GCA § 50118, hereby imposes an administrative penalty in the amount of seven hundred and fifty (\$750) dollars.

NOTICE OF RIGHT TO APPEAL

You may file within fifteen (15) calendar days of the receipt of this NOV/OC, a *Notice of Intent to Appeal* (also known as a Notice of Defense) with the Guam EPA’s Board of Directors, setting forth in such notice a verified petition outlining the legal and factual basis for such an appeal. A copy of the Notice of Intent to Appeal, also known as a Notice of Defense, is attached for your convenience.

Unless a written request for a hearing signed by or on behalf of the person named above in this Notice of Violation/Order of Compliance is hand delivered or mailed to Guam EPA within fifteen (15) days after the Notice of Violation/Order of Compliance was personally served or mailed to you, Guam EPA may proceed upon the Notice of Violation/Order of Compliance without a hearing.

The request for hearing may be made by delivering or mailing the enclosed form entitled “Notice of Intent to Appeal” or by delivering or mailing a notice of defense as provided in 5 GCA § 9205 to Guam Environmental Protection Agency, 3304 Mariner Avenue, Tiyán Barrigada, Guam 96932.

If you file a Notice of Intent to Appeal/Notice of Defense, the Guam EPA’s Board shall then hold a public hearing not more than sixty (60) calendar days after receipt of such Notice of Intent to Appeal/Notice of Defense, at which time you may appear and present evidence in person or through



17-0004

Water (last)
02/14/19



**DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 36TH WING (PACAF)
ANDERSEN AIR FORCE BASE GUAM**

RECEIVED
FEB 13 2019
Guam Environmental
Protection Agency

Guam Environmental Protection Agency Board of Directors
c/o Administrator Guam Environmental Protection Agency
Building 17-3304 Mariner Avenue
Tiyán Barrigada, Guam 96913

**SUBJECT: NOTICE OF VIOLATION / ORDER OF COMPLIANCE / ADMINISTRATIVE
PENALTY ORDER (PP-0119-NOV/OC-001)**

Mr. Leon Guerrero:

Andersen Air Force Base, Guam ("AAFB," "we," or "our") has received Guam Environmental Protection Agency's ("GEPA," "you," or "your") Notice of Violation and Order of Compliance/Administrative Penalty Order PP-0119-NOV/OC-001 ("NOV/OC/APO") dated January 22, 2019. On February 7, 2019, we met with Betwin Alokua, Darry Guzman, among others, concerning the NOV/OC/APO. We thank them for meeting with us on short notice to resolve this matter. As we indicated to them, it is our goal to maintain safe and compliant water system operations in accordance with applicable laws and regulations.

Please consider this letter as our intent to fully resolve this matter by paying in full the administrative penalty to GEPA in the amount of seven hundred and fifty (\$750) dollars. Once provided with an account number to submit an electronic transfer, we will pay the administrative penalty and provide a receipt of transaction.

If you have any questions, our point of contact is 1st Lt James Hammons, whom you may reach by phone at (671) 366-2556 or email at james.hammons.3@us.af.mil.

Sincerely,

OSTILJONATHAN Digitally signed by
.C.1187888596 OSTILJONATHAN.C.1187888596
Date: 2019.02.11 13:01:13 +10'00'

JONATHAN OSTIL, GS-14, P.E., PMP
Deputy Director, 36th Civil Engineer Sq
Andersen AFB, Guam