



AHENSIAN PRUTEKSION LINA'LA GUÅHAN

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

**Benson Guam Enterprises
Mr. Cencio Tan C. Vy
P.O. Box 6157
Tamuning, GU 96931-6157
Contact # (671) 477-7562**

Date: JUN 04 2019

**Subject: Resolution of Notice of Violation and Compliance Order
GUAM LEAD BAN ACT**

Dear Mr. Vy,

The Guam Environmental Protection Agency (GEPA) has received the lead-free certification documentation submitted electronically by Delta Faucet Company for all Delta and Peerless brand faucets in response to our May 23, 2019 Notice of Violation and Compliance Order (NOV/CO). Based on this, GEPA finds that Benson Guam is not in violation of the Guam Lead Ban Act (10 GCA Chapter 53A), and we consider this matter closed.

Should you have questions or need additional information please contact the Safe Drinking Water Program staff or Water Division Chief Engineer, CDR Brian Bearden, P.E., BCEE at Tel# 3004783 and 3004779 respectively.

**WALTER S. LEON GUERRERO
Administrator**

cc: Guam Department of Customs and Quarantine



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NOTICE OF VIOLATION AND COMPLIANCE ORDER

GUAM LEAD BAN ACT

This Notice of Violation and Compliance Order ("NOV") is in effect as of this date MAY 23 2019 and time 11:20.

Issued to (Respondent):

Business/store name: BENSON GUAM ENTERPRISE

Manager/owner/representative name: CENCIO TAN C. VY

Mailing Address: P.O. BOX 6157, TAMUNING, GU 96931-6157

Physical Address (if different): 779 ROUTE 8, HAGATNA, GU 96910

Email: cencio@bensonguam.com Phone: 671-477-7562

* benson@bensonguam.com

Description of Violation:

The Guam Lead Ban Act, 10 GCA Chapter 53A, prohibits the importation, use, or sale of pipes, plumbing fittings and fixtures that are not certified by an independent third party to be lead free in compliance with ANSI/NSF Standard 61. Lead is a regulated drinking water contaminant that has been shown to cause numerous, severe health problems, especially for young children, infants, and fetuses. The U.S. Environmental Protection Agency (USEPA), as well as the Guam Environmental Protection Agency (GEPA) have set a maximum contaminant level goal (MCLG) of zero for lead in drinking water.

On Date MAY 23, 2019 and time 11:00, GEPA staff conducted an inspection of the premises described above and found plumbing fittings in stock and for sale or use in construction that were not certified lead-free as required by the Guam Lead Ban Act. GEPA staff provided the person named above with a copy of the Guam Lead Ban Act. Below is a general description of the uncertified plumbing fixtures observed in stock at the premises described above:

- ALL DELTA FAUCETS/FIXTURES
- ALL PEERLESS FAUCETS/FIXTURES
- PROLINE BRAND HOSE BIBS- SOME, NOT ALL

Photo

Notice Of Violation:

Based on the facts described above, GEPA finds that Respondent violated the following provisions of the Guam Lead Ban Act, 10 GCA Chapter 53A:

1. 10 GCA §53303(b) *No person may import into Guam or introduce into commerce any plumbing fitting or fixture that is not ANSI/NSF certified.*

By stocking plumbing fixtures that are not ANSI/NSF certified, Respondent introduced plumbing fixtures into commerce in violation of this section.

Compliance Order:

Based on the foregoing Violations and pursuant to the authority granted to GEPA by 10 GCA Chapter 53A, Respondent is HEREBY ORDERED to undertake the following remedial actions:

1. **Immediately upon receipt of this order:** Remove from stock and cease the sale of all plumbing fixtures that are not ANSI/NSF certified in accordance with approved markings per the attached USEPA guidance, which may also be downloaded from this website: https://www.nsf.org/newsroom_pdf/Lead_free_certification_marks.pdf. The plumbing fixtures shall be grouped into a temporary storage location not accessible to customers (for example in a warehouse) and protected from unintentional re-stocking (for example through palletizing and plastic wrap). The temporary storage location must be made available for frequent inspection by GEPA staff at all reasonable times, pursuant to 10 GCA §53304.
2. **Within two (2) calendar days of receipt of this order:** Provide notice to GEPA that all plumbing fixtures not ANSI/NSF certified have been placed into temporary storage and are available for GEPA and/or Guam Department of Customs and Quarantine inspection. You must include with this notice a written inventory of all fixtures placed into temporary storage.
3. **Within ten calendar days of receipt of this order:** Provide to GEPA copies of all written records documenting the receipt and sales of plumbing fixtures that are not ANSI/NSF certified. The record must demonstrate the total number of fixtures sold or used in construction, and the time period over which such sales and/or installation occurred.

GUAM LEAD BAN ACT

Notice of Violation/Compliance Order.

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4. **Stand by for further instructions.** Keep the uncertified plumbing fixtures separate, secured, and available for GEPA inspection until you receive new instructions on final disposition of the items from GEPA and/or the Guam Department of Customs and Quarantine. **DO NOT sell, give away, allow to be stolen/pilfered, destroy or otherwise dispose of any of the plumbing fixtures that are not ANSI/NSF certified.** Doing so may result in additional violations and more severe penalties.

This order does not prevent GEPA from taking additional actions including the issuance of administrative penalties under 10 GCA §53307(a) of up to \$5,500 per violation per day, or civil penalties of up to \$27,500 per violation per day under 10 GCA §53307 (b). Please also note that if you fail to take the remedial actions listed above within the required timeframe(s), additional violations, remedial actions, and penalties may be assessed by Guam EPA.

Appeal / Notice of Defense:

You may file within thirty (30) days of the date of your receipt of this Notice of Violation and Compliance Order, a Notice of Intent to Appeal also known as a Notice of Defense with the Guam EPA's Board of Directors. A copy of the Notice of Intent to Appeal/Notice of Defense is attached for your convenience.

Unless a written request for a hearing signed by or on behalf of the person, agency or business entity named above in this Notice of Violation and Compliance Order is hand delivered or mailed to GEPA within thirty days after the Notice of Violation and Compliance Order was personally served on you or mailed to you, GEPA may proceed upon the Notice of Violation and Compliance Order without a hearing. A request for hearing may be made by delivering the enclosed form entitled "Notice of Intent to Appeal also known as A Notice of Defense", or by delivering a notice of defense as provided in 5 GCA §9205, to the following address:

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

If you file a Notice of Intent to Appeal/Notice of Defense, the GEPA's Board of Directors shall hold a public hearing, at which time you may appear and present evidence in person or through counsel in support of this petition.

Failure to file a Notice of Intent to Appeal within the period specified above will constitute a waiver of your right to a hearing. If you waive your rights to a hearing the Notice of Violation and Compliance Order will become final, and GEPA may proceed upon the Order without a hearing and without further notice to you.

Coordination Of Enforcement:

Pursuant to the requirement under 10 GCA §53303 to coordinate enforcement of this prohibition, the Guam Department of Customs and Quarantine will be provided a copy of this Notice of Violation and Compliance Order for their information and assistance with the final disposition of the uncertified plumbing fixtures.

Receipt and Acknowledgement (Respondent)

I acknowledge that I have received a copy of this Notice of Violation and Compliance Order on Date: 05/23/2019 at time: 11:25 AM.

Signature: 

Print Name: KIMBERLY CURA

Job title: ADMIN. ASSISTANT

GEPA Inspectors:

1. Name: BRIAN BEARDEN Title: CHIEF ENGINEER

Signature:  Date and time: 5/23/19 11:22

2. Name: Jenny Aquino Title: ENGINEER II

Signature:  Date and time: 5/23/2019 @ 11:22

3. Name: _____ Title: _____

Signature: _____ Date and time: _____

Questions regarding this Notice of Violation and Compliance Order may be directed to GEPA Administrator Walter Leon Guerrero or Chief Engineer CDR Brian Bearden, PE, BCEE at 300-4751/52/53.



Guam Environmental Protection Agency
 P.O. Box 22439, GMF,
 Barrigada, Guam 96921



NOTICE OF INTENT TO APPEAL (AKA NOTICE OF DEFENSE)

I, _____, have received your Notice of Violation, Order of Compliance and/or Administrative Penalty Order dated _____, charging me for violations and/or imposing penalties and/or other orders, and I wish to:
 (Please check appropriate sections)

A. Request for a hearing and

- 1. Object to the accusation on the ground that it does not state acts or omissions upon which the Agency can proceed.
- 2. Object to the form of the accusation on the ground that it is so indefinite or ambiguous that I cannot identify the infraction or prepare my defense.
- 3. Wish to prepare new matter in my defense.
- 4. Admit to the accusation in part.

B. Admit to the accusation in whole.

C. Verified Petition: Under penalty of perjury I hereby declare that the following constitutes my legal and factual basis for this appeal:

[please continue on blank sheet of paper if more space is needed and attach to this paper]

My mailing address is:

SIGNATURE

DATE

GUAM EPA CASE NO.: _____

