AHENSIAN PRUTEKSION LINA'LA GUÅHAN
LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

Guam Environmental Protection Agency
Board of Directors Meeting
Thursday, April 18, 2019 @ 4:00 pm
Main Office Conference Room

Agenda

I. Call to Order

II. Approval of Agenda

III. Approval of March 14, 2019 Minutes

IV. Administrator's Report

V. Old Business
- Navy NOV Status
- Nova Group, Inc. Settlement Agreement Status
- Safe Drinking Water NOV – GWA Status
- Air Force Re Stipulated Request for Continuance – NOV #2019-001
- RRF Rules and Regulations Draft Update
- PIEC Update

VI. New Business
- Presentation of Proposed Revision to the Recreational Beach Monitoring Plan: Guam Coastal Waters
- Confirmation of Board Secretary – Arlene S. Acfalle

VII. Miscellaneous

VIII. Next Meeting Date/Adjournment

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WALTER S. LEON GUERRERO, ADMINISTRATOR

Guam Environmental Protection Agency
Board of Directors Meeting
(Continuance from April 18, 2019)
Tuesday, April 30, 2019 @ 4:00 pm
Main Office Conference Room

AGENDA

~Recycling, Revolving Fund~

AHENSIAN PRUTEKSION LINA'LA GUÅHAN
LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

PUBLIC NOTICE

ORDER OF ADJOURNMENT

April 25, 2019

The Regular Session Meeting of the Guam Environmental Protection Agency Board of Directors was placed on recess and shall reconvene on Tuesday, April 30, 2019 at 4:00 pm, at the following location: Guam EPA 17-3304 Mariner Avenue Tiyan Barrigada, Guam.

Should you have any questions or concerns, please visit the Guam Environmental Protection Agency, Guam, Monday to Friday 8:00 a.m. – 5 p.m. or call 300-4751.

AHENSIAN PRUTEKSION LINA'LA GUÅHAN

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WALTER S. LEON GUERRERO, ADMINISTRATOR

Guam Environmental Protection Agency
Board of Director's Meeting
Thursday, April 18, 2019 @ 4:18 p.m.
Main Office Conference Room

MINUTES

I. **Call to Order**: Chairman Robert Perron called the Board of Director's meeting to order at 4:18 p.m. The following individuals were present at the board meeting: Board Members: Robert Perron-Chairman, Steve Hollister, Ann Roth and Florida Sanchez and Steven Carrara (Vice Chair Terrence Brooks was not present). **Guam EPA Staff**: Walter S. Leon Guerrero, Administrator; Arlene S Acfalle, Kristan Finney; Brian Bearden; Conchita SN Taitano; Sabrina Cruz-Sablan; Jesse T. Cruz; Nicolas Rupley Lee; Connie Aflleje, Vilma Balajadia, Roland Gutierrez, **USEPA**: Carl Goldstein and John McCarroll, **Guests**: Joe Poncy (Innovate), Steven Carbullido, Moneka DeOro,

II. **Approval of Agenda**: Director Roth made a motion to approve the agenda, seconded by Director Hollister. All voted in favor and motion passed.

III. **Approval of Minutes**: Director Roth made a motion to approve the minutes, seconded by Director Hollister. All voted in favor and motion passed.

IV. **Administrator's Report**

- Administrator introduced our USEPA Representatives: John McCarroll, Administrator/Pacific Island Office, Mr. Carl Goldstein, Guam Program Manager as well as American Samoa and CNMI Program Manager, Mr. Joe Poncy from Innovate who is the contractor for USEPA putting together out WALTERS electronic data base expansion for more of the programs and coming up with ways to better serve the public, Ms. Moneka DeOro and Steve Carbullido, both who have been recently nominated to our Board. Their hearing is set for tomorrow, 04/19/19 at 1pm along with two (2) of our existing board members, namely, Bob and Ms. Flori. He also allowed them to introduce themselves and say a few words.

- Monday, 04/22/19 is officially Earth Day. Our agency will be doing a cleanup at the Francisco Perez Beach, aka Pago Bay Beach. Administrator extends initiation to board to come out and participate. Our agency remains open but our office will be closed as we do our Earth Day cleanup project.

- Thursday, 04/25/19, we will be having our first SERC/LEPC meeting basically for emergency preparedness. In talking with Joe (from Innovate) the electronic data base has a GEO platform and can perform live information while out on the field. We will be showcasing this to the other Emergency First Responders. In the event of an emergency, they can look at our GEO platform, to access a situation or the specifics to an emergency response situation to better ensure their safety and the community as well.

- Wednesday, 04/24/19 we have the Consent Decree hearing regarding how GovGuam is going to continue maintaining payment for long-term monitoring of Ordot.

V. Old Business:

- ***Navy NOV – Notice to Appeal***

Chairman states we still have these NOV's listed. No updates per Ms. Finney. Administrator stated per Mr. Ed Moon, he advised that both our legal counsel and their legal counsel have been instructed to "work it out". Ms. Finney explained "what we are working out isn't going to involve any payment. It's going to involve them taking responsibility for their contract. We have been in touch but need further communication. Ms. DeOro asked if this was the water issue. Administrator and Kristen both replied: no this is the pipeline in Agana Heights. Ms. DeOro asked if we were going to pay anything. Ms. Finney explained that the contractor was the NOVA group and they paid a penalty and so an additional NOV was issued to the Navy for a lack of oversight of the project. Administrator stated we were putting them on notice/warning that if they cannot manage their contractors, in the future, both Navy and contractor will be issued penalties with fines.

- ***Nova Group, Inc. – Settlement Agreement Status.***

Administrator stated Fitz wrote letter and gave them opportunity to do the "sep", however the deadline came and past. Nothing finalized and will require an update. Per Ms. Finney no status on payment but they were informed that since they didn't come forward with a proposal for a "sep" that they have to pay the additional penalty. Director Roth asked what the additional penalties was. Ms. Finney mentioned $19K (something like that). Director Roth inquired if they paid the other penalties? Administrator stated yes. Chairman asked if that was the ones that provided materials to that middle school. Administrator advised "no that was from the fire. That is the air "sep".

- ***Safe Drinking Water NOV/ Guam Waterworks Authority (GWA).***

Administrator asked Brian if they have any update in regards to the SOP's. Administrator advised he spoke with the Air Force in regards to their request for continuance, buying them more time for presentation. Per Brian he is still waiting on the SOP's. Administrator advised to please follow up so we can get out of this. Per Brian they will be meeting with Air Force to discuss the "sep" for drinking water violation and discuss their fines.

- ***RRF Rules and Regulations Draft – Update***

Administrator reiterated that the Board afforded his recommendation to pass the rules and regs last week, however there are still something's that need to be fleshed out. In their (Administrator and Chairman) meeting at the senators office, he spoke with staffer Cyrus who is also working on the RRF. So they sent out two (2) different tracks when the Board passed the RRF last month. Although it was with the senator's office, the AG's and Adelup, the Administrator called an internal review once more to try and make sure that everyone is ready to move forward. I want this rectified as soon as possible said the Administrator. He stated it will be presented the next board meeting. Chairman recommended we call a special meeting. Administrator apologized for resubmittal because he was not comfortable so he will pull it back and asked to be excused for failure on his part. Board decided to not adjourn meeting but to do a recess/continuance for the RRF.

- ***PIEC Update***

Ms. Conchita advised we are down to 13 available seats out of 300. We need to discuss additional cost for food and beverage. Actively engaging in media / press release. Online registration ends May 1st. Gifts for speakers/ dignitaries and merchandise are being ordered. Instead of the mural we are doing interactive art display. Working with BSP who is donating $23K. Board and USEPA will also get a PIEC uniform and coordinate for a group photo.

VI. New Business:

- *Presentation of Proposed Revision to the Recreational Beach Monitoring Plan: Guam Coastal Waters*

Jesse Cruz apologized for not having the presentation ready for this meeting. Request to postpone it till next meeting under "Old Business" he will have it ready. (Jesse was acting administrator in Walter's absence) Approved by Board.

- *Confirmation of new Board Secretary – Arlene Acfalle*

Chairman introduced Arlene Acfalle to the Board as new Board Secretary. Motion to approve by Director Steve Carrara, seconded by Director Sanchez. All in favor and motion passed.

VII. New Meeting Date/ Recess

Recessed till April 25, 2019 at 4pm. Director Carrera motion to approve, seconded by Director Sanchez. All in favor and motion passed. Continuance meeting was rescheduled for April 30th.

Arlene S Acfalle

Guam Environmental Protection Agency Board Meeting
(Continuance from April 18, 2019)

I. **Call to Order**: Continuance meeting called by Chairman Robert Perron at 4:20pm on April 30, 2019. The following individuals were present at the board meeting: **Board Members:** Robert Perron-Chairman, Terrace Brooks-Vice-Chairman, Steve Hollister, Ann Roth and Florida Sanchez, Steven Carrara
Guam EPA Staff: Walter S. Leon Guerrero-Administrator, Arlene S Acfalle, Kristan Finney; Connie Aflleje, Brian Bearden, Sabrina Cruz-Sablan, Nicolas Rupley Lee, and Roland Gutierrez.

- *Continuance of RRF Rules and Regulations*

Administrator thanked the board for reconvening. Ms. Sabrina mentioned we have made amendments to the rules based on comment from legal counsel and we hope we have a product we all agree on. Legal counsel had other concerns that were minor and we took care of that internally. She had concerns about the statements from BBMR and BSP in regards to EIS. Ms. Sabrina advised the boardthat all the information that was given in the past is the same except now it is reconciled and it's the statement from Guam EPA. Nic provided clarity on what the confusion was and that is to determine if the agency had any qualifications to be exempt from the Economic Tax Statement. BBMR didn't feel we were but they suggested we seek guidance from DOL or BSP. So we chose BSP. BSP felt that we were exempted so we took both correspondences and formulated the economic impact statement based on the financial activity that takes place for the fund and what our agency perceives as lack of adverse impact toward the general public which was also agreed upon by BSP. Administrator reminded that this is money that is already being generated from the people of Guam through every registered vehicle. Our projects would not cost the consumer any more money.

Chairman asked legal counsel if she was representing the OAG as well. Ms. Finney advised she was assigned to review the previous version and did have concerns however they have been addressed already. Chairman recused himself from voting due to he attended the public hearing as a recycler, because as a recycler it may have a potential impact on his business. Chairman advised we can still vote since we still have quorum with the presence of Vice Chair Brooks during the continuance hearing.

Ms. Finney asked if the Board will be more comfortable if we went over the rules. Board agreed.

- Junk Vehicle – It is in the statue which is already law.
- Section 24302C – Administrator will determine the funding for initiatives every year for Board approval
- Current Initiatives
  -Mayors Council Island Wide Environmental Clean Up Program – Section 24303.1.
  -Recycling Industry Stimulus Program – 24303.2
- Projects being worked on
  -Solid Waste Management Plan
  -Guam Beverage Container Plan
  -Green Waste Plan
  -Zero Waste Program
  -Integrated Solid Waste Plan

Director Hollister questioned as to the difficulty of adding new plans in the future to the RRF. Administrator advised we currently don't have full authority but when the RRF is approved Senator Perez's office will grant us the ability and authority to move forward with proper regulations. Vice Chair asked if there were any more questions. Director Hollister asked if we approved the RRF, would only Guam EPA decide where funds go and this was concurred by Administrator. He also asked if the mayors' office still does the abandoned vehicle program. Administrator advised yes but they currently get direct funding from legislature.

Director Roth motioned to approve the RRF seconded by Director Sanchez. All in favor and motion passed.

II. Meeting adjourned at 4:45pm. Next Board meeting scheduled for May 23, 2019 at 4:00pm.

Arlene Acfalle

GUAM ENVIRONMENTAL PROTECTION AGENCY

BOARD OF DIRECTORS MEETING

April 18, 2019

ADMINISTRATOR'S REPORT

I. FISCAL YEAR 2019 FINANCIAL REPORT (as of 04/18/2019)

GUAM EPA REVENUES:

A.	Federal Grant Funds -	$1,257,973.62
B.	Special Funds (Budget Law Allotted)	$1,250,050.48
	TOTAL GUAM EPA REVENUES:	**$2,508,024.10**

GUAM EPA OPERATING EXPENSES & O/S ENCUMBRANCES (as of 04/18/2019):

C.	Federal Grant Funds -	$1,567,186.52
D.	Special Funds (Budget Law) -	$582,428.00
	TOTAL GUAM EPA EXPENDITURES & ENCUMBRANCES:	**$2,149,614.52**

GUAM EPA BALANCE/(DEFICIT):

E.	Federal Grant Funds -	$277,242.62
F.	Special Funds (Budget Law) -	$667,622.48
	TOTAL GUAM EPA BALANCE/(DEFICIT):	**$635,652.20**

TOTAL GUAM EPA FEDERAL GRANT REIMBURSEMENTS

Total Payment Requests for Reimbursement –	$ 748,813.53
Pending Approval of Reimbursements -	**$ 636,609.67**

GUAM ENVIRONMENTAL PROTECTION AGENCY

BOARD OF DIRECTORS MEETING

April 18, 2019

ADMINISTRATOR'S REPORT

II. RECYCLING REVOLVING FUND ACCOUNT (as of 04/18/2019)

REVENUES

Recycling Revolving Funds - $ 2,895,965.00

GUAM EPA OPERATING EXPENSES & O/S ENCUMBRANCES FOR THE RECYCLING FUND (as of 04/18/2019):

A.	Personnel -	$29,601.65
B.	Contractual -	$1,348,790.49
C.	Equipment, Materials, Supplies, Utilities, etc -	$0.00
D.	Travel -	$0.00

TOTAL GUAM EPA EXPENDITURES & ENCUMBRANCES: $1,378,392.14

TOTAL GUAM EPA BALANCE/(DEFICIT): $1,517,572.86

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THE GUAM ENVIRONMENTAL PROTECTION AGENCY BOARD OF DIRECTORS

The Guam Environmental Protection Agency Board of Directors confirms Arlene S. Acfalle as the Board Secretary of the Guam Environmental Protection Agency, Pursuant to 10 GCA § 45104.

Confirmed This Day: April 18, 2019

Robert Perron
Guam EPA Board Chairman

As Witnesses This Day By:

Walter S. Leon Guerrero
Administrator

COPY

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

May 3, 2019

Honorable Leevin T. Camacho
Attorney General
590 South Marine Corps Drive
ITC Building, Suite 901
Tamuning, GU 96913

Hafa Adai Attorney General Camacho,

On April 5, 2019, Guam EPA submitted an adjudication record for the Recycling Revolving Fund Rules and Regulations. After the submittal, we were made aware of some issues that needed to be resolved. The Agency with the ratification from the Board has since made the necessary changes, we request that this record, Guam EPA Board Resolution no. 19-001 (A), dated April 30, 2019, be considered for your review.

In accordance with 5 Guam Code Annotated (GCA), Chapter 9, §9303, Guam Environmental Protection Agency (Guam EPA) is submitting for your review and approval the proposed "Rules and Regulations for the Recycling Revolving Fund". The attached rules were developed pursuant to 10 GCA Chapter 51 §51307 (c).

The proposed rules and regulations were posted on the Guam EPA website (www.epa.guam.gov) on December 6, 2018. Five copies of the draft rules and regulations were on file at reception desk of the Guam EPA Administration building through December 19, 2018.

A public hearing was held on December 19, 2018 on the proposed rules. An announcement was published in the Guam Daily Post on December 6, 2018. Only one member of the public attended the public hearing and provided oral comments. The transcript of the public meeting is attached.

The following materials are included:

- Hard copy of proposed Rules and Regulations for Recycling Revolving Fund
- Hardcopy of the public hearing notice on the Guam Daily Post December 6, 2018.
- Hardcopy of transcript of the public hearing on December 19, 2018.
- Hardcopy of the Preliminary Cost Impact Statement

RECEIVED 5/8/19
OFFICE OF THE ATTORNEY GENERAL
ADMINISTRATION

- Hardcopy of the Economic Impact Statement
- Hardcopy of all correspondence with BBMR, DOA and BSP
- Hardcopy of Board Resolution No# 19-001(A)
- Computer disk with the electronic copy of all documents.

Should you have any questions, please feel to contact me directly at 300.4759 or email: walter.leonguerrero@epa.guam.gov.

Senseramente,

Walter S. Leon Guerrero
Administrator

Attachments

AHENSIAN PRUTEKSION LINA'LA GUÅHAN

LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
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THE GUAM ENVIRONMENTAL PROTECTION AGENCY
BOARD OF DIRECTORS

In Accordance with
10 Guam Code Annoted, Chapter 51, Article 3, §51307 (c)

Hereby approves the amended
Rules and Regulations for the Recycling Revolving Fund
Version April 30, 2019

Approved this day: April 30, 2019

Resolution Number # 19-001-A

ROBERT A. PERRON
Guam EPA Board Chairman

As Witnessed This Day By:

TERRENCE BROOKS
Guam EPA Board Vice Chairman

Arlene Acfalle
Guam EPA Board Secretary

GUAM'S RECYCLING REVOLVING FUND
RULES AND REGULATIONS
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

The purpose of this Chapter is to clarify existing statute, provide a uniform competitive business environment to all, and 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 identified 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 a program that provides economic stimulus to local recycling companies that ship recyclable materials off island.

(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 the Economic Stimulus Program Participants 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. ADMINISTRATION OF RECYCLING REVOLVING FUND

(a) Monies in the Recycling Revolving *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 may use the *Fund* for the recycling initiatives described under §24303 in these Regulations with the following priorities:

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

(c) The Administrator shall determine the funding for each of the recycling initiatives and submit the determination to the Board for approval by March 31st of each 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)

(a) 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 24303.1(b) to implement an IECP with the following conditions:

1. All applicable procurement laws must be followed;
2. Each contract must be conditioned upon proof that the recycling company has current permits for the work it is to perform, including, but not limited to, solid waste facility permits, solid waste collection permits, certifications, or other permits or licenses required to collect, remove, recycle or dispose of solid waste
3. Each contract must be conditioned upon compliance with all solid waste rules and regulations; and
4. Each contract must require the recycling company to report all recyclables collected per village under this program to Guam EPA upon submittal of invoices to MCOG for payment.

(b) In each fiscal year, prior to any collection, processing, or storage of recyclable materials under a contract pursuant to this section, a comprehensive *Operation Plan* for the contractual work described in §24303.1(a) must be submitted by the MCOG to Guam EPA and 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 in this Section 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 Industry Economic Stimulus Program Participants must establish eligibility by meeting all of the following criteria:

1. Possess a valid license from the Guam Department of Revenue and taxation to conduct business of Guam;
2. Possess a valid solid waste management facility permit from Guam EPA for processing and storage;
3. Provide a bill of lading or similar documentation detailing the types of recyclable materials shipped, quantity in tons, and name of receiving facility;
4. Complete and submit all applicable Stimulus Certification Forms provided by Guam EPA; and
5. Remain in compliance with all solid waste rules and regulations.

(b) Only recyclable materials generated on Guam are eligible for payments under this Section. Recyclable materials imported into Guam for purposes such as, but not limited to, transit or consolidation shall **not** qualify under this Program.

§24303.3. Recycling Industry Economic Stimulus Program Payment Calculation

(a) Recycling Industry Economic Stimulus Program participants who establish eligibility by meeting all the criteria specified in Section 24303.2(a) may receive an economic stimulus payment for each ton of recyclable material transported off Guam to a recycling facility.

163 (b) Stimulus payments will be made in the order that completed forms are received by Guam
164 EPA until approved funding has been exhausted.
165 (c) By March 31st of each year, the Administrator may select the eligible recycling materials
166 for the next fiscal year based on global market trends, and submit a written
167 recommendation to the Board for its approval. If the Board does not approve any eligible
168 recycling materials for a particular year, no stimulus payments will be made in that year.
169 (d) Each year, the Administrator may determine the dollar amount per recyclable material to
170 be disbursed to the eligible recycling facilities and submit a written recommendation to the
171 Board for its approval. The dollar amount per recyclable material shall based on factors
172 including the prioritization of materials, market conditions, economic analyses, and
173 operational, transportation, and processing costs in its assessment, and
174
175 1. A base stimulus payment calculation per recyclable material expressed as follows: Base
176 Stimulus Payment [dollars per ton] = Shipping Cost - Market Price.
177
178 i. "Shipping cost" is calculated using the World Freight Rates Freight
179 Calculator or comparable shipping cost resource for port-to-port
180 containerized ocean shipments and the U.S. EPA Office of Resource
181 Conservation and Recovery Volume-to-Weight Conversion Factors; and
182 ii. "Market price" is equivalent to the RecycleNet scrap index or comparable
183 market index material sale price on the first day of the quarter preceding the
184 start of the next fiscal year.

185 2. A stimulus payment may be issued for recyclable materials when the calculated
186 Stimulus Payment exceeds zero dollars ($0.00) per ton (i.e., stimulus will not be paid
187 when the recycled material is revenue positive); and
188 3. The Administrator shall determine the funding levels of stimulus payments to be paid
189 subject to the availability of funds and funding priorities.

190 (e) For the fiscal year beginning October 1, 2019, the Administrator may select the eligible
191 materials, subject to Board approval and applicable stimulus payments.
192

193	§24303.4	Guam Beverage Container Recycling- RESERVE
194	§24303.5	Integrated Solid Waste Management Plan- RESERVE
195	§24303.6	Green Waste Plan- Composting and Organics RESERVE
196	**§24303.7**	**Disaster Debris Management- RESERVE**
197	**§24303.8**	**Zero Waste Grant Program – RESERVE**

AHENSIAN PRUTEKSION LINA'LA GUÅHAN
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WALTER S. LEON GUERRERO, ADMINISTRATOR

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

April 29, 2019

EXECUTIVE SUMMARY:

The Recycling Revolving Fund (RRF) was created as a separate Government of Guam (GovGuam) fund by Public Law (P.L.) 27-381 in November 2003. The spirit of the RRF sought to improve upon the existing Abandoned Vehicle and Streetlight Fund (AVSF) by addressing the AVSF's inefficiencies in funding abandoned vehicle removal, and to address the island's worsening solid waste management issues. The Guam Environmental Protection Agency (Agency) was authorized to execute contracts with recycling companies to collect, remove, and dispose recyclable materials.

The RRF originated as a fund under the administration of the Department of Public Works (DPW). In September 2009, Guam P.L. 30-55 reverted RRF revenue appropriation from DPW to the Agency. This appropriation exists to fund the costs of the administration and implementation of the RRF statutes.

Today, the Agency proposed rules and regulations for the RRF seeks to provide a uniform competitive business environment to all, and 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). Title 10 GCA Chapter 51, Article 3 § 51307 (c) states that the Agency "shall promulgate the necessary rules and regulations, in accordance with the Administrative Adjudication Law, to properly implement this Article."

With the adoption of these rules and regulations, the Agency will not seek to impose or raise any fees to the public. These proposed rules and regulations seek to provide the legally required administrative mechanism to expend annual appropriations from the RRF that have been set forth in 10 GCA Chapter 51 §51305 and enacted by Guam P.L. 28-58. The RRF is funded by the authorization that is given to the Department of Revenue and Taxation (DRT) to levy recycling fees from the annual renewal of motor vehicle registrations on Guam. These rules and regulations do not seek to raise or impose any other fees outside of what is already authorized by Guam P.L. 28-580.

This administrative mechanism also serves to satisfy concerns from a report issued by the Guam Office of the Public Auditor (OPA) in 2015. The OPA questioned expenditures funded by the RRF and

subsequently made recommendation to place a moratorium on funding for any items outside of those listed in 10 GCA Chapter 51 §51303(1-4).

The recycling initiatives sought in the Agency's proposed rules and regulations are as follows: Mayor's Council of Guam (MCOG) Island-wide Environmental Cleanup Program (IECP), Recycling Industry Economic Stimulus Program (RIESP) Applicability and Eligibility, Economic Stimulus and Sustainability Recycling Adjustment Plan and the Recycling Industry Economic Stimulus Program Payment Calculation.

BENEFICIAL IMPACTS:

In accordance with 5 GCA Chapter 9 §9301(f), the Agency sought consultation from the Bureau of Budget and Management Research (BBMR) in conducting a preliminary cost impact assessment to determine if the these rules and regulations would exceed $500,000 in cost impacts to the community, and if the Agency would be exempt from performing an economic impact statement (Attachment A). BBMR was able to affirm $1.2M of fiscal impacts, based on the estimated annual cost of the RIESP established by a legislative fiscal note issued for Guam P.L. 33-136. The note reported data that reflected 40,000 tons of materials are recycled annually and that the RRF will pay out $30.00 per ton of eligible materials, to eligible RIESP participants.

The table below reflects the fiscal activity, relative to the RRF for the last three (3) fiscal years:

FY	RRF APPROPRIATION	RIESP PAYMENT	MATERIAL VOLUME	MCOG APPROPRIATION
2016	$2,801,597	$329,390	10,979 TONS	-
2017	$2,859,696	$1,004,911	33,497 TONS	-
2018	$2,931,296	$275,000	9,166 TONS	$2,181,296

Throughout the last three FYs, the removal of approximately 53,642 eligible tons of materials from the island should serve as significant beneficial impact to the public. Considerations for this activity include:

- Significant diversion of materials from both the landfill and our jungles
- Increase in GovGuam's Business Privilege Tax (BPT) revenue
- Overall solid waste management industry growth on the island – two additional recycling companies have opened for business in the last 3 FYs.
    - FY16 saw 11 permits issued
    - FY17 saw 16 permits issued
    - FY18 saw 8 permits issued

In FY18, the 34th Guam Legislature appropriated $2,181,296 to the MCOG for the IECP. This appropriation was funded by the Agency's $2,931,296 appropriation to the RRF. The IECP enabled the 19 different municipalities to execute contracts with recycling companies for the sole purpose of the removal, processing and disposal of eligible materials from each respective municipality. In the

past, Guam P.L. 29-116 authorized the MCOG to execute contracts with recycling companies. This appropriation affected the funding available for use in the RIESP.

With the promulgation of these rules and regulations, the Agency seeks to empower and authorize the MCOG to return to executing contracts recyclers, based on availability of funds and in determination with the Agency Administrator and Board of Directors (BOD).

ADVERSE IMPACTS:

BBMR advised the Agency to seek guidance from other GovGuam agencies to further assess a determination to as to any cost-related impact to the public that exceeded $500,000. The Agency chose to consult with the Bureau of Statistics and Plans (BSP) and enlist the services and expertise of BSP's chief economist (Attachment B).

It was the intention of the Agency to demonstrate that there would not be any negative impacts to the general public with the promulgation of these rules and regulations. In determining any negative impacts to general public, the agency chose to consider the following [pursuant to 5 GCA Chapter 9 §9301(f)]:

- **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.*
    - *This is a legal and administrative mechanism that serves to satisfy concerns from a report issued by the OPA in 2015. The OPA questioned expenditures funded by the RRF and subsequently made recommendation to place a moratorium on funding for any items outside of those listed in 10 GCA Chapter 51 §51303(1-4), until the Agency has officially promulgated rules and regulations for the RRF.*
- **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, FY17 and FY18, $329,390, $1,004,911 and $275,000 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.*

- *A slight increase in GovGuam's BPT revenues could be realized as a result of increased income for all permitted participants of RIESP, and all permitted recycling companies who are contracted by the MCOG for the IECP.*

- *From FY16-18, the RRF has an average appropriation of $2,864,196.33. This appropriation is funded by a reliable revenue stream that originates from the renewal of motor vehicle registrations. The Agency does not intend to increase of adjust the recycling fee that is associated with these motor vehicle registration renewals.*

- **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.*

- **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.*

  - *The recycling industry could experience some growth if more companies open for business in order to avail themselves of the RIESP and contracts with the MCOG for the IECP. This growth in the industry could mean more job opportunities, and a positive impact on GovGuam's tax revenue stream.*

- **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. Though funding the RIESP and the MCOG IECP could create a modest competitive market in terms of the cost of service to the general public.*

- **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 $ 1,361,801 amount paid to qualified and permitted facilities for their participation in the RIESP, 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.

- *The rules and regulations seek to increase recycling activity on Guam. As of November 2018, Guam' recycling rate is listed as 39.16% - up 6.82 percentage points over last year's reported recycling rate. In 2011, the Agency began tracking our island's recycling activity and reported a 17.85% recycling rate in 2012.*

- *A stimulus could serve as a catalyst for the recycling industry, and could generate positive social change by way of increased recycling activity. Economic benefits could also be realized by freeing up land resources on Guam, by ridding of the recyclable materials from the island.*

The agency has determined that financial activity by way of collections, appropriations and expenditures exceeds a $500,000 annual impact on the general public, though it is unlikely that any adverse cost impacts will burden the general public since fees will neither be imposed or raised. Given the Agency's findings, it remains unlikely that the general public would have to bear any adverse economic impacts that would result from the adoption of these proposed rules and regulations.

ATTACHMENTS:
A – August 28, 2018 Agency correspondence with BBMR and BBMR's September 21, 2018 reply to the Agency

B – November 13, 2018 Agency correspondence with BSP and BSP's November 15, 2018 reply to the Agency

ATTACHMENT A: August 28, 2018 Agency correspondence with BBMR and BBMR's September 21, 2018 reply to the Agency

GUAM
ENVIRONMENTAL PROTECTION AGENCY

EDDIE BAZA CALVO
GOVERNOR OF GUAM

RAY TENORIO
LT. GOVERNOR OF GUAM

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

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August 22, 2018

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

RECEIVED BY
RECEIVED
Print Title
AUG 22 2018
Signature
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

TODO Y NILALA Y TANO MAN UNO - ALL LIVING THINGS OF THE EARTH ARE ONE.

18-1586

BUREAU OF BUDGET & MANAGEMENT RESEARCH

OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932

EDDIE BAZA CALVO
GOVERNOR

RAY TENORIO
LIEUTENANT GOVERNOR

LESTER L. CARLSON, JR.
DEPUTY DIRECTOR

SEP 21 2018

RECEIVED
SEP 21 2018
Guam Environmental Protection Agency

MEMORANDUM

To: Administrator, Guam Environmental Protection Agency (GEPA)

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.

LESTER L. CARLSON, JR.

ATTACHMENT B: November 13, 2018 Agency correspondence with BSP and BBSP's November 15, 2018 reply to the Agency

GUAM
ENVIRONMENTAL PROTECTION AGENCY
AFFENSIAN PROTEKSION LEKSÁLA GUAHAN

EDDIE BAZA CALVO
GOVERNOR OF GUAM

RAY TENORIO
LT GOVERNOR OF GUAM

17-3304 MARINER AVENUE · TIYAN BARRIGADA GUAM 96913-1617

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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.

[redacted]

WALTER S. LEON GUERRERO
Administrator, Guam EPA

GUAM
ENVIRONMENTAL PROTECTION AGENCY
ATTENSIAN PROTEKSION LINA'LA GUAHAN

EDDIE BAZA CALVO
GOVERNOR OF GUAM

RAY TENORIO
LT GOVERNOR OF GUAM

17-3301 MARINER AVENUE • TIYAN BARRIGADA GUAM 96913-1617

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

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

§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.

While the agency has determined that financial activity by way of collections, appropriations and expenditures exceeds the $500,000 annual impact on the general public, the agency seeks an exemption from §9301(j) since fees will neither be imposed nor raised.

Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

BUREAU OF STATISTICS & PLANS

SAGAN PLANU SIHA YAN EMFORMASION

Government of Guam
P.O. Box 2950 Hagåtña, Guam 96932
Tel: (671) 472-4201/3
Fax: (671) 477-1812

Carl V. Dominguez
Director
Manuel Q. Cruz
Deputy Director

November 15, 2018

RECEIVED
NOV 15 2018
Guam Enviro
Protection A

MEMORANDUM

To: Administrator, Guam EPA

From: Director, Bureau of Statistics and Plans

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

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(e). 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 (IICP), 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 *I 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.

[4]Assistance provided by the Bureau of Statistics and Plans

GUAM
ENVIRONMENTAL PROTECTION AGENCY

EDDIE BAZA CALVO — RAY TENORIO
GOVERNOR OF GUAM — LT. GOVERNOR OF GUAM
17-33 [illegible] EVENUE, TOWN HARRIGADA, GUAM 96913-1617 FIND US ONLINE AT EPA.GUAM.GOV

RECEIVED
AUG 22 2018
DEPT OF ADMINISTRATION
DIRECTOR'S OFFICE

August 22, 2018

Mr. Edward Birn
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 Birn,

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 *I Liheslaturan Guåhan*. 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: Shane Ngata

TODO Y NILALA Y TANO MAN UNO - ALL LIVING THINGS OF THE EARTH ARE ONE.

GUAM
ENVIRONMENTAL PROTECTION AGENCY

EDDIE BAZA CALVO
GOVERNOR OF GUAM

RAY TENORIO
LT GOVERNOR OF GUAM

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

FIND US ONLINE AT EPA.GUAM.GOV

August 22, 2018

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

RECEIVED BY
Winona
Print Title
8/22/18
Signature Date

Transmitted hand delivery

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

Hafa Adai Mr. Ngata,

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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

Department of Administration
Human Resources Division
AUG 22 2018
Records Branch

Cc. Edward Birn

TODO Y NILALA Y TANO MAN UNO - ALL LIVING THINGS OF THE EARTH ARE ONE

Government of Guam
(Gubernomenton Guahan)
Department of Administration
(Dipattamenton Atmenestration)
Post Office Box 884 Hagatña, Guam 96932
Tel: (671) 475-1221/1250 • Fax: (671) 477-6788

Eddie Baza Calvo
Governor
Ray Tenorio
Lieutenant Governor

Edward M. Birn
Director
Vincent P. Arriola
Deputy Director

DEC 11 2018

HRD NO.: 18-725

MEMORANDUM

To: Administrator, Guam Environmental Protection Agency

From: Director, Department of Administration

Subject: Request for Review Proposed Rules for Recycling Revolving Fund
RE: §9301 (e) 5 GCA – Adoption, Repeal, Rescission or Amendment of Rules: Procedure

Buenas yan Håfa Adai! This is in reference to your memorandum dated August 22, 2018, requesting a review of your proposed rules and regulations for the use and codified administration of the Recycling Revolving Fund (RRF) pursuant to §51307 (c) of Title 10 Guam Code Annotated (GCA).

A review was conducted in accordance with Title 5 GCA, Chapter 9, Administrative Adjudication Law, and it has been determined that the Guam's Recycling Revolving Fund Rules and Regulations are not personnel related in nature and do not pertain to employment. Therefore, approval from our Department is not necessary. Please refer to the Administrative Adjudication Law for further compliance. Should you have any questions, please do not hesitate to contact our Regulatory and Compliance Branch at 475-1132 or 1174. *Dångkolo na Agradesimiento!*

EDWARD M. BIRN

cc: Director's Office, Regulatory & Compliance Branch

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 (IICP). 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 *I 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

Guam Republicans announce legislative leadership

By Kevin Kerrigan
kevin@postguam.com

The Republican Party of Guam has announced that Sen. Wil Castro will be the party's minority leader in the 35th Guam Legislature. Sen. Louise Borja Muna will serve as assistant minority leader.

According to a release from the party, the GOP caucus recently met and unanimously elected the two incumbent senators to those leadership positions.

"I am most humbled and privileged to be chosen as minority leader," said Castro in the release. "I stand committed to working with my colleagues ... as well as the new administration in Adelup."

Returning Sen. Telo Taitague was chosen as minority whip, and freshman-elect Sen. Jim Moylan, who was the top GOP vote-getter among Republicans in the primary election, will serve as assistant minority whip.

Wil Castro

Louise Muna

Incumbent Sen. Mary Torres, who was elected to her third term in the legislature, will have the longest consecutive tenure as a senator, in either party, when the members of the 35th Legislature are sworn in.

Torres was not selected to a leadership position. She is named a "minority member." She told The Guam Daily Post she was one of three senators who sought the minority leadership position.

"Each of us had a chance to express our interest, and what we thought were our strong points," said Torres. "Unfortunately, I didn't have the votes."

"I respect the process," Torres added, "and I did whatever I could to facilitate it so that we could come to some decision about the leadership in a timely manner."

Republican Party of Guam Chairman Jerry Crisostomo congratulated the caucus "for coming together to elect their leadership team."

The Republican leadership in the 35th Guam Legislature:

- Sen. Wil Castro – minority leader
- Sen. Louise Borja Muna – assistant minority leader
- Sen.-elect Telo Taitague – minority whip
- Sen.-elect Jim Moylan – assistant minority whip
- Sen. Mary C. Torres – minority member

The Republicans will control only five of the 15 seats in the next legislature, one less than they currently hold.

That puts them at a disadvantage in the face of the 10 seats won by Democrats who now hold a super-majority.

A super-majority means that the Democrats have enough votes to override a veto by the governor, which may not often be necessary as Gov.-elect Lou Leon Guerrero is also a Democrat.

The Democratic Party has yet to announce its legislative leadership lineup.

Guardsmen fail to withdraw recruitment fraud guilty pleas

Chief Judge Frances Tydingco-Gatewood of the District Court of Guam denied a motion to withdraw guilty pleas and dismiss criminal charges against Anthony T. Ngirarlois and Roderick Y. Ngirmekur.

In the order, Tydingco-Gatewood said the defendants bore the burden of establishing that the withdrawal of their guilty plea was warranted.

Ngirarois argued that a case recently decided by the 6th U.S. Circuit Court of Appeals constituted a change in the law, which rendered the accusations against the defendant null. In United States v. Osborne, the appellate court held that, in a trial of a defendant who allegedly stole from the Guard Recruiting Assistance Program, or G-RAP, the government failed to produce sufficient evidence that program funds belonged to the United States.

That case was decided after the court had already accepted the defendants' guilty pleas.

Ngirarlois and Ngirmekur pleaded guilty in 2016 to theft of government property. Ngirarois additionally pleaded to wire fraud. Ngirarois' indictment accused him of knowingly stealing and converting to his own use $19,500 from the Department of Defense, and of aiding and abetting Ngirmekur.

While Ngirmekur argued the government failed to provide sufficient evidence in the Osborne case, Tydingco-Gatewood did not believe that would mean the government would be unable to produce evidence in a trial against these defendants.

The court held the defendants failed to show a "fair and just reason" for requesting the withdrawal of their guilty pleas and denied the motions.

(Daily Post Staff)

DEPARTMENT OF
LABOR
DIPÅTTMENTON HUMOTNÅT • Sam Mabini, Ph.D., Director • Cecile H. Suda, Deputy Director

Edward Baza Calvo
Governor
Ray Tenorio
Lieutenant Governor

NOTICE OF PUBLIC HEARING

The Guam Department of Labor (GDOL) is seeking public input on the update of the Guam Registered Apprenticeship Program Demand Occupations Listing.

A public hearing will be conducted on Friday, December 14, 2018, at 10:00 a.m., in the GDOL American Job Center conference room, 3rd floor, Bell Tower Plaza in Anigua. The public is invited to attend and provide testimony on which areas need additional professional and skilled technical trade workers. Written testimony may also be sent via email to apprenticeship@dol.guam.gov or by fax to 475-6811 until close of business on December 14, 2018.

Copies of the prior year's approved Guam Registered Apprentice Program Demand Occupations Listing are on file and available for examination at the GDOL Director's Office located on the 4th floor of the GCIC Building in Hagåtña.

For more information, please contact GDOL at 300-4572. Requests for reasonable accommodations must be made at least 72 hours in advance.

This ad is paid with Apprenticeship Expansion Grant federal funds administered by the Guam Department of Labor

GUAM ENVIRONMENTAL PROTECTION AGENCY
AHENSIAN PROTEKSION LINA'LA GUAHAN

NOTICE OF PUBLIC HEARING
PROPOSED RULES AND REGULATIONS FOR THE RECYCLING REVOLVING FUND

In accordance with §9301(a), Chapter 9, Title 5 of the Guam Code Annotated, Guam Environmental Protection Agency [Guam EPA] invites the general public and all interested parties to a public hearing on the agency's proposed rules and regulations for the Recycling Revolving Fund.

PUBLIC HEARING IS SCHEDULED FOR
Wednesday • December 19, 2018 • 5:00 p.m.
at the Guam EPA Administration Building Conference Room located at 17-3304 Mariner Avenue, Tiyan.

Documentation relevant to this public hearing can be reviewed at the agency's administration building in Tiyan from 8:00 a.m. to 4:30 p.m. on business days, beginning on Thursday, December 6, 2018. Documentation will also be available on-line at www.epa.guam.gov.

Written comments are welcomed and must be received by the agency via hand delivery or mail and should be addressed to: Walter S. Leon Guerrero
c/o Guam EPA: 17-3304 Mariner Avenue Tiyan Barrigada, Guam 96913-1617
Written comments must be received no later that 5:00 p.m. on December 19, 2018.
Facsimile or electronic copy submittals will not be accepted.

/s/ Walter S. Leon Guerrero, Administrator
Individuals requiring special accommodations, auxiliary aids or services should contact Guam EPA by calling 300-4751/2.

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Get results in our CLASSIFIEDS THE GUAM DAILY POST

GUAM ENVIRONMENTAL PROTECTION AGENCY

PUBLIC HEARING

DRAFT RECYCLING REVOLVING FUND RULES AND REGULATIONS

Deadline to receive written public comments via hand delivery or mail is 5:00 p.m. December 19, 2018.

Public Hearing begins on Wednesday, December 19, 2018 at 5:00 p.m.

Location: Guam EPA, Main Office Program: Solid Waste Management Program

	Name	Position / Title	Company / Agency	Mailing Address	Phone No.	E-mail	Facsimile No.
1	Sabrina Cruz Sablan	SPC	Guam EPA		300 4751	sabrinacruzsablan@epa.guam.gov	
2	Conchita SV Tartario	PH	Guam EPA				
3	Robert Perron	CM	Guam Waste Recycling		777-5320	rapperron@mrrubbishman.com	
4	Kristan K Finney						
5	NK Rupley LGE	Acting Deputy	Guam EPA		3004753		
6							
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11							
12							
13	Glenn V. San Nicolas	SNMP	Guam EPA		7772373	glenn.sannicolas@epa.guam.gov	
14							
15							
16							

Page _____ of _____

Draft Recycling Revolving Fund Comments
Public Hearing December 19, 2018

Company	Comments	Guam EPA Response
Guahan Waste Control: Bob Perron	So has the sliding scale been released yet?	The Sliding scale was received and prepared by our contractor Jacobs and was received last week and will be made available as part of the administrative record to the community.
	Where, which market? Is it the market in the States or in China? I think they need to modify based on what's going on here, because like I said.	Contractor was using the consumer index which was not specific to Guam, it was going to be destination wide.
	Uh, cardboard lets see, I have to ask our shipper what he's paying. Unintelligible. We do 26 tons per container, so 26 times 83.	Section on the Stimulus Payment Calculation E4, explains where they got the calculations based on World Freight Rates.
	END OF COMMENTS	

TRANSCRIPT OF DRAFT RECYCLING REVOLVING FUND RULES AND REGULATIONS
PUBLIC HEARING ON DECEMBER 19, 2018

Hafa Adai; Good Afternoon, my name is Sabrina Cruz Sablan, I'm a Special Projects Coordinator here at Guam EPA. We are here today at the Administration conference room for the public hearing on the Draft Recycling Rules and Regulations it is now 5:01 pm, December 19 2018. In compliance with the open government law this was noticed on December 6, 2018, in the Guam Daily Post. The floor is open for anybody to make comments please and ask for everybody present to please sign in even though it is all Guam EPA. The floor is open would anybody like to make comment or review the draft? This public hearing will remain open until 5:30 pm, December 19, 2018 and if there are no interested parties we will close the public hearing and public comment period.

Bob Perron: So has the sliding scale been released yet?

Conchita Taitano: The sliding scaled was received and was prepared by our contractor Jacobs, and was received last week and it will be made available as part of the administrative record to the community. The deadline is five o'clock today to receive written comments. After the completion of the public comment period our process would be to consolidate and collate all written comments and then make it available to the public. We will incorporate it to the existing draft regulations and later present it to the Board of Directors for their review and consideration.

Kristan Finney: Just for reference where in the rules is the sliding scale you are talking about reference?

Conchita Taitano: It would be under the Stimulus.

Sabrina: The sliding scale that rules that we put out after the publication Kristen, as Conchita said we just received it last week so this was received after we made the publication and that is why we have them available now.

Conchita: But it would be...page 9?

Bob: It is on page 7.

Conchita: It would be page 7, if you to look for it and it would be under the Stimulus provision.

Sabrina: We also received some language for the zero waste grants.

Conchita: Oh, okay, so why don't we give her this one.

Kristen: Okay, because I am looking under this and I don't see it.

Bob: Page 7

Conchita: It's under the Recycling Industry Economic Stimulus, so you see all of this?

Kristen: Oh...

Conchita: That's the sliding scale that we are talking about.

Kristen: Can I see I where it's like ....

Conchita: So it starts here, it's incorporated here, because remember we had gone back and forth about developing a sliding scale and we didn't have the details so now we have the details.

Sabrina: What version do you have Bob?

Bob: The one you gave me.

Sabrina: That's right because it came in after.

Bob: Is this releasable to me?

Sabrina: Yes, this is the public hearing.

Kristen: So this refers to Section 24303.3, there is an additional proposed Section E and F.

Conchita: Yes

Kristen: That describes how this, how the payments be calculated and

Conchita: Correct

Kristen: and proposes a sliding scale starting on January 1, 2019?

Conchita: We can always adjust that based on how long it would get to the Legislature. We can always say that we can have that actually that effective 60 days after the regulations are promulgated.

Kristen: Right

Conchita: Maybe to be safe.

Kristen: Right

Conchita: Because what that will do, when we say January 2019, Bri, the problem is it may create a problem.

Sabrina: Yes, we can change that date

Conchita: Yea, I would change that to 30 days whatever is reasonable

Kristen: Based on whenever

Sabrina: Whenever it's passed.

Conchita: Very good point

Kristen: So then, just to clarify, in Section C: this24303.C it says "The Administrator may determine the dollar amount of the stimulus to be disbursed to the eligible recycling facilities." This is different from E and F?

Conchita: Well because if you look at the table, under here Stimulus payout, it's to be determined which is TBD1, which is it really comes down to what can we pay. Because if you look amount, based on the shipping cost that was determined, the market value, and this is what the Stimulus payout per dollar, per ton should be. That doesn't necessary mean the amount that we can pay.

Kristen: So this goes back to the beginning, or this other part where says here is all these initiatives and the Administrator is going to determine how much is available for each of these.

Conchita and Sabrina: Right

Kristen: The Administrator is going to determine how much total is available for this Section, Stimulus program. Is that correct?

Conchita: I would think so.

Kristen: And then the specific amounts will come from this calculation.

Conchita: That's right

Kristen: And the F sets it out for the first cycle.

Conchita: Yea, when this is promulgated, that's what I'm thinking.

Kristen: I'm just making sure I'm understanding.

Conchita: What did you think about that Bob, because obviously the shipping companies have to...

Bob: Uh, cardboard lets see, I have to ask our shipper what he's paying. Unintelligible. We do 26 tons per container, so 26 times 83.

Sabrina: Well Bob, it also if you see E4, it tells you where they got the calculations.

Conchita: It's roughly,

Bob: To China

Conchita: This is where they are saying they got it, they are making reference to world freight rates

Sabrina: World Freight rates

Conchita: World Freight rates with comparable shipping cost from port to port containers and EPA is the volume to weight, so there really was a lot of effort.

Bob: But port to port, going to which port to which port?

Conchita: I don't know

Bob: Oh okay.

Conchita: But I'm just saying that roughly what they are looking at

Bob: This seems to be pretty good, I think if it goes to China

Conchita: But that the market that's the shipping cost that does not include the market price. So there is the market price and then so in terms of the Stimulus payout dollars right now they are getting zero, but it gives the Administrator.

Bob: Right, I think it should be zero right now, we don't need it

Conchita: To be... exactly

Bob: This one needs help cos uh, this is ugh this is Zero

Conchita: The market price is wrong and mind you it all depends like right now

Bob: It's been zero for a long long time, so I would like to see where they get that

Conchita: And that is a very good question

Bob: I think they are paying they might be getting, like 1 cent a pound or something

Conchita: and that is a very good question and maybe this is a question that you can come in as a community member saying that I want to know how did they arrive at this?

Bob: Yea and so, cos some even tires is to much, if you pay that much

Conchita: Right, but that is a very good question, and so again, you should ask that question, you should register as somebody coming in as industry.

Bob: Yea, cos I just want it to be right, fair

Sabrina: Your welcome to come in, this is the public hearing

Kristen: One other question I have is Section D on page 6

Sabrina: Shssh, Section D page 6

Kristen: Yea, of this original I just got.

Sabrina: The Agency shall develop a program payment calculation?

Kristen: Yea, is that supposed to be taken out and replaced by a Section E?

Sabrina: I suppose so, I think we need to change some of that language because it's says shall develop and we are already showing you we did develop it.

Kristen: So it just looked like maybe it was a replacement that I have unintelligible.

Sabrina: As I said we just received it, I haven't had time to really digest it and I wanted to wait until we had the public hearing so we can share this with everyone.

Conchita: Right, we didn't want to make any changes until everybody looked at it and hacked it to death. Laughter... unintelligible So yes, I recommend that you weigh in as a recycler.

Bob: If you like I can put you guys or Jacobs or whoever in touch with Jim Fagelson our commodity guy because he pays the shipping cost, he's got a good shipping price because of the amount of containers he ships.

Conchita: No what it is, is this, is that. You know, you present the question and what will happen is we will send it over to Jacobs.

Bob: Oh, okay.

Conchita: So they will be able to respond, it's a valid question. How did you arrive at this?

Bob: right, right.

Conchita: Because the quantity is there, the sliding scale.

Bob: Oh I mean the commodities, some of our

Conchita: Like plastics, plastics is a dead giveaway because right now plastics isn't worth anything

Bob: the plastics

Glenn: They are going with the market

Bob: Where? Which market? Is it the market in the states or the market in China?

Glenn: so that, I'm hoping that they

Sabrina: I think what they were saying in our discussion is they were going to use the consumer index and it was not specific to Guam, it was going to be a destination wide.

Bob: I think they need to modify based on what's going on here, because like I said

Conchita: I agree, I agree

Sabrina: Can you guys all speak loud so can make sure all your comments are heard.

Glenn: Because of a lot of the commodities are going overseas already, then those numbers are readily available, but they should be able to separate the overseas market versus the local CONUS markets, right?

Bob: Sure

Glenn: So they'll be using market index for those commodities along with the shipping index for our area.

Conchita: But I think that is the key phase "our area" and and that's where you question, where they came up with these values and whether or not unintelligible are these values representative of the region?

Bob: Right

Conchita: Versus the national, because there are two different sets of the numbers

Bob: Right, Right because I can give you invoices and shipping documents to show you exactly

Conchita: No no no, you don't need to do that, it's the job of the Agency to explain this.

Bob: Yea, maybe it might behoove the Agency or Jacobs to go gather local data as far as how much shipping cost are from here to market. Because from here if it goes to China right now, I think it's in the low two's like twenty two hundred maybe. If it goes to Japan or Korea, it's over three thousand, so it just depends on what market is open and China has been so fickle, I can't ship to China this month, anything, so we're froze.

Sabrina: I think Bob, when the contractor's paid a visit to us in October, that's what they did they didn't touch every recycler but they did go to recyclers and talked to them about their shipping cost.

Bob: um hum

Conchita: But that's a valid question, put that in your comment.

Bob: Yea

Sabrina: Oh no no, I'm just...absolutely

Glenn: Yea, So in addition to that sliding scale maybe the Agency should put language in there that's says maybe it will be done uh you know quarterly as opposed to every time it the market drops because we're going to be changing every time

Bob: Every day

Glenn: So we need to say at least once a year or whatever the Administrator decides

Bob: uh hum

Sabrina: And approved by the Board

Glenn: Yea, and approved by the Board that is adequate that is fair.

Bob: Yea Yea

Glenn: Because otherwise we are changing the scale

Bob: Because cardboard I agree, we should get zero because right now we could get close to one sixty if it goes to China, if it goes to Taiwan or anywhere else, it's about sixty dollars it's such a big variance depending on where it has to go, but I think it's doing okay now, stimulus really isn't required. Paper is required, paper, we stop doing paper we don't do it, because we gotta pay to have someone accept paper.

Conchita: Well that's where the stimulus is needed

Bob: Exactly

Conchita: Just like the plastics

Bob: Right

Conchita: That's where the stimulus really is needed because but then again stimulus for that and we can also work on markets here on the island

Sabrina: So you were saying... I'm Sorry

Conchita: And that part of the Rules and Regulations, we have it reserved but that's where we need to change the Statute that will authorize the Agency to give out grants. Because right now we don't have that but it's reserved, you'll see in that section there, even though there are details in it, it's reserve because we are not authorized to give grants. We should have something final though, we should have a good draft for the 10 GCA chapter 51 by they are targeting by the end of January. So you'll see that to. We'll get that to you Kristen.

Glenn: And that will be specific to uh the

Conchita: That and our assessment report

Glenn: To the RRF

Conchita: Yup, well it's RRF and a bunch of other things, remember there was some stuff there you said needed to be cleaned up. So it's like the RRF, the Zero Waste, I think there is a number of things that they need to include, it's really quite extensive, I think.

Sabrina: Before everybody forgets, can I please just remind everybody to sign in again.

Conchita: Oh yes

Bob: You want me to sign in?

Sabrina: Yes

Bob: As recycler?

Conchita: Yea, you gotta give the community a face.

Listening to the Legislature voting on bills.

Sabrina: Kristen, can you sign in please

Conchita: Young lady, you need to sign in

Bob: Like for tires, um, it's all a function of what the recyclers will charge the tire shop. So if the recycler charges five or six dollars a tire then there wouldn't be a need for stimulus to help that commodity. But if you wanted to charge like three dollars then you would need a subsidy, so we need to figure out how that works.

Glenn: Because I think it's going to be based on the market

Bob: Without taking any

Glenn: They are not going to be doing any O & M, because O & M is going to be different across the board. You know, Mr. Rubbishman's O & M may be higher than Viba recycling who is only two man operation, I mean that's only a Mom and Pop.

Bob: What affects me mainly is just talking to one is they are paying to much, like cardboard is at zero it's fine for now, it's gotta, I'm not sure like paper makes a small amount right now, which probabaly makes it viable but plastic has got nothing, plastic really needs it. The government is subsidizing it right now at twelve grand a month.

Glenn: Yea, I think like plastics on this side of the house, we need to make it, you know if it's truly zero waste we could process petroleum project or something or something that we can use on island.

Bob: Yea, like a plastic to oil system yea cause if there was a stimulus I could probably buy one of those systems because that has to be subsidized there is no way we could deal with plastics.

Glenn: yea, you know that is something, that is something that we could entertain, that's that is truly zero waste. But one of the ideas that the Agency should pursue is require uh, an advance disposal fee for the uh for trash bins. And the recyclable bins for trash service

Sabrina: We have five more minutes,

Nic: Seven and some change

Sabrina: Okay, we'll go by my clock and it says 5:23, so we have seven more minutes. Oh, we're going by the camera? Why thank you so we won't dispute that.

Glenn continues to chatter in the background unintelligible.

Glenn: We would have, you know pay the utility and then they pay for the trash bins by default so everybody has a trash bin plus a recyclable bin, that should curb a lot unintelligible and illegal dumping. And then private sector, you the commericial that can concentrate on multi units, commercial buildings like they're doing right now. That would increase the revenue for the GSWA, the collection portion of it.

Bob: Uh, huh. Like the tires, if there was a $433 dollar subsidy as what's contemplated, we could do a tire disposal at a buck and half to two dollars a tire to the community. If they use the number that is listed.

Glenn: It's either that they use an advance disposal fee so that there won't be an excuse for oh no I'm going to use this tire. How many times do they say I'm going to use this tire because they don't want to pay the disposal fee.

Bob: They just throw it in the jungle or in the dumpster.

Glenn: But Senator Respicio passed this tire thread use, reuse tires, who enforces that?

Bob: Is it in the law now?

Glenn: It is the law.

Bob: The one he did was the six, anything over 6 years old, I don't remember that

Glenn: Uninitelligible

Bob: That's under the safety inspection law, when you do the safety inspection and we do it, if your under a certain amount of the thread, we don't pass you. We get yelled at by some people.

Glenn: I mean no body is really enforcing that, is what I'm saying is that Guam EPA's responsibility now, not that tires there is a tire debt?

Conchita: The tires a debt, boy did I hear that a lot.

Nic: five minutes

Sabrina: We have 5 more minutes if anyone wants to put any real comments on.

Conchita: Sahll we do roll call?

Sabrina: Glenn, can you sign.

Conchita: Glenn will talk

Sabrina: Thank God there is a limit on that, we're down to three minutes Glenn.

Nic: We can show Glenn how to turn the camera off.

Kristan: Other than the sliding scale there was no other written comments?

Sabrina: No, the sliding scale and as we mentioned the Zero Waste grants, but that's just still on reserve, even though we are already doing some work on it.

Conchita: But they're comments were recieve so we can't ignore that

Sabrina: But then I will go back and clean it up based on these little things that you mentioned.

Conchita: The redundancies, we'll eliminate the redundancies.

Background chatter...

Sabrina: We have about two miutes before we close but if I haven't stated already, Guam EPA did not receive any written comments during the ten day period that it was published.

Conchita: We did

Sabrina: No, from the public, no only the comments from our Contractor, no , what I'm saying is that nobody came in a picked up a packet or anything like that.

Conchita: Okay

Sabrina: It's been out in the front

Nic: Five copies right?

Sabrina: Correct

Background chatter

Nic: How do they do it down at the Legislature though?

Conchita: Which one?

Nic: If no on shows up

Sabrina: I don't think there has ever been a case were no one should up

Nic: I've seen it

Sabrina: Oh, you have?

Conchita: But not for our stuff, we cango through an entire public comment period and get nothing and then all of a sudden the cry, the outcry comes out when it gets to the Legislature.

Nic: You know, this is why we are following the law, we are complying with the open government rules

Conchita: No we're fine, I'm just saying I'm not shocked but the will come out when it goes before the Legislautre, because then the sense of realism kicks in

Nic: So I think this , that, plus whatever i forgot to mention that becasue all of you were talking, she has to transpose all of that.

Sabrina: You forgot to mention what?

Nic: Because they were all speaking you have to transpose all of that

Kristan: Transcibe

Nic: Transcribe, rather, you have to transcribe the entire conversation and that gets entered into the adjudication record that goes to

Conchita: The conversation that is germaine that is relative to the document.

Nic: that's two thirds of out banter today

Conchita: yea but track more like two thirds mor like ten percent we discussed that.

Nic: Okay that's it.

Sabrina: Kkay don't turn it off yet Nic, tell me the time

Nic: 5:31

Sabrina: The time is 5:31, December 19, 2018, the public hearing for the draft Recycling Rules and Regulations is now closed. Thank you everyone for coming, which is all the Guam EPA staff and our one recycler.