

DIVISION VI

HAZARDOUS WASTE MANAGEMENT

CHAPTER 30

HAZARDOUS WASTE MANAGEMENT

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NOTE: Rule-making authority cited for formulation of the Hazardous Waste Management Regulations by the Guam Environmental Protection Agency, 10 GCA §51103.

These rules were filed with the Legislative Secretary on November 20, 1987.

The original publication was made on December 31, 1983.

Appendices to these Regulations can be obtained at the Territorial Law Library or at the GEPA.

§30101. Purpose and Objective. Whereas continued technological and social progress has increased the amount of hazardous waste generated, the public health and human safety may be endangered and adverse consequences to the environment may result if these hazardous wastes are not managed in a safe and prudent manner. Therefore, pursuant to 10 GCA §51103, these

regulations are developed to provide for proper hazardous waste management.

Thus it is the purpose of these regulations to protect, promote and preserve the beauty and integrity of Guam's environment and to maintain the health and well being of all that live therein.

It is the objective of these regulations to establish a program which identifies hazardous waste, regulates hazardous waste storage, treatment, handling, transport and disposal, and establishes capabilities of inspection and enforcement to ensure that hazardous waste management activities shall not jeopardize human health and are carried out in an environmentally sound manner.

§30102. Hazardous Waste Management System: General. (a) Federal and State regulations cited in these Regulations are those adopted as of July 1, 1986. Title 40, Code of Federal Regulations (CFR) Parts 124, 260 through 266, and 270 are adopted by reference when so noted.

(b) All of Title 40 CFR Part 260 and accompanying appendices, as amended as of July 1, 1986, with the exception of 40 CFR 260.20, 260.21, 260.22, is hereby adopted and incorporated by reference (Appendix A) and modified by the following subparts.

(c) 40 CFR 260.10 is amended by adding the following definitions, with all definitions in 40 CFR 260.10, applicable throughout these regulations unless otherwise specified elsewhere:

(1) *Agency* (or the Agency) means Guam Environmental Protection Agency or GEPA.

(2) *Application* shall mean the standard United States Environmental Protection Agency forms for applying for a permit, including any additions, revisions or modifications to the forms. Application also includes the information required in 40 CFR 270.14 through 270.29, see Part VIII (contents of a Part B of the hazardous waste management facility permit application.

(3) *Biennial report* means annual report.

(4) *Board* means the Board of Directors of the Guam Environmental Protection Agency.

(5) *Draft Permit* means a document prepared under 40 CFR 124.6, see Part IX.E, indicating the Administrator's tentative decision to issue or deny, modify, revoke or reissue, or terminate a permit. A denial of a request for

modification, revocation, reissuance or termination, as discussed in 40 CFR 124.5, see Part IX.D is not a draft permit.

(6) *Emergency permit* means a permit issued in accordance with 40 CFR 270.61, see Part VIII.A.

(7) *EPA, Environmental Protection Agency and United States Environmental Protection Agency* means Guam Environmental Protection Agency with the following exceptions:

(A) Any references to EPA identification numbers;

(B) Any references to EPA hazardous waste numbers;

(C) Any references to EPA test methods or documents;

(D) Any references to EPA Form 8700-12;

(E) References to manifest certification in 40 CFR 262.21(b) and 262.50, see Part IV.

(F) References in 40 CFR 260.2(c), see Part II.G; 40 CFR 260.10, see Part II.C.2; 40 CFR 260.20, see Part II.E; 40 CFR 260.11(a), see Part II; 40 CFR 264.11, see Part VI; and 40 CFR 270.10 (e)(2), see Part VIII.E.

(G) References in 40 CFR 124.5(d), see Part IX.D; and 40 CFR 124.13, see Part IX.L;

(8) *Federal Register* means daily or weekly major local newspaper of general circulation, except in 40 CFR 270.10(e)(2), see Part VIII.E, and 40 CFR 260.11(b), see Part II.B.

(9) *Hazardous waste management facility or HWM Facility* means any facility or activity (including land or appurtenances thereto) that is subject to regulation under these regulations.

(10) *National* means Territorial in 40 CFR 264.1(a), see Part VI, and 40 CFR 265.1(a), see Part VII.

(11) *Off-site* means any site which is not on-site.

(12) *Permit* means an authorization, license, or equivalent control document issued by GEPA to implement the requirements of these Regulations. Permit includes permit by rule in 40 CFR 270.60, see Part VIII, and emergency permit in 40 CFR 270.61, see

Part VIII, and does not include interim status as in 40 CFR 270.70, see Part VIII, or any permit which has not yet been the subject of final action, such as a draft permit or a proposed permit.

(13) *Permit by rule* means a provision of these Regulations stating that a facility or activity is deemed to have a HWM facility permit if it meets the requirements of the provision.

(14) *Physical construction* means excavation, movement of earth, erection of forms or structures, or similar activity to prepare a HWM facility to accept hazardous waste.

(15) *Physical state* means the condition that characterizes the form of a substance (gas, liquid, or solid) at a given temperature and pressure.

(16) *Public writing* means any document, writing, photograph, sound or magnetic recording, drawing, or other similar thing by which information has been preserved, from which the information can be retrieved and copied, and which is, was, or is alleged to be possessed by GEPA. It may include copies of the records of other Government of Guam agencies or departments. The term includes informal writings (such as drafts and the like) and also includes information preserved in a form which must be translated or deciphered by machine in order to be intelligible to humans. The term includes documents and the like which were created or acquired by GEPA, its predecessors, its officers, and its employees by use of Government funds or in the course of transacting official business. However, the term does not include materials which are legally owned by a GEPA officer or employee in his or her purely personal capacity. Nor does the term include materials published by non-Government organizations which are readily available to the public, such as books, journals, and periodicals available through reference libraries, even if such materials are in GEPA's possession.

(17) *RCRA and Resource Conservation and Recovery Act* (or specific portions thereof, except §§3010 and 7003 of RCRA) means the 10 GCA Chapter 51, as amended.

(18) *Schedule of compliance* means a schedule of remedial measures included in a permit, including an

enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with 10 GCA Chapter 51 and these regulations.

(19) *Site* means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

(20) The following dates: May 19, 1981 in §265.112(a) and (d), §265.118(a) and (d), §265.142(a), and §265.144(a), see Part VII; November 19, 1981 in §265.112(d), §265.118(d), and §265.314(e), see Part VII; March 22, 1982 in §265.314(e), see Part VII; January 26, 1983 in §270.1(c), see Part VIII; November 8, 1984 in §270.60(b)(3), see Part VIII; May 8, 1985 in §264.314(a) and (b), see Part VI; §265.254, §265.301, §265.314(a) and (b), see Part VII; and §270.21(h), see Part VIII; August 8, 1985 in §270.10(j), see Part VIII; and November 8, 1985 in §264.314(e), see Part VII; §265.314(f), see Part VII; §270.73(c), see Part VIII, means the effective date of these regulations.

(21) *TSD facility* means a Hazardous Waste Management facility or HWM facility.

(d) 40 CFR 260.10 also is amended as follows, with all definitions in 40 CFR 260.10, see Part II, applicable throughout these Regulations unless specified elsewhere.

(1) *Act or the Act* means 10 GCA Chapter 51 except in Part III.B.

(2) *Administrator* means the Administrator of the Guam Environmental Protection Agency or his duly authorized designee except in §262.12 and §262.50, see Part IV; §263.11, see Part V; and §270.10(e)(2), see Part VIII.

(3) *Facility or activity* means any hazardous waste management facility or any facility or activity that is subject to regulation under the hazardous waste management program including all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

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(4) *New HWM facility or new facility* means a hazardous waste management facility which began operation or for which construction commenced after November 19, 1980.

(5) *Person* means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body, Territorial agency, or an agent or employee thereof.

(6) *Regional Administrator* means the Administrator of the Guam EPA or his duly authorized designee except the reference in §124.5(d), see Part IX.

(7) *Small Quantity Generator* means a generator who generates less than 100 kg. of hazardous waste in a calendar month.

(8) *United States or State* means Territory of Guam with the following exceptions:

(A) Reference in §262.50; see Part IV.

(B) All references in Part 263, see Part V, except §§263.10(a), 263.22(c), and 263.30(b).

(e) §260.20 Rulemaking Petitions is replaced as follows:

Where the Administrator of EPA has granted a rulemaking petition pursuant to Title 40 CFR Part 260, §§260.20, 260.21, or 260.22, the Administrator may, at his discretion, accept such determination and amend the Guam regulations accordingly, provided that the Administrator determines such action to be consistent with the policies and purposes of 10 GCA Chapter 51.

(f) Regulatory Revisions.

(1) These regulations may not be amended or repealed except in conformity with the rule-making procedures of Guam's Administrative Adjudication Act.

(2) When the adoption, amendment or repeal of a regulation is necessary to comply with federal law, the regulation, amendment or repeal can be adopted as an emergency measure by filing it with the Legislative Secretary. The emergency filing shall be valid for a 180 day period during which time the Agency must

comply with the rule-making procedures of the Administrative Adjudication Law or the regulation or amendment to a regulation will expire.

(g) Sharing of Information. 40 CFR 260.2 is amended by adding a new paragraph 260.2(c) which states:

(c) Any information obtained or used in the administration of the Territorial Program shall be available to EPA upon request without restriction. If the information has been submitted to the Territory under a claim of confidentiality, the Territory must submit that claim to EPA when providing information under this subpart.

(h) **Attorney's Fees and Costs.** In addition to the criteria specified in Guam Code (GC) §6987(a), a court is authorized to award attorney's fees and expenses to the requestor if it determines that the requestor is the substantially prevailing party.

§30103. Identification and Listing of Hazardous Waste. (a) All of Title 40 CFR Part 261 and accompanying appendices, as amended as of July 1, 1986, is hereby adopted and incorporated by reference (appendix B) and modified by the following subparts of Part III.

(b) In the above adopted federal regulations:

(1) Section 1004(5) of RCRA or Section 1004(5) of the Act means 10 GCA Chapter 51, Section 51102(8).

(2) Section 1004(27) of RCRA means 10 GCA Chapter 51, Section 51102(22).

(c) 40 CFR 261.5(a) is amended as follows:

(a) A generator is a conditionally exempt small quantity generator in a calendar month if he generates no more than 50 kilograms of hazardous waste in that month.

(d) 40 CFR 261.5(b) is amended as follows:

(b) Except for those wastes identified in (e), (f), (g), and (j) of 40 CFR 261.5, see Part III, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under 40 CFR 262-266, 270, and 124, see Parts IV - IX of these Regulations, and the notification requirements of Section 3010 of RCRA provided that the generator complies with (f),

(g), and (j) of 40 CFR 261.5, see Part III.2.A. However, the Administrator may require reports from any conditionally exempt small quantity generator or group of conditionally exempt small quantity generators regarding the treatment, storage, transportation, disposal or management of hazardous waste if the hazardous waste of such generator or generators poses a substantial present or potential hazard to human health or the environment, when it is improperly treated, stored, transported, disposed or otherwise managed.

(e) 40 CFR 261.5(e) is amended as follows:

(e) If a generator generates acute hazardous waste in a calendar month in quantities greater than set forth below, all quantities of that acute hazardous waste are subject to full regulation under Parts 262 through 266 and Parts 270 and 124, see Parts IV-IX, and the notification requirements of Section 3010 of RCRA:

(1) A total of one kilogram of acute hazardous wastes listed in §§261.31, 261.32 or 261.33(e), see Part III.A.

(2) A total of 50 kilograms of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill, into or on any land or water, of any acute hazardous wastes listed in §§261.31, 261.32 or 261.33(e).

(f) 40 CFR 261.5(g)(1) and (2) are amended as follows:

(g) In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of less than 50 kilograms of hazardous waste during a calendar month to be excluded from full regulation under these Regulations, the generator must comply with the following requirements:

(1) Section 262.11 of these Regulations, see Part VI.A;

(2) The conditionally exempt small quantity generator may accumulate hazardous waste on-site. If he accumulates at any time more than a total of 50 kilograms of his hazardous wastes, all of those accumulated wastes are subject to regulation under the special provisions of Part 262, see Part IV, applicable to generators of

between 50 kg. and 100 kg. of hazardous waste in a calendar month as well as the requirements of Parts 263 through 266 and Parts 270 and 124 and the applicable notification requirements of Section 3010 of RCRA. The time period of 262.34(d) for accumulation of wastes on-site begins for a conditionally exempt small quantity generator when the accumulated wastes exceed 100 kilograms;

(g) 40 CFR 261.6 is amended by adding the following:

All hazardous wastes which are shipped off-site to be used, reused, recycled, or reclaimed are subject to the annual report requirements for generators under Part IV of these regulations.

§30104. Standards Applicable to Generators of Hazardous Waste. (a) All of Title 40 CFR Part 262, as amended as of July 1, 1986, is hereby adopted and incorporated by reference (Appendix C) and modified by the following subparts of part IV.

(b) In the above adopted Federal Regulations:

(1) Section 3008 of the Act means 10 GCA Chapter 51, Section 51103(10).

(2) Section 2002(a) of the Act means 10 GCA Chapter 51, Sections 51101 and 51103.

(3) Section 3002(6) of the Act means 10 GCA Chapter 51, Sections 51101(9) and 51103(7).

(c) 40 CFR 262.20(e) is amended as follows:

(e) The requirements of Subpart B of Part 262 do not apply to hazardous waste produced by generators of greater than 50 kg. but less than 100 kg. in a calendar month where:

(1) The waste is reclaimed under a contractual agreement pursuant to which:

(i) The type of waste and frequency of shipments are specified in the agreement;

(ii) The vehicle used to transport the waste to the recycling facility and to deliver regenerated material back to the generator is owned and operated by the reclaimer of the waste; and

(2) The generator maintains a copy of the reclamation agreement in his files for a period of at least three years after termination or expiration of the agreement.

(d) 40 CFR 262.34(c)(1) is amended as follows:

(c)(1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in §261.33(e) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with 262.34(a) provided he:

(i) Complies with §§265.171, 265.172, 265.173, and 265.174 of these Regulations, see Part VII; and

(ii) Marks his containers either with the words "Hazardous Waste" or with the other words that identify the contents of the containers.

(e) 40 CFR 262.34(d)(1) is amended as follows:

(d) A generator who generates greater than 50 kilograms but less than 100 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that:

(1) The quantity of the waste accumulated on-site never exceeds 600 kilograms;

(f) 40 CFR 262.34(e) and (f) are amended as follows:

(e) A generator who generates greater than 50 kilograms but less than 100 kilograms of hazardous waste in a calendar month and who must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more for off-site treatment, storage or disposal may accumulate hazardous waste on-site for 270 days or less without a permit or without having interim status provided that he complies with the requirements of §262.34(d).

(f) A generator who generates greater than 50 kilograms but less than 100 kilograms in a calendar month and who accumulates hazardous waste in quantities exceeding 600 kg. or accumulates hazardous waste for more than 180 days (or for more than 270

days if he must transport his waste or offer his waste for transportation over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of 40 CFR Parts 264 and 265 (see Part VI - VII), and the permit requirements of 40 CFR Part 270 (Part VIII) unless he has been granted an extension to the 180 day (or 270 day if applicable) period. Such extension may be granted by EPA if hazardous waste must remain on-site for longer than 180 days (or 270 days if applicable) due to unforeseen temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Administrator on a case-by-case basis.

(g) §262.41 is amended as follows:

40 CFR 262.41 report.

(a) A generator must prepare and submit a single copy of an annual report to the Administrator by no later than March 1 for the preceding calendar year. The report must be submitted on GEPA Form 8700-13A according to the instructions for the form and must cover generator activities during the previous calendar year, and must include the following information:

(1) Name, mailing address, location and EPA identification number of the generator;

(2) The calendar year covered by the report;

(3) Name, mailing address and EPA identification number for each off-site treatment, storage or disposal facility to which waste was shipped during the reporting year; for exported shipments, the report must give the name and address of the foreign facility.

(4) The name, mailing address and EPA identification number of each transporter used by the generator during the reporting year.

(5) A waste description, EPA hazardous waste number (from 40 CFR Part 261 Subpart C or D, see Part III), Department of Transportation (D.O.T.) hazard class, concentration, physical state and quantity of each hazardous waste shipped off-site. This information must be listed by EPA

identification number of each off-site facility to which waste was shipped.

(6) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.

(7) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984.

(8) The certification signed by the generator or his authorized representative, and the date the report was prepared.

(9) A waste description, EPA hazardous waste number, concentration, physical state, quantity and handling method of each hazardous waste handled on-site in elementary neutralization or wastewater treatment units.

(10) Name and telephone number of facility contact responsible for information contained in the report.

(11) Any generator who treats, stores or disposes of hazardous waste on-site, and is subject to the HWM facility requirements of Parts VI VII and/or VIII must submit an annual report covering those wastes in accordance with the provisions of §264.75, see Part VI, and §265.75, see Part VII.

(h) The time span "45 days" shall be deleted from 40 CFR 262.42(b) and replaced with "75" days, see Part IV.A.

(I) 40 CFR 262.44 is amended as follows:

A generator who generates greater than 50 kilograms but less than 100 kilograms of hazardous waste in a calendar month is exempt from the requirements under Subpart D of Part 262, except for record keeping requirements in §262.40(a), (c), (d), and additional reporting requirements of §262.43.

§30105. Standards Applicable to Transporters of Hazardous Waste. (a) All of Title 40 CFR Part 263, as amended as of July 1, 1986, is hereby adopted and incorporated by reference (Appendix D).

(b) It shall be prohibited for any person to knowingly transport any hazardous waste to an unpermitted facility.

(c) 40 CFR 263.20(h) is amended as follows:

(h) A transporter transporting hazardous waste from a generator who generates greater than 50 kilograms but less than 100 kilograms of hazardous waste in a calendar month need not comply with the requirements under this section or those of §263.22 provided that:

(1) The waste is being transported pursuant to a reclamation agreement as provided for in §262.20(e);

(2) The transporter records, on a log or shipping paper, the following information for each shipment:

(i) The name, address, and U.S. EPA Identification Number of the generator of the waste;

(ii) The quantity of waste accepted;

(iii) All DOT-required shipping information;

(iv) The date the waste is accepted; and

(3) The transporter carries this record when transporting waste to the reclamation facility; and

(4) The transporter retains these records for a period of at least three years after termination or expiration of the agreement.

§30106. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. (a) All of 40 CFR Part 264 and accompanying appendices, as amended as of July 1, 1986, with the exception of 264.143(e)(f)(g)(h), 40 CFR 264.145(e)(f)(g)(h), and 40 CFR 264.301(k), is hereby adopted and incorporated by reference (Appendix E) and modified by the following:

(b) In the above adopted federal regulations:

(1) *Safe Drinking Water Act* means 10 GCA Chapter 53.

(2) *Section 3008 of RCRA* means 10 GCA Chapter 51, §51103(10).

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(3) RCRA 3005(c) means 10 GCA Chapter 51, §51103(9).

(c) 40 CFR 264.75 is amended as follows:

The owner or operator of a facility that treated, stored or disposed of hazardous waste must prepare and submit a copy of an annual report to the Administrator by March 1 for the preceding calendar year. The annual report must be submitted on GEPA Form 8700-13B according to the instructions for the form. The report must cover facility activities during the previous calendar year and must include:

(a) name, mailing address, location and EPA identification number of the facility;

(b) the calendar year covered by the report;

(c) for facilities receiving waste from off-site, the EPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator;

(d) A waste description, EPA hazardous waste number, concentration, physical state, and quantity of each hazardous waste the facility received during the year. For waste received from off-site, this information must be listed by EPA identification number of each generator;

(e) The method of treatment, storage or disposal for each hazardous waste;

(f) Reserved;

(g) The most recent closure cost estimate under §264.142, see Part VI, and, for disposal facilities, the most recent post-closure cost estimate under §264.144, see Part VI.

(h) The certification signed by the owner or operator of the facility, or his authorized representative and the date the report was prepared;

(i) Name and telephone number of facility contact responsible for information contained in the report; and

(j) The complete generator annual report as required by 40 CFR 262.41, see Part IV, if the TSD facility is also a generator.

(d) 40 CFR 264.100 (e) is amended as follows:

(e) In addition to the other requirements of this section, the owner or operator must conduct a corrective action program to remove or treat in place any hazardous constituents under §264.93 that exceed concentration limits under §264.94 in ground water between the compliance point under §264.95 and the downgradient facility property boundary. This requirement shall also apply, as needed, to such ground water contamination if it extends beyond the facility boundary. The permit will specify the measures to be taken.

(e) 40 CFR 264.173 (b) is amended as follows:

(b) A container holding hazardous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak. Containers holding hazardous waste with a flash point of 140_(F) or less shall not be stored without benefit of a covered structure providing protection from the weather. Other hazardous waste in containers shall not be stored without benefit of a covered structure unless containers are constructed of a material which is resistant to deterioration from the weather or storage of containers is temporary and does not exceed sixty (60) days before being moved to a covered structure.

(f) §264.173 is amended by adding the following as (c):

(c) Each container which is stored without benefit of a covered enclosure and constructed of a material which is not resistant to deterioration from the weather must be clearly marked and visible for inspection with the date upon which each period of outside accumulation begins and ends.

§30107. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. (a) All of Title 40 CFR Part 265 and accompanying appendices as amended as of July 1, 1986, with the exception of 265.143(d)(e)(f)(g) and 40 CFR 265.145(d)(e)(f)(g), is hereby adopted and incorporated by reference (Appendix F) and modified by the following:

(b) In the above adopted federal regulations:

(1) *Section 3005 of RCRA* or *Section 3005(e) of RCRA* or *RCRA §3005(c)* means 10 GCA Chapter 51, §51103(9).

(2) *Section 3008 of RCRA* means 10 GCA Chapter 51, §51103(10).

(c) 40 CFR 265.75 is amended as follows:

The owner or operator of a facility that treated, stored, disposed of hazardous waste must prepare and submit a copy of an annual report to the Administrator by March 1 for the preceding calendar year. The annual report must be submitted on GEPA Form 8700-13B according to the instructions for the form. The report must cover facility activities during the previous calendar year and must include the following information:

(a) Name, mailing address, location and EPA identification number of the facility;

(b) The calendar year covered by the report;

(c) For facilities receiving waste from off-site, the EPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator;

(d) A waste description, EPA hazardous waste number, concentration, physical state and quantity of each hazardous waste the facility received during the year. For waste received from off-site, this information must be listed by EPA identification number of each generator;

(e) The method of treatment, storage or disposal for each hazardous waste;

(f) Monitoring data under §§265.94(a) (2) (ii) and (iii), and (b)(2), see Part VII where required;

(g) The most recent closure cost estimate under §265.142, see Part VII, and, for disposal facilities, the most recent post-closure cost estimate under §265.144, see Part VII;

(h) The certification signed by the owner or operator of the facility or his authorized

representative and the date the report was made;
and

(i) Name and telephone number of facility contact responsible for information contained in the report.

(d) The phrase *Within one year* shall be deleted in the beginning of 40 CFR 265.90(a), 265.90(d)(1), and 265.93(a) and replaced with "Immediately", see Part VII.A. The phrase "Not later than one year" shall be deleted in the beginning of 40 CFR 265.90(d)(2) and replaced with "Immediately", see Part VII.A.

(e) 40 CFR 265.173 (b) is amended as follows:

(b) A container holding hazardous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak. Containers holding hazardous waste with a flash point of 140_(F) or less shall not be stored without benefit of a covered structure providing protection from the weather. Other hazardous waste in containers shall not be stored without benefit of a covered structure unless containers are constructed of a material which is resistant to deterioration from the weather or storage of containers is temporary and does not exceed sixty (60) days before being moved to a covered structure.

(f) §265.173 is amended by adding the following as (c):

(c) Each container which is stored without benefit of a covered enclosure and constructed of a material which is not resistant to deterioration from the weather must be clearly marked and visible for inspection with the date upon which each period of outside accumulation begins and ends.

§30108. Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities. (a) All of Title 40 CFR Part 266, as amended as of July 1, 1986, is hereby adopted and incorporated by reference (Appendix G) and modified by the following subpart of §1108:

(b) 40 CFR 266.31(c) is amended as follows:

(c) No fuel which contains any hazardous waste may be burned in any cement kiln, regardless of the location within the Territory, unless such kiln fully

complies with regulations under this Chapter that are applicable to incinerators.

§30109. The Hazardous Waste Permit Program.

(a) All of Title 40 CFR Part 270, as amended as of July 1, 1986, with the exception of §§270.2 and 270.10(f)(3) is hereby adopted and incorporated by reference (Appendix H) and modified by the following:

(b) In the above adopted federal regulations:

(1) *Section 3008 of RCRA* means 10 GCA Chapter 51, Section 51103(10).

(2) *Section 3005 of this Act* means 10 GCA Chapter 51, Section 51103(9).

(c) In §270.1(c), the reference to 270.2 is amended to read §260.10, see Part II.

(d) §270.10 (a) is amended as follows:

(a) **Permit application.** Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Director as described in this section and in §270.70-73. All new applications or renewal applications for a permit shall be accompanied by a nonrefundable application fee of \$250.00 payable to the Treasurer of Guam. Persons currently authorized with interim status shall apply for permits when required by the Director. Persons covered by RCRA permits by rule (§270.60) need not apply. Procedures for application, issuance, and administration of emergency permits are found exclusively in §270.61.

(e) 40 CFR 270.10(e)(iii) is amended as follows:

(iii) For generators generating greater than 50 kilograms but less than 100 kilograms of hazardous waste in a calendar month and treats, stores or disposes of these wastes on-site, after the effective date of these regulations.

(f) 40 CFR 270.10(f)(1) is amended as follows:

(f)(1) No person shall begin physical construction of a new HWM facility without having submitted Part A and Part B of the permit application and having received a finally effective RCRA permit.

(g) §270.30(l)(10) is amended as follows:

Other noncompliance. The permittee shall report all instances of noncompliance not reported under §270.30(l), (4), (5), and (6), see Part VIII, at the time monitoring (including annual) reports are submitted. Reports shall contain the information listed in §270.30(l)(6), see Part VIII.

(h) §270.30(l) is amended by adding the following:

All the reports listed above shall be made to the Administrator. The Administrator must receive these reports at or within the time periods required under these Regulations.

(i) §270.30(l)(9) is amended as follows:

(9) **Annual Report.** An annual report must be submitted covering facility activities during the previous calendar year (See 40 CFR 264.75).

(j) In §270.32(b), the references to 40 CFR Part 267 is deleted.

(k) In §270.32(c), the second sentence is deleted.

(l) §270.41(a)(3)(i)(C) is amended as follows:

(C) A permittee requests modification in accordance with 40 CFR 124.5, see Part IX.D. within ninety (90) days after the date of notice of the action on which the request is based is published by the Territory.

(m) §270.50 (a) is amended as follows:

(a) RCRA permits shall be effective for a fixed term not to exceed 3 years.

(n) 40 CFR 270.50(d) is amended as follows:

(d) Each permit for a land disposal facility shall be reviewed by the Director three years after the date of permit issuance as part of the permit reissuance process. The reissued permit shall be modified as necessary, as provided in §270.41.

(o) In §270.51(a) the words *under 5 U.S.C. 558(c)* are deleted.

§30110. Procedures for Permit Administration.

(a) All of Title 40 CFR Part 124 as amended as of July 1, 1986, relating to HWM facilities, with the exception of §§124.2, 124.4, 124.16, 124.19 through 124.21, is hereby adopted and incorporated by reference (Appendix I), and modified by the following:

(b) §124.1 entitled "Purpose and Scope" is replaced by the following:

This section contains GEPA procedures for issuing, modifying, revoking and reissuing, or terminating all hazardous waste management facility permits. These regulations describe the procedures GEPA shall follow in reviewing permit applications, preparing draft permits, issuing public notice, inviting public comment and holding public hearings on draft permits.

(c) §124.3 entitled "Application for a permit" is replaced by the following:

(a)(1) Any person who requires a permit under these Regulations shall complete, sign and submit to the Administrator an application for each permit required under §270.1, see Part VIII. Applications are not required for permits-by-rule in §270.60, see Part VIII.

(2) The Administrator shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit. (Refer to §§270.10 and 270.13, see Part VIII).

(3) Permit applications must comply with the signature and certification requirements of §270.11, see Part VIII.

(b) Reserved.

(c) The Administrator shall review for completeness every application for a permit. Each application submitted by a new HWM facility shall be reviewed for completeness by the Administrator within thirty (30) days of its receipt. Each application for a permit submitted by an existing HWM facility shall be reviewed for completeness within sixty (60) days of receipt. Upon completing the review, the Administrator shall notify the applicant in writing whether the application is complete. If the application is incomplete, the Administrator shall list the information necessary to make the application complete. When the application is for an existing HWM facility, the Administrator shall specify in the notice of deficiency a date for submitting the necessary information. The Administrator shall notify the applicant that the application is complete upon receiving this information. After the application is

completed, the Administrator may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information shall not render an application incomplete.

(d) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied. Appropriate enforcement actions may be taken against an existing HWM facility.

(e) If the Administrator decides that a site visit is necessary for any reason in conjunction with the processing of an application, he or she shall notify the applicant and a date for a site visit shall be scheduled.

(f) The effective date of an application is the date on which the Administrator notifies the applicant that the application is complete as provided in (c) of this subpart.

(g) For each application from a new HWM facility, the Administrator shall, no later than the effective date of the application, prepare and mail to the applicant a project decision schedule. The schedule shall specify target dates by which the Administrator intends to:

- (1) Prepare a draft permit;
- (2) Give public notice;
- (3) Complete the public comment period, including any public hearing.
- (4) Make a decision to issue or deny a final permit; and
- (5) Issue a final permit.

(d) §124.5 entitled "Modification, revocation and reissuance, or termination of permits" is replaced by the following:

(a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Administrator's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in §§270.41 or 270.43, see Part VIII. All requests shall be in writing and shall contain facts or reasons supporting the request.

(b) If the Administrator decides the request is not justified, he or she shall send the requestor a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment or hearings.

(c) Modification, revocation or reissuance of permits procedures:

(1) If the Administrator tentatively decides to modify or revoke and reissue a permit under §270.41, see Part VIII, he or she shall prepare a draft permit under §124.6, see Part IX.E, incorporating the proposed changes. The Administrator may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits, the Administrator shall require the submission of a new application.

(2) In a permit modification under this subsection, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. The permit modification shall have the same expiration date as the unmodified permit. When a permit is revoked and reissued under this subpart, the entire permit is reopened just as if the permit has expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(3) "Minor modifications" as defined in §270.42, see Part VIII, are not subject to the requirements of this subpart.

(d) If the Administrator tentatively decides to terminate a permit under §270.43, see Part VIII, he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under §124.6, see Part IX.E. In the case of permits that are processed or issued jointly by both GEPA and EPA, a notice of intent to terminate shall not be issued if the Regional Administrator and the

permittee agree to termination in the course of transferring permit responsibilities from EPA to the Territory.

(e) All draft permits (including notices of intent to terminate) prepared under this subpart by the Administrator shall be based on the administrative record as defined in §124.9, see Part IX.H.

(e) §124.6 entitled "Draft permits" is replaced by the following:

(a) Once an application is complete, the Administrator shall tentatively decide whether to prepare a draft permit or to deny the application.

(b) If the Administrator tentatively decides to deny the permit application, he or she shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under (5) of this subpart.

(c) Reserved.

(d) If the Administrator decides to prepare a draft permit, he or she shall prepare a draft permit containing the following information:

(1) all conditions under §§ 270.30 and 270.32, see Part VIII;

(2) all compliance schedules under §270.33, see Part VIII;

(3) all monitoring requirements under §270.31, see Part VIII;

(4) standards for treatment, storage and/or disposal and other permit conditions under §270.30, see Part VIII.

(5) All draft permits prepared by GEPA under this subsection shall be accompanied by a statement of basis (§124.7, see Part IX.F) or fact sheet (§124.8, see Part IX.G), and shall be based on the administrative record (§124.9, see Part IX.H), publicly noticed (§124.10, see Part IX.I) and made available for public comment (§124.11, see Part IX.J). The Administrator shall give notice of opportunity for a public hearing (§124.12, see Part IX.K), issue a final decision (§124.15, see Part

IX.N) and respond to comments (§124.17, see Part IX.O).

(f) §124.7 entitled "Statement of basis" is replaced by the following:

GEPA shall prepare a statement of basis for every draft permit for which a fact sheet under §124.8 (see Part IX.G) is not prepared. The statement of basis shall describe the derivation of the conditions of the draft permit and the reasons for them, or in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis shall be sent to the applicant and, on request, to any other person.

(g) §124.8 entitled "Fact sheet" is replaced by the following:

(a) A fact sheet shall be prepared for every draft permit for a new HWM facility and for every draft permit which the Administrator finds is the subject of widespread public interest or raises major issues. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The Administrator shall send this fact sheet to the applicant and, on request, to any other person.

(b) The fact sheet shall include, when applicable:

(1) A brief description of the type of facility or activity which is the subject of the draft permit;

(2) The type and quantity of wastes, which are proposed to be or are being treated, stored or disposed;

(3) Reserved.

(4) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by §124.9, see Part IX.H;

(5) Reasons why any requested variances or alternatives to required standards do or do not appear justified;

(6) A description of the procedures for reaching a final decision on the draft permit including:

(i) The beginning and ending dates of the comment period under §124.10, see §1109.I, and the address where comments shall be received;

(ii) Procedures for requesting a hearing and the nature of that hearing; and

(iii) Any other procedures by which the public may participate in the final decision.

(7) Name and telephone number of a person to contact for additional information.

(8) Reserved.

(h) §124.9 entitled "Administrative record for draft permits" is replaced by the following:

(a) The provisions of a draft permit prepared under §124.6, see Part IX.E, shall be based on the administrative record defined in this subsection.

(b) For preparing draft permit under §124.6, see Part IX.E, the record shall consist of:

(1) The application, if required, and any supporting data furnished by the applicant;

(2) The draft permit or notice of intent to deny the application or to terminate the permit;

(3) The statement of basis (§124.7, see Part IX.F) or fact sheet (§124.8, see Part IX.C);

(4) All documents cited in the statement of basis or fact sheet; and

(5) Other documents contained in the supporting file for the draft permit.

(6) Reserved.

(c) Material readily available at GEPA or published material that is generally available, and that is included in the administrative record under (2) and (3) of this subpart need not be physically included with the rest of the record as long as it is specifically referred to in the statement of basis or the fact sheet.

(d) This subsection applies to all draft permits when public notice was given after the effective date of these regulations.

(i) §124.10 entitled "Public notice of permit actions and public comment period" is replaced by the following:

(a) Scope.

(1) The Administrator shall give public notice that the following actions have occurred:

(i) A permit application has been tentatively denied under §124.6(b), see Part IX.E.

(ii) A draft permit has been prepared under §124.6(d), see Part IX.E.

(iii) A hearing has been scheduled under §124.12, see Part IX.K.

(2) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied under §124.5(b), see Part IX.D. Written notice of that denial shall be given to the requestor and to the permittee.

(3) Public notices may describe more than one permit or permit actions.

(b) Timing.

(1) Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) required under (a) of this subpart shall allow at least forty-five (45) days for public comment.

(2) Public notice of a public hearing shall be given at least thirty (30) days before the hearing. (Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.)

(c) Methods. Public notice of activities described in (a)(1) of this subpart shall be given by the following methods:

(1) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this subparagraph may waive his or her rights to receive notice for any classes and categories of permits):

(i) The applicant;

(ii) Any other agency which the Administrator knows has issued or is required to issue a HWM facility permit, or any other Federal environmental permit for the same facility or activity;

(iii) Federal and Territorial agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, Territorial Historic Preservation Officers, and other appropriate government authorities.

(iv) Reserved.

(v) Reserved.

(vi) Reserved.

(vii) Reserved.

(viii) Persons on a mailing list developed by:

(A) Including those who request in writing to be on the list;

(B) Soliciting persons for "area lists" from participants in past permit proceedings in that area; and

(C) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional or state funded newsletters, environmental bulletins, or state law journals. (The Administrator may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Administrator may delete from the list the name of any person who fails to respond to such a request.)

(ix)(A) To all units of local government having jurisdiction over the area where the facility is proposed to be located; and

(D) To each Territorial agency having any authority under territorial

law with respect to the construction or operation of such facility.

(2)(i) Reserved.

(ii) For all permits, publication of a notice in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations.

(3) Reserved.

(4) Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(d)(1) All public notices issued under these Regulations shall contain the following minimum information:

(i) Name and address of the office processing the permit action for which notice is being given;

(ii) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(iii) A brief description of the business conducted at the facility or activity described in the permit application;

(iv) Name, address and telephone number of a person from whom interested persons may obtain further information including copies of the draft permit, statement of basis or fact sheet, and the application; and

(v) A brief description of the comment procedures required by §124.11, see Part IX.J, and §124.12, see Part IX.K, and the time and place of any hearing that shall be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision.

(vi) The location of the administrative record required by §124.9, see Part IX.H, the times at which the record shall be open for public inspection, and a statement that all data

submitted by the applicant is available as part of the administrative record.

(vii) Reserved.

(viii) Reserved.

(ix) Any additional information considered necessary or proper.

(2) Public notices for hearings. In addition to the general public notice described in (d)(1) of this subpart, the public notice of a hearing under §124.12, see Part IX.K., shall contain the following information:

(i) Reference to the date of previous public notices relating to the permit;

(ii) Date, time, and place of the hearing;
and

(iii) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

(iv) Reserved.

(e) In addition to the general public notice described in (d)(1) of this subpart, all persons identified in (c)(1)(i), (ii), (iii) and (iv) of this subpart shall be mailed a copy of the fact sheet or statement of basis, the permit application, if any, and the draft permit, if any.

(j) §124.11 entitled "Public comments and requests for public hearings" is replaced by the following:

During the public comment period provided under §124.10, see Part IX.I, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in §124.17, see Part IX.O.

(k) §124.12 entitled "Public hearings" is replaced by the following:

(a)(1) The Administrator shall hold a public hearing whenever he or she finds, on the basis of

requests, a significant degree of public interest in a draft permit(s).

(2) The Administrator may also hold a public hearing at his or her discretion, whenever for instance, such a hearing might clarify one or more issues involved in the permit decision.

(3) The Administrator shall hold a public hearing whenever he or she receives written notice of opposition to a draft permit and a request for a hearing within forty-five (45) days of public notice under §124.10(b)(1), see Part IX.I. Whenever possible the Administrator shall schedule a hearing under this subpart at a location convenient to the nearest population center to the proposed facility.

(4) Public notice of the hearing shall be given as specified in §124.10, see Part IX.I.

(b) Reserved.

(c) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under §124.10, see Part IX.I, shall automatically be extended to the close of any public hearing under this subpart. The hearing officer may also extend the comment period by so stating at the hearing.

(d) A tape recording or written transcript of the hearing shall be made available to the public.

(e) Reserved.

(l) §124.13 entitled "Obligation to raise issue and provide information during the public comment period" is replaced by the following:

All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Administrator's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonable available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period (including any public hearing) under §124.10, see Part IX.I. All

supporting materials shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of state statutes and regulations, EPA documents of general applicability, or other generally available reference materials. Commenters shall make supporting material not already included in the administrative record available to GEPA as directed by the Administrator.

(m) §124.14 entitled "Reopening of the public comment period" is replaced by the following:

(a) If any data information or arguments submitted during the public comment period, including information or arguments required under 40 CFR 124.13, see Part IX.L, appear to raise substantial new questions concerning a permit, the Administrator may take one or more of the following actions:

(1) Prepare a new draft permit, appropriately modified under §124.6, see Part IX.D.

(2) Prepare revised statement of basis under §124.7, see Part IX.F, a fact sheet or revised fact sheet under §124.8, see Part IX.G, and reopen the comment period under this subpart; or,

(3) Reopen or extend the comment period under §124.10, see Part IX.I, to give interested persons an opportunity to comment on the information or arguments submitted.

(b) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under §124.10, see Part IX.I, shall define the scope of the reopening.

(c) Reserved.

(d) Public notice of any of the above actions shall be issued under §124.10, see Part IX.I.

(n) §124.15 entitled "Issuance and effective date of permit" is replaced by the following:

(a) After the close of the public comment period under §124.10, see Part IX.I., on a draft permit, the Administrator shall issue a final permit decision. The Administrator shall notify the applicant and each person who has submitted written comments or

requested notice of the final permit decision. The notice shall include reference to the procedures for appealing a decision on a permit or a decision to terminate a permit. For the purpose of this subpart, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) A final permit decision shall become effective 30 days after the service of notice of the decision under subsection (a) of this section unless:

(1) A later effective date is specified in the decision; or

(2) No comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.

(o) §124.17 entitled "Response to comments" is replaced by the following:

(a) At the time that any final decision to issue a permit is made under 40 CFR 124.15, see Part IX.N., the Administrator shall issue a response to comments. This response shall:

(1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change(s), and

(2) Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.

(b) Any documents cited in the response to comments shall be included in the administrative record for the final permit decision as defined in 40 CFR 124.18, see Part IX.P. If new points are raised or new material supplied during the public comment period, GEPA may document its response to those matters by adding new materials to the administrative record.

(c) The response to comments shall be available to the public.

(p) §124.18 entitled "Administrative record for final permit" is replaced by the following:

(a) The Administrator shall base final permit decisions under §124.15, see Part IX.N., on the administrative record defined in this subpart.

(b) The administrative record for any final permit shall consist of the administrative record for the draft permit, and:

(1) All comments received during the public comment period provided under §124.10, see Part IX.I. (including any extension or reopening under §124.14, see Part IX.M).

(2) The tape or transcript of any hearing(s) held under §124.12, see Part IX.K;

(3) Any written materials submitted at such a hearing;

(4) The response to comments required by §124.17, see Part IX.O., and any new material placed in the record under that subsection;

(5) Reserved.

(6) Other documents contained in the supporting file for the permit; and

(7) The final permit.

(c) The additional documents required under (b) of this subsection shall be added to the record as soon as possible after their receipt or publication by GEPA. The record shall be complete on the date the final permit is issued.

(d) This subpart applies to all final permits when the draft permit was subject to the administrative record requirements of §124.9, see Part IX.H.

(e) Material readily available at GEPA, or published materials which are generally available and which are included in the administrative record under the standards of this subpart or of §124.17, see Part IX.O. ("Response to comments"), need not be physically included in the same file as the rest of the record as long as it is specifically referred to in the statement of basis or fact sheet or in the response to comments.

§30111. Compliance Evaluations. The Administrator shall have the authority to enter all sites or premises subject to regulation, or in which records relevant to hazardous waste management are kept in

order to copy any records, inspect, monitor or otherwise investigate compliance with Guam's Hazardous Waste Management Regulations including compliance with permit conditions and other regulatory requirements.

§30112. Severability. If any provision of these Regulations or their application is held to be invalid, such invalidity shall not affect any other provision or application that can be used without the invalid part, and to this end the provisions of these Regulations and their various applications are declared to be severable.

§30113. Appendices. (Title 40, Code of Federal Regulations for Hazardous Waste Management)

NOTE: The agency has adopted the Code of Federal Regulations for Hazardous Waste Management. For reference, please see the appropriate federal law.