

CHAPTER 50
GUAM PESTICIDES ACT

- §50101. Title.
- §50102. Definitions.
- §50103. Delegation of Duties.
- §50104. Determination, Rules and Regulations, Uniformity.
- §50105. Experimental Use Permits.
- §50106. Pesticide and Registration.
- §50107. Refusal, Cancellation or Suspension of Registration.
- §50108. Licensing, Sale of Restricted Pesticides and Keeping of Records.
- §50109. Denial, Suspension or Revocation of License.
- §50110. Labeling Requirements.
- §50111. Coloration of Certain Pesticides.
- §50112. Prohibited Acts.
- §50113. Seizures: “Stop-Sale” and “Removal From Sale” Orders.
- §50114. Banning of Pesticides.
- §50115. Rules and Regulations.
- §50116. Denial, Suspension or Revocation of Certificate.
- §50117. Cooperation.
- §50118. Notice of Arrival of Pesticides and Devices.
- §50119. Arrival of Shipment.
- §50120. Shipments Arriving Without the Notice of Arrival.
- §50121. Release of Shipment or Entry Refused.
- §50122. Authority to Inspect.
- §50123. Violations, Warning Notice, Notice of Defense, Hearings and Penalties.
- §50124. Severability.

§50101. Title. This Chapter may be cited as the “*Guam Pesticides Act*.”

SOURCE: GC §57120.

§50102. Definitions. As used in this Chapter unless the content clearly requires otherwise:

(1) *Active Ingredients* shall mean:

(a) In the case of a pesticide other than a plant growth regulator, defoliant or desiccant, an ingredient which will prevent, destroy, repeal or mitigate any pest;

10 GCA - HEALTH AND SAFETY
DIV. 2 - ENVIRONMENTAL HEALTH

(b) In the case of a plant growth regulator, defoliant or desiccant, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof.

(2) *Administrator* shall mean the Administrator of the Guam Environmental Protection Agency.

(3) *Adulterated* shall apply to any pesticide if its strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold, or if any substance has been substituted or abstracted wholly or in part for the pesticide, or any valuable constituent of the pesticide has been wholly or in part abstracted.

(4) *Agency* shall mean the Guam Environmental Protection Agency.

(5) *Animal* shall mean all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish and shellfish.

(6) *Board* shall mean Board of Directors of the Guam Environmental Protection Agency.

(7) *Carrier* shall mean every description of craft, whether aircraft, surface craft or other contrivance used or capable of being used as a means of transportation in the air or water. The person responsible for the carrier shall be the owner, or his agent, including the operator having the command of the carrier.

(8) *Certified Pesticide Applicator* shall mean any individual who is certified under §50115(1) to use and/or supervise the use of any restricted pesticide.

(9) *Custom Officer* shall mean the Chief of Customs under the Department of Commerce or his authorized representative.

(10) *Defoliant* shall mean any substance or mixture of substances intended to cause the foliage to drop from a plant, with or without causing abscission.

10 GCA - HEALTH AND SAFETY
DIV. 2 - ENVIRONMENTAL HEALTH

(11) *Desiccant* shall mean any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.

(12) *Device* shall mean any instrument or contrivance (other than a firearm) intended for trapping, destroying, repelling or mitigating pests or any other form of plant or animal life; but not including equipment used for the application of pesticides when sold separately.

(13) *Environment* includes water, air, land and animals living therein, all plants and man and the interrelationships which exist among them.

(14) *EPA* shall mean the United States Environmental Protection Agency.

(15) *Experimental Use Permit* shall mean a permit which is issued by the Administrator only for bona fide research programs under the supervision of public officials.

(16) *FIFRA* shall mean the Federal Insecticide, Fungicide, Rodenticide Act and its amendments.

(17) *Fungus* shall mean all nonchlorophyll-bearing thallophytes including rusts, smuts, mildews, molds and yeasts, except those on or living in man or other animals and those on or in processed foods, beverages or pharmaceutical.

(18) *General Use Pesticide* shall mean a pesticide other than one designated as restricted pesticide.

(19) *Imminent Hazard* shall mean a situation which exists when the continued use of a pesticide during the time required for cancellation proceedings would likely result in unreasonable adverse effects on the environment, or would involve unreasonable hazards to the survival of a species declared endangered by the Secretary of the Interior under P.L. 91-135.

(20) *Importer* shall mean the person who initially receives incoming pesticides to Guam from an outside or foreign source other than the United States, its territories or possessions for the purpose of sale, distribution or use.

(21) *Importation* shall mean importing or bringing of chemical pesticides or devices from an outside or foreign

source other than the United States, its territories and possessions into Guam.

(22) *Inert Ingredient* shall mean an ingredient which is not an active ingredient and as such does not act as a pesticide.

(23) *Ingredient Statement* shall mean:

(a) A statement of the chemical name and common name where applicable of each active ingredient, together with the name and percentage of each and the total percentage of inert ingredients, if any, in the pesticide;

(b) Whenever the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elementary arsenic.

(24) *Insect* shall mean invertebrate animals belonging to the class Insecta including beetles, bugs, bees, flies and other allied classes of arthropods, including spiders, mites, ticks, centipedes and wood lice.

(25) *Label* shall mean the written, printed or graphic matter on or attached to the pesticide or device, or any of its containers or wrappers. "Labeling" means all labels and other written, printed or graphic matter accompanying the pesticide or device at any time or to which reference is made on the label or in literature accompanying the pesticide or device, except for current official publications of the U.S. Environmental Protection Agency, United States Department of Agriculture, United States Department of Interior, United States Department of Health, Education and Welfare, state experiment stations, state or territorial agriculture colleges or other similar Federal, state or territorial institutions or agencies authorized by law to conduct research in the field of pesticides.

(26) *Misbranded* shall mean any pesticide or device if:

(a) Its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(b) It is contained in a package or other container or wrapping which does not conform to the standards established by the Board pursuant to §50110;

10 GCA - HEALTH AND SAFETY
DIV. 2 - ENVIRONMENTAL HEALTH

(c) It is an imitation of and is offered for sale under the name of another pesticide or device;

(d) Its labeling does not bear the Federal registration number;

(e) Any advertisement by means of newspaper, leaflet, radio or television is false or misleading in any particular;

(f) The labeling accompanying it does not contain instructions for use which are necessary, proper and adequate for the protection of the public;

(g) The label does not contain warning or caution statements which may be necessary and if complied with, together with any requirements imposed under §3(d) FIFRA is adequate to protect health and the environment;

(h) The label does not bear an ingredient statement on the immediate container;

(i) Any word, statement or other information required by or under this Chapter to appear on the labeling is not prominently placed thereon with such conspicuousness and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(j) In the case of a plant growth regulator, defoliant or desiccant when used as directed it is injurious to living man or other vertebrate animals, or vegetation to which it is applied, or to the person applying such pesticides; provided that physical or physiological effects on plants or parts thereof shall not be deemed to be injurious when this is the purpose for which the plant growth regulator, defoliant or desiccant was applied, in accordance with the label claims and recommendations.

(27) *Nematode* shall mean invertebrate animals of the Phylum Nematelminthes and the class Nematoda including unsegmented round worms with elongated fusiform or sac-like bodies covered with cuticle and inhabiting soil, water, plants or plant parts.

(28) *Notice of Arrival* shall mean a legal document authorized under §50118 for the purpose of collecting information concerning the importation and consignment of pesticides on Guam.

(29) *Person* shall mean the territory of Guam or any instrumentality thereof, or any individual, firm, corporation, association or partnership, or any organized group of persons whether incorporated or not.

(30) *Pest* shall mean any insect, rodent, nematode, fungus, weed or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism, except viruses, bacteria or other microorganisms on or in living man or other living animals which the Board declares to be a pest under §50104.

(31) *Pesticide* shall mean:

(a) Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest;

(b) Any substances or mixture substances intended for use as a plant growth regulator, defoliant or desiccant.

(32) *Plant Growth Regulator* shall mean any substance or mixture of substances intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but not including substances that are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants and soil amendments.

(33) *Producer* shall mean any person who manufactures, prepares, compounds, propagates or processes any pesticide or device. "Produce" shall mean to manufacture, prepare, compound, propagate or process any pesticide or device.

(34) *Protect Health and the Environment or Protection of Health and the Environment* shall mean protection against any injury to man and protection against any unreasonable adverse effects on the environment taking into account the public interest, including benefits from the use of the pesticide.

(35) *Registrant* shall mean a person who has registered any pesticide or device pursuant to this Chapter.

(36) *Restricted Pesticide* shall mean:

(a) A pesticide so designated by regulation under §3(d) of FIFRA and so designated on its label; or

(b) A pesticide determined by the Board to be unsafe for use by persons other than a certified applicator, and so designated by inclusion on a list of restricted pesticides adopted by the Board.

(37) *Sell* or *Distribute* shall mean to distribute, solicit, sell, offer for sale, hold for sale, transport or deliver for transportation between points within Guam.

(38) *Unreasonable Adverse Effects on the Environment* shall mean any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide.

(39) *Territory* shall mean the territory of Guam.

(40) *Under the Direct Supervision of a Certified Applicator* shall mean unless otherwise specified by its labeling, that the certified applicator is physically present at the time and place the pesticide is applied.

(41) *Weed* shall mean any plant which grows where not wanted.

SOURCE: GC §57121.

§50103. Delegation of Duties. All authority vested in the Board or Administrator by virtue of this Chapter may with like force and effect be exercised by such employees of the Agency as the Board or Administrator may from time to time designate for the purpose.

SOURCE: GC §57122.

§50104. Determination, Rules and Regulations, Uniformity. (1) The Board shall, in accordance with the Administrative Adjudication Law and after having afforded interested and affected parties an opportunity to be heard, make and adopt rules or regulations:

(a) To determine pesticides and pesticide uses which are highly toxic to man, to designate pesticides as restricted or general use and to establish a system of control over the

importation, distribution and use of certain pesticides purchased by the consuming public;

(b) To determine standards of coloring for pesticides and to subject pesticides to the requirements of §50111;

(c) To establish procedures for the registration of pesticides;

(d) To establish procedures, conditions and fees for the issuance of licenses for sale of restricted pesticides;

(e) To establish procedures for the storage and disposal of pesticides;

(f) To establish procedures for the certification of pesticide applicators consistent with certification regulations promulgated under FIFRA;

(g) To establish procedures for the collection and examination of samples of pesticides or devices;

(h) To establish procedures regarding experimental use of pesticides;

(i) To declare as a pest any form of plant and animal life (other than man and other bacteria, virus and other microorganisms or originating in living man or other living animals) which is injurious to health or the environment.

SOURCE: GC §57123.

§50105. Experimental Use Permits. (a) Issuance. Any person may apply to the Administrator for an experimental use permit for a pesticide. The Administrator may issue an experimental use permit if he determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under §50106. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed.

(b) Temporary Tolerance Level. If the Administrator determines that the use of a pesticide may reasonably be expected to result in any residue on or in food or feed, he may establish a temporary tolerance level for the residue of the pesticide before issuing the experimental use permit.

(c) Use Under Permit. Use of a pesticide under an experimental use permit shall be under the supervision of the Administrator, and shall be subject to such terms and conditions

and be for such period of time as the Administrator may prescribe in the permit.

(d) Studies. When any experimental use permit is issued for a pesticide containing any chemical or combination of chemicals which has not been included in any previously registered pesticide, the Administrator may specify that studies be conducted to detect whether the use of the pesticide under the permit may cause unreasonable adverse effects on the environment. All results of such studies shall be reported to the Administrator before such pesticide may be registered under §50106.

(e) Revocation. The Administrator may revoke any experimental use permit, at any time, if he finds that its terms or conditions are being violated, or that its terms or conditions are inadequate to avoid unreasonable adverse effects on the environment.

SOURCE: GC §57124.

§50106. Pesticide and Registration. (a) Any pesticide which is imported from any foreign country or non-U.S. manufacturer to this Territory, from countries other than the United States offered for sale, held for sale or distributed in this Territory shall be registered with the Agency; provided that products which have the same formula are manufactured by the same person, the labeling of which contains the same claims and the labels of which bear a designation identifying the product as the same pesticide, may be registered as a single pesticide and additional names and labels shall be added by supplemental statements during the current period of registration. The registrant shall file with the Administrator a statement including:

- (1) The name and address of the registrant and the name and address of the persons whose names will appear on the label, if other than the registrant;
- (2) The name of the pesticide;
- (3) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including directions for use; and
- (4) If requested by the Administrator a full description of the tests made the results thereof upon which the claims are based.

(b) The Administrator, whenever he deems it necessary in the administration of this part, may require the submission of the complete formula of any pesticide.

(c) If it appears to the Administrator that the composition of the article and its labeling and other material required to be submitted comply with the requirements of this Act and §24(c) of FIFRA, he shall register the article.

(d) Any pesticide which has been approved for use by the U.S. EPA prior to arrival in Guam shall not be required registration with the Agency.

SOURCE: GC §57125.

§50107. Refusal, Cancellation or Suspension of Registration. (a) The Administrator may refuse to register a pesticide when he determines that:

(1) The pesticide or its labeling does not comply with this Chapter or the regulations promulgated thereunder; or

(2) The registrant fails to comply with the registration procedures set forth by regulation; or

(3) The pesticide is misbranded as defined by §50102(26); or

(4) The proposed use would result in substantial adverse effect on the environment.

(b) To protect the health and environment, the Board may, after a public hearing, cancel the registration of a pesticide. Such cancellation shall be made after the Board has determined that the continued use of the pesticide would result in unreasonable adverse effects on the environment.

(c) If the Administrator determines that action is necessary to prevent an imminent hazard during the time required for cancellation proceedings, he may, by order, suspend the registration of a pesticide immediately. The suspension order shall be in effect until the Board issues its final order either cancelling or denying the cancellation of the registration.

(d) Any person who will be adversely affected by such order may obtain judicial review thereof by filing in the Superior Court of Guam, within sixty (60) days after the entry of such order, a petition saying that the order be set aside in whole or in part. The Court shall have jurisdiction to affirm or set aside the order

complained of in whole or in part. The findings of the Board with respect to questions of fact shall be sustained if supported by substantial evidence when considered on the record as a whole.

(e) Upon application, the Court may remand the matter to the Board to take further testimony if there are reasonable grounds for the failure to adduce such evidence in the prior hearing. The Board may modify its findings and its order by reason of the additional evidence so taken and shall file the additional record and any modification of the findings or order with the Clerk of the Court.

SOURCE: GC §57126.

§50108. Licensing, Sale of Restricted Pesticides and Keeping of Records. (a) Every person who sells or distributes restricted pesticides shall obtain an annual license from the Agency. Conditions, procedures and fees for licenses shall conform to the regulations promulgated hereunder.

(b) Any person issued a license or registration permit under the provisions of this Act shall be required by the Administrator to keep accurate records containing the following information:

- (1) The delivery, movement or holding of any pesticide or device including the quantity;
- (2) The date of shipment and receipt;
- (3) The name of the consignor and consignee; and
- (4) Any other information necessary for the enforcement of this Act as prescribed by the Administrator.

(c) The Administrator shall have access to such records at any reasonable time to copy or make copies of such records for the purpose of carrying out the provisions of this Act. Unless required for the enforcement of this Act, such information shall be confidential and if summarized, shall not identify an individual person.

SOURCE: GC §57127.

§50109. Denial, Suspension or Revocation of License. Any license pursuant to this Act or regulations adopted hereunder may be denied, suspended or revoked by the Administrator, after due hearing, for violation of any provisions of this Chapter or any rule or regulation promulgated pursuant to this Chapter, the misuse of a pesticide (both general use and

restricted use pesticides) as well as violation of any condition of the license or of any law or regulation pertaining to the sale or distribution of pesticides. Any order made by the Administrator for the suspension or revocation of a license shall be in writing and shall set forth the reasons for the suspension or revocation.

SOURCE: GC §57128.

§50110. Labeling Requirements. Each container of pesticides shall bear thereon or attached thereto in a conspicuous place, a plainly written or printed label in the English language providing the following information:

- (1) Name, brand or trademark under which the pesticide is sold or distributed;
- (2) Ingredient statement;
- (3) Direction for use which if complied with will adequately protect the health and environment;
- (4) Warning or caution statements as specified by regulation;
- (5) Weight or measure of content;
- (6) EPA registration number;
- (7) EPA establishment number; and
- (8) Classification statement.

SOURCE: GC §57129.

§50111. Coloration of Certain Pesticides. (a) Pesticides known as standard lead arsenate, basic lead arsenate, sodium arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate or barium fluosilicate shall be distinctly colored as specified by regulation.

(b) The Board may, after hearing, require the coloration of other pesticides that it determines to be necessary to protect the health and environment.

(c) The Board may exempt the coloration requirements for certain uses that it determines not to have substantial adverse effects on the environment.

SOURCE: GC §57130.

§50112. Prohibited Acts. (a) Except as otherwise exempted in §50123 it shall be unlawful for any person to distribute, import from countries other than the United States,

sell, offer for sale, hold for sale, transport, deliver for transportation or receive and having so received, deliver or offer to deliver to any person in this Territory any of the following:

(1) Any pesticide which is not registered with EPA or any registered pesticide if the composition differs from its registered composition or any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration under §50106.

(2) Any pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to the container and to the outside container or wrapper of the retail package, if any, through which the required information on the immediate container cannot be clearly read, a label bearing such information pursuant to §50110.

(3) Any pesticide which contains any substance or substances in quantities highly toxic to man, as determined under §50104 unless the label bears, in addition to any other matter required by this part:

- (i) A symbol of the skull and crossbones;
- (ii) The word "POISON" prominently, in red, on a background of distinctly contrasting color; and
- (iii) A statement of an antidote for the pesticide.

(4) Any pesticide whose coloration is not in conformity with §50111.

(5) Any pesticide which is adulterated or misbranded.

(6) Any restricted pesticides unless the person has a license issued in accordance with §50108.

(7) Any restricted pesticides to persons other than a certified pesticide applicator or a licensed dealer.

(8) Any device which is misbranded.

(b) It shall be unlawful for any person to:

(1) Use, apply or supervise the use of or application of any pesticide inconsistent with its labeling or restrictions imposed by the Administrator.

10 GCA - HEALTH AND SAFETY
DIV. 2 - ENVIRONMENTAL HEALTH

(2) Use, store, transport, mix or discard any pesticide or the containers of such pesticide in any manner which would have adverse effects on the environment.

(3) Use or apply restricted pesticides unless the person is acting under the immediate supervision and control of a certified pesticide applicator with a valid certificate issued pursuant to regulations adopted under §50115.

(4) Import, sell, distribute, transport, use or apply pesticides in any manner that has been banned pursuant to §50114.

(c) It shall be unlawful to:

(1) Detach, alter, deface or destroy, in whole or in part, any label or alter any labeling of a pesticide unless such action is taken with the approval of the Administrator to correct an improper label or labeling.

(2) Add any substance to or take any substance from a pesticide in a manner that may defeat the purpose of this Act.

(3) Use for a person's own advantage or to reveal any information relative to formulas of products acquired in the administration of this Chapter to persons other than to proper officials or employees of the Agency or the courts of this Territory in response to a subpoena or to physicians or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes.

(4) For any pesticide dealer, wholesaler or retailer to expose or to offer for sale or to solicit or receive orders for the sale of restricted pesticides unless the dealer, wholesaler or retailer has applied for and has obtained an annual license from the Agency pursuant to §50108.

(5) For any pesticide dealer, wholesaler or retailer to expose or to offer for sale or to solicit or receive orders for the sale of restricted pesticides to any person other than a certified pesticide applicator.

(6) For any pesticide dealer to falsify any report or record required to be made or maintained by the Administrator pursuant to §50108.

SOURCE: GC §57131.

§50113. Seizures: “Stop-Sale” and “Removal From Sale” Orders. (1) Any pesticide or device that is distributed, sold, offered for sale, transported or delivered for transportation in violation of §50112(1) through (5) herein, may be seized. Any article seized hereunder shall, after entry of decree, be disposed of by destruction or sale as the court directs and the proceeds, if the article is sold, shall be paid to the General Fund of the Territory; provided that the article shall not be sold contrary to §50112(1) through (5), herein, and provided that upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the article shall not be disposed of unlawfully, the court may direct the article to be delivered to the owner thereof for relabeling or reprocessing as the case may be.

(2) The Administrator or his authorized agent may issue and enforce a written or printed “stop-sale” or “removal from sale” order to withhold from sale any pesticide or device that is distributed, sold, offered for sale, transported or delivered for transportation in violation of §50112(1) through (5) herein.

(3) When a decree of condemnation is entered against the pesticide or device, court costs, fees, storage and other proper expenses shall be awarded against the person, if any, appearing as claimant of the pesticide.

SOURCE: GC §57132.

§50114. Banning of Pesticides. In order to protect the public and the environment, the Board may ban the use of certain pesticides or specific uses of certain pesticides when such usage is deemed to have unreasonable adverse effects on the environment. The Administrator shall take necessary action to cancel the registration of such banned pesticides or uses as provided in §50107.

SOURCE: GC §57133.

§50115. Rules and Regulations. The Agency shall have the authority to carry out and effectuate the purpose of §50104(f) by adopting rules and regulations in accordance with the Administrative Adjudication Law, including but not limited to the following:

(1) To establish procedures, conditions and standards to certify persons for the use of restricted pesticides;

(2) To establish limitations and conditions for the use and application of pesticides;

(3) To establish, as necessary, specific standards and guidelines which specify those conditions related to the use and application of pesticides which may constitute unreasonable adverse effects on the environment;

(4) To establish categories and, where applicable, subcategories of certifications to be issued by the Administrator;

(5) To require certified applicators to make and maintain records concerning the use and application of restricted use pesticides, and to make reports concerning such use and application to the Administrator;

(6) To establish provisions to ensure that certified applicators continue to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

SOURCE: GC §57134.

§50116. Denial, Suspension or Revocation of Certificate.

Any certificate issued pursuant to this Act or any regulation promulgated hereunder may be denied, suspended or revoked by the Board, after hearing, for violation of any provision of this Chapter or any rule or regulation promulgated pursuant to this Chapter, the misuse of a pesticide (both general use and restricted use pesticide) as well as violation of any condition of the certificate pertaining to the use of any restricted pesticide, or if convicted or subject to a final order assessing a civil penalty pursuant to §14, FIFRA. Any order made by the Board for the suspension or revocation of a certificate shall be in writing and shall set forth the reasons for the suspension of certification. The action of the Board in suspending or in revoking a certificate may be reviewed in the manner provided by §50107(d).

SOURCE: GC §57135.

§50117. Cooperation. The Administrator is authorized and empowered to cooperate with and enter into agreements with any person, or agency of the Federal government for the purpose of carrying out provisions of this Act:

(a) To delegate to any individual or agency the authority to cooperate in the enforcement of this Act through the use of its personnel or facilities, to train personnel of the Territory to cooperate in the enforcement of this Act, and to assist the Territory in implementing cooperative enforcement programs through grants-in-aid;

(b) To develop and administer territorial programs for training and certification of applicators consistent with the standards which are prescribed by the EPA.

SOURCE: GC §57136.

§50118. Notice of Arrival of Pesticides and Devices. An importer desiring to import pesticides or devices into Guam shall submit to the Administrator a completed Agency Notice of Arrival prior to the arrival of the shipment. Promptly after receipt, the Administrator shall complete said form, indicating the disposition to be made of the shipment of pesticides or devices upon its arrival in Guam and shall return the form to the importer or his agent.

SOURCE: GC §57137.

§50119. Arrival of Shipment. Upon arrival of a shipment of pesticides or devices, the importer or his agent shall submit to the Customs Officer at the port of first arrival, the Notice of Arrival completed by the Administrator and indicating to Customs the action to be taken on the shipment of pesticides or devices. The Customs Officer at the port of arrival shall immediately notify the Agency of such arrival of shipment and compare documents for the shipment of pesticides or devices and certify its agreement therewith.

SOURCE: GC §57138.

§50120. Shipments Arriving Without the Notice of Arrival. When a shipment of pesticides or devices arrives in Guam without the submission by the importer or his agent of the Notice of Arrival, such shipment shall be refused entry by the Customs Officer. Any expenses incident to the handling, storage or transfer of pesticides or devices refused entry into Guam shall be at the carrier's risk and expense.

SOURCE: GC §57139.

§50121. Release of Shipment or Entry Refused. If the completed Notice of Arrival directs the Customs Officer to release the shipment of pesticides or devices and from examination if it appears to be in compliance, the shipment shall be released to the importer. If the completed Notice of Arrival directs the Customs Officer to refuse entry of a shipment and from examination of the shipment it appears to violate provisions of this Act such shipment shall be refused entry and shall be treated as a prohibited importation.

SOURCE: GC §57140.

§50122. Authority to Inspect. (a) The Agency or any authorized representative or employee of the Agency may enter upon any public or private property, according to law at any reasonable time to examine and inspect application methods and equipment, to examine and collect sample of plants, soil and other materials and to perform any other act for the purpose of carrying out and effectuating the purposes of this Act.

(b) Should entry be denied to any place where entry is sought, the Agency or any authorized representative or employee of the Agency may apply to any court of competent jurisdiction for a search warrant authorizing entry. The court may, upon a showing by the Administrator that there is reason to believe that the provisions of this Act have been violated, issue a search warrant.

SOURCE: GC §57141.

§50123. Violations, Warning Notice, Notice of Defense, Hearings and Penalties. (a) Any person who violates this Act or any rule or regulation hereunder shall upon the first violation be issued a written warning notice citing the specific violation and necessary corrective action.

(b) Any person issued a written warning notice may file a Notice of Defense and have an opportunity for a hearing on such charges in accordance with the provision of the Administrative Adjudication Law.

(c) Any person who knowingly violates this Act or any rule or regulation hereunder shall be punished by a fine of not more than Five Hundred Dollars (\$500) or imprisoned for not more than six (6) months, or both.

SOURCE: GC §57142.

§50124. Severability. If any provision of this Chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this Chapter and applicability thereof to other persons and circumstances shall not be affected.

SOURCE: GC §57143.

10 GCA - HEALTH AND SAFETY
DIV. 2 - ENVIRONMENTAL HEALTH