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CH. 46 WATER RESOURCES CONSERVATION ACT

CHAPTER 46
WATER RESOURCES CONSERVATION ACT

NOTE: Chapter 46 was amended by P.L. 17-87

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§ 46101. Declaration of Policy.

It is hereby declared to be the policy of the government of Guam, in recognition of its duty to conserve and control its water resources for the benefit of the inhabitants of Guam, that all of the water resources of Guam are the property of the people of Guam, that the general welfare requires that said water resources be put to beneficial use to the fullest extent of which they are capable, that the waste or unreasonable use or unreasonable method of diversion or extraction of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people of Guam and for the public welfare. It is further declared that an emergency condition exists with respect to the availability of surface and underground water on Guam and that restrictions are necessary to prevent over pumping of water, the intrusion of salt water, sewage and other contaminants and the resulting permanent destruction of the utility of underground water reservoirs and sources of potable water supply. The right to water or the use of water from any surface or underground supply shall not exceed that which is reasonably required to meet the needs of public and private lands of Guam, consistent

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with the purposes for which such lands are or may be adaptable, subject only to reasonable laws and regulations as may be provided herein or hereinafter to preserve and protect the integrity of such underground water supplies. It is therefore further declared that the people of Guam have a primary interest in the location, construction, maintenance, operation, modification, abandonment and destruction of water wells by virtue of the impact of such activities on the quality, purity and integrity of underground waters.

§ 46102. Definitions.

(a) *Person* means any individual, firm, partnership, association or corporation, both public and private, including the agencies of the government of Guam and of the United States of America.

(b) *Water* shall be construed to include ponds, springs, wells and streams and all other bodies of surface or underground water, natural or artificial, inland or coastal, fresh or salt, public or private.

(c) *Well* shall be construed to mean any hole drilled, dug, or bored at any angle, either cased or uncased, for the purpose of obtaining water or knowledge of water-bearing formations or for the disposal of surface water drainage or waste materials. This definition shall not include wells used for the purpose of (1) dewatering embankments during construction, or (2) stabilizing hillsides or earth embankments.

(d) *Beneficial use of water* shall include the use of water reasonably required for domestic, agricultural, commercial, industrial, recreational and other purposes on both public and private lands. The use of water for domestic purposes is defined as the highest beneficial use of water.

§ 46103. Well Driller's License.

(a) No person shall engage in well drilling on Guam without first obtaining a license from the Administrator as hereinafter provided. Such licenses are required not only of those who make a regular business of well drilling, but all who may construct wells for their own purposes or for others as an incident to any line of business activity.

(b) An application for a license shall be made on a form prescribed and furnished by the Administrator providing such information as the Administrator deems necessary for the purpose of the issuance of licenses. The number of the license must be displayed on the well-drilling machinery of the licensee. The fee for such license shall be based on a schedule (which

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may be amended from time to time) promulgated by the Administrator pursuant to this authority, and the license shall be valid for a period of two (2) years. No person may be issued such a license who does not satisfy the Administrator that he is competent and able to drill wells in Guam.

§ 46104. Well Drilling Permits.

(a) No well may be drilled unless the owner of the land on which the well is to be drilled shall, before the commencement of drilling, have obtained a permit therefor and filed a preliminary report with the Administrator.

(b) The fee for such permit shall be based on a schedule (which may be amended from time to time) promulgated by the Administrator.

(c) The preliminary report shall be submitted on forms furnished and prescribed by the Administrator and shall contain the such information which the Administrator may require.

(d) As a condition of the permit the Administrator shall require the applicant to furnish one or more water samplers for subsequent analysis by the Administrator. The cost of such analysis or analyses shall be included in the well drilling permit fee.

§ 46105. Well Operating Permits.

(a) Within sixty (60) days of the initial promulgation of specific regulations relating to well operating permits pursuant to § 45106, or, in the case of new wells, within ninety (90) days from the date of filing of the completed report prescribed by § 46106, the owner of every well shall obtain an operation permit therefor.

(b) The fee for such a permit shall be based on a schedule (which may be amended from time to time) promulgated by the Administrator pursuant to this authority, and the permit shall be valid for a period of five (5) years.

(c) Each well operating permit shall state the maximum amount of water that may be withdrawn from the well per month, such amount to be determined by the Administrator on the basis of the use of the water and such other factors as he may deem relevant to the public interest in the beneficial utilization and conservation of natural water resources.

(d) The holder of every well operating permit shall file on or before January 15, annual reports on forms to be provided by, and containing such information as, the Administrator may require including, but not limited to,

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the amount of water extracted each month of the preceding twelve (12) month period.

(e) The concurrence of the Public Utility Agency of Guam shall be required before issuance of any well operating permit.

SOURCE: Subsection (e) was added by P.L. 22-47:6.

§ 46106. Completion of Well.

(a) Within ninety (90) days after the completion or the termination for any reason of the drilling of any well whether or not any water is found, a report shall be filed by the driller on forms furnished and prescribed by the Administrator, indicating mean sea level (MSL) elevation of a permanent benchmark placed adjacent to the well, the MSL elevation of the ground surface at the well, the log of the well, indicating rock materials encountered, their depth below ground surface, location of water bearing beds, water levels in each, a description of the casing, and screens used pumping tests conducted, the size and depth of the well, the capacity of the pump attached or to be attached thereto and such other information pertaining to the withdrawal of water and the operation of such well as the Administrator may require. The drillers shall at the request of the Administrator also furnish samples of the materials encountered in the drilling of the well, which shall be taken at intervals of five (5) feet, or at every change of formation.

(b) Information to be provided under this Section shall be obtained under the direction of, and shall be certified by a professional geologist or engineering geologist possessing a minimum of a baccalaureate degree in geology or engineering geology from a college or university accredited by the Engineer's Council of Professional Development or as approved by the Administrator.

§ 46107. Wasteful Use Prohibited.

No owner of a well, whether a pumping well or a flowing well, shall discharge from the well or permit the discharge from the well of water that is allowed to run to waste and not put to beneficial use except in connection with pumping tests. All pump tests shall be conducted in accordance with the requirements of the Administrator.

§ 46108. Right of Inspection.

The Administrator or his authorized representative shall have the power at reasonable hours to make such inspections of each well and take

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such samples as may be necessary for proper and effective supervision of the construction, repair, maintenance, and operation of wells.

§ 46109. Meters to Be Installed, Access to Wells.

(a) Prior to the issuance of an operating permit, an individual water meter, capable of measuring flow rate and total production, shall be installed at the well for the purpose of recording the amount of water drawn from the wells.

(b) Water meters shall be maintained in satisfactory operating condition. At no time shall a well be operated without a water meter for more than a consecutive five (5) day period.

(c) Each well shall have an opening for measurement of water levels in the well. The construction and sealing of the opening shall be as prescribed by the Administrator.

§ 46110. Sealing of Wells.

For the purpose of preventing the contamination of fresh water aquifers the owner of a well, upon abandoning a well or encountering highly mineralized water in any existing or new well or test hole, shall immediately notify the Administrator and shall effectively seal such well or test hole in accordance with the requirements prescribed by the Administrator.

§ 46111. Application of Chapter.

Except as otherwise provided, the provisions of this Chapter shall apply to the construction, maintenance, and repair of all new wells constructed after the effective date of this Act and to all maintenance, repair and enlargement work on old wells, which is of such nature or magnitude as to require the use of well-drilling machinery; provided, however, that a permit shall not be necessary to clean a well or to pull and repair a pump.

§ 46112. Penalties.

Any person who violates any of the provisions of this Chapter or of the rules and regulations promulgated pursuant thereto shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than six (6) months, or both. In addition, the Administrator shall, regardless of the criminal provisions of this Section, have the power to withhold, modify, amend, revoke, or suspend any license or permit authorized or issued under this Chapter, such power to be exercised only pursuant to the provisions of

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the Administrative Adjudication Law, which law is herewith specifically made applicable to this Chapter.

§ 46113. Injunctions.

(a) In case of noncompliance with the provisions of this Chapter or with the terms and conditions of any license or permit issued hereunder, the Administrator in addition to or in lieu of proceeding under § 46112 may notify the Attorney General of such noncompliance. The Attorney General, upon receipt of such notification, may institute an appropriate action or proceeding at law or in equity to restrain, correct, or remove such noncompliance.

(b) For all cases of noncompliance referred to the Attorney General by the Administrator, quarterly reports shall be prepared by the Attorney General and submitted to the Administrator summarizing the status of actions taken to restrain, correct, or remove such noncompliance.

§ 46114. Fees.

(a) All fees and monetary charges under this Chapter and §12015.3 of Title 12, Guam Code Annotated, shall be deposited in the Water Research and Development Fund.

SOURCE: Amended by P.L. 22-47:5.

§ 46115. Cooperation with United States of America.

The Governor of Guam and the Administrator are hereby authorized and directed to enter into agreements with agencies of the United States of America, including, but not limited to, the Departments of the Navy and Air Force of the Department of Defense, the Office of Territorial Affairs and the Geological Survey of the Department of the Interior, the Environmental Protection Agency, for the purposes of implementing the provisions of this Chapter. Said agreements shall be structured in such a manner as to facilitate the rapid exchange of information and advice between the various federal and territorial agencies having a vital interest in the preservation and protection of Guam's groundwater resources. The Administrator is further authorized and directed to appoint a Technical Advisory Committee comprising representatives of the foregoing agencies and from the Guam Environmental Protection Agency, the Public Utility Agency of Guam, the University of Guam, the Bureau of Planning, and such other representatives as he may desire to provide advice to the Administrator concerning the monitoring of the groundwater management program as may be indicated

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by the annual reports to be prepared thereon by the Administrator. The Technical Advisory Committee shall meet at least semi-annually and a record of its proceedings shall be maintained by the Administrator and promulgated to the members of the committee. Members of the committee shall serve at the pleasure of the appropriate officer of their parent organization.”

§ 46116. Water Research and Development Fund.

There is hereby created within the government of Guam a special fund, to be known as the “Water Research and Development Fund” (the “Fund”). The Fund shall be available to fund the conduct of water resource research which will contribute (i) to the effective planning and management of Guam’s underground and surface water, and (ii) to the development of programs which promote the best use of these resources. No monies may be withdrawn from the Fund except upon specific statutory appropriation by the Legislature. The Fund shall be administered by a committee, to be known as the Water Research and Development Fund Committee, comprised of four (4) members, including a representative of the University of Guam Water & Energy Research Institute, the Guam Environmental Protection Agency (“GEPA”), the Public Utility Agency of Guam (“PUAG”), and a business representative who shall be appointed by the Governor. The Chairman of the Water Research and Development Fund Committee shall be elected by its members who shall meet at a minimum, quarterly, to execute the provisions of this § 46116. The procurement of services and resources by the Water Research and Development Fund Committee shall be subject to the procurement procedures set out in Chapter 5, Title 5, Guam Code Annotated. The Water Research and Development Fund Committee shall report to the Legislature, annually, as to the status of the Fund.

SOURCE: Added by P.L. 22-47:3.
