



CONSOLIDATED COMMISSION ON UTILITIES
Guam Power Authority | Guam Waterworks Authority
P.O. Box 2977 Hagatna, Guam 96932 | (671)649-3002 | guamccu.org

GWA RESOLUTION NO. 27-FY2019

**RELATIVE TO THE RE-EVALUATION AND IMPLEMENTATION OF THE REVISED
GUAM WATERWORKS AUTHORITY (GWA) DRUG AND ALOCOHOL-FREE
WORKPLACE POLICY**

WHEREAS, under 12 G.C.A. §. 14105, the Consolidated Commission on Utilities (“CCU”) has plenary authority over financial, contractual, and policy matters relative to the Guam Waterworks Authority (“GWA”); and

WHEREAS, the Guam Waterworks Authority is a Guam Public Corporation established and existing under the laws of Guam; and

WHEREAS, it is the policy of the Guam Waterworks Authority to provide a safe, healthy and secure work environment for all employees. It is also the policy of GWA to ensure that all employees perform their job duties in a safe, efficient and productive manner; and

WHEREAS, the GPWA Drug and Alcohol-Free Workplace Policy was approved by the CCU on 26 September 2017 for implementation on 01 October 2017. On 10 October 2017, GWA Legal Counsel received Attorney General’s Opinion Memorandum, dated 06 October 2017 stated, random drug testing for *all government of Guam employees* without regard to the nature of the employee’s duties and specific violation intended to be addressed will offend constitutional protections against warrantless searches; and

WHEREAS, GWA Management conducted research and found that a supporting opinion of the Authority’s Legal Counsel is sufficient in determining inclusion of safety-sensitive positions to its current list of Testing Designated Position(s) (TDP). This guidance is stated on the Substance Abuse and Mental Health Services Administration’s (SAMHSA) 2013 Guide for Selection of TDPs, dated 06 May 2013; and

1 **WHEREAS**, GWA Legal Counsel has reviewed and updated the list of safety-sensitive
2 TDP to be used for determining which employees are subject to random drug testing. The list
3 includes 110 different positions comprised of 287 employees or approximately 77% of the
4 current GWA workforce; and

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6 **WHEREAS**, the 35th Guam Legislature passed Bill No. 32-35, also known as the Guam
7 Cannabis Industry Act of 2019, relative to the use, production and law enforcement of
8 recreational marijuana, and to legalize the use, production and sale of cannabis by creating a
9 regulated industry. The GWA revised policy maintains the drug testing on its prohibited list of
10 substances, including Marijuana/Cannabinoids (THC), consistent with the Drug-Free Workplace
11 Act of 1988. On April 4, 2019, the Guam Cannabis Industry Act of 2019 was enacted into law,
12 therefore legalizing the possession of, growing, using and purchasing cannabis infused products.
13 GWA still prohibits the use of cannabis by employees in the Drug and Alcohol-Free Workplace
14 Policy; and

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16 **WHEREAS**, Title 9 GCA, Chapter 67 Guam Controlled Substance Act, Article 1,
17 Definitions (t) lists and defines Marijuana as a controlled substance; and

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19 **WHEREAS**, since it is now a Public Law, it is GPWA's request to move forward and
20 implement its Revised GWA Drug and Alcohol-Free Workplace Policy and to authorize the legal
21 counsel through documented support to add, delete and/or revise its TDP list as necessary, to
22 effectively implement its Drug and Alcohol-Free Workplace Policy. Therefore, GWA further
23 requests for the CCU's support and approval to transition on its own (away from the DOA
24 process) to seek drug testing, laboratory and medical review officer services to effectively
25 implement the GWA Drug and Alcohol-Free Workplace Policy; and

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27 **WHEREAS**, the estimated annual cost to implement the GWA Drug and Alcohol-Free
28 Workplace Policy for the GWA is Thirty-One Thousand Dollars (\$31,000.00).

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1 **NOW, THEREFORE, BE IT RESOLVED**, by the CONSOLIDATED COMMISSION
2 ON UTILITIES as follows:

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- 4 1. The recitals set forth above hereby constitute the findings of the CCU.
- 5 2. The GWA's request to move forward and implement its Revised GWA Drug and
6 Alcohol-Free Workplace Policy and to authorize the legal counsel through
7 documented support to add, delete and/or revise its TDP list as necessary, to
8 effectively implement its Drug and Alcohol-Free Workplace Policy is hereby
9 approved.
- 10 3. GWA is further authorized and approved to transition on its own (away from the
11 DOA process) to seek drug testing, laboratory and medical review officer services
12 to effectively implement the GWA Drug and Alcohol-Free Workplace Policy.
- 13 4. The Drug and Alcohol-Free Workplace full implementation will take effect 01
14 October 2019.
- 15 5. This policy shall be effective for the Guam Waterworks Authority.
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18 **RESOLVED**, that the Chairman certified and the Board Secretary attests to the adoption
19 of this Resolution.


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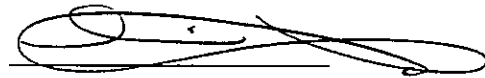
21 **DULY AND REGULARLY ADOPTED**, this 25th day of April, 2019.

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23 Certified by:

Attested by:

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26 **JOSEPH T. DUENAS**
27 Chairperson

28 **MICHAEL T. LIMTIACO**
29 Secretary

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