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MEMORANDUM

**TO:** Office of Planning and Development  
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**FROM:** Eli D. Cabrera, BECQ Administrator

**DATE:** June 3, 2022

**SUBJECT:** Requirements for Exemption of Municipal Solid Waste Landfills (MSWLFs)


Municipal solid waste landfills (MSWLFs) that receive less than 20 tons of solid waste per day are exempt can be exempt from the requirements of subpart D- Design Criteria and E- Ground-Water Monitoring and Corrective Action of Title 40 of the Code of Federal Regulations (CFR) part 258, so long as they can demonstrate that there is no potential for the migration of hazardous constituents from the unit into the groundwater.<sup>[1]</sup>

In order to show there is no potential for the migration of hazardous constituents from the unit into groundwater, DPW can install monitoring wells and sample the groundwater. On May 17, 2022, OPD representatives and representatives of DEQ-Solid Waste Management and Safe Drinking Water had a meeting in the DEQ conference room. The purpose of the meeting was to discuss the locations to collect groundwater samples and the placements of monitoring wells at the proposed MSWLF site.

To qualify for the exemption in 40 CFR 258.1(f), DPW shall:

1. Identify the proposed well site/s for BECQ's review and approval.
2. Sample for constituents listed in 40 CFR 258 Appendix I-Constituents for detection monitoring and Appendix II-Lists of hazardous inorganic and organic hazardous constituents.
3. Demonstrate that there is no migration of hazardous constituents from the unit into the groundwater.
4. Baseline sample from up gradient neighboring well.

Land rights-Proof of valid legal interest in the real property, such as land title or lease agreement, shall also be submitted to BECQ for review.

  
Eli D. Cabrera  
BECQ Administrator

<sup>[1]</sup> The exemption also requires that the MSWLF unit serve either (i) a community that experiences an annual interruption of at least three consecutive months of surface transportation that prevents access to a regional waste management facility, or (ii) a community that has no practicable waste management alternative and the landfill unit is located in an area that annually receives less than or equal to 25 inches of precipitation. According to EPA Region 9, Tinian meets this criteria, on the grounds that while it is not impossible to ship waste, it can be a significant burden and difficult