UFISINAN I MAGA'HÅGA
OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

April 5, 2019

35GL-19-0330
VICE SPEAKER
TELENA CRUZ NELSON
Date / Time: 4/5/19 / 2:27
Initials:

2019 APR -5 PM 3:55

Honorable Telena Cruz Nelson
Acting Speaker
I Mina'trentai Singko Na Liheslaturan Guåhan
Guam Congress Building
Hagåtña, Guam 96910

RE: ***Bill No. 27-35 (COR), "An Act to Amend §45105 of Article 1, Chapter 45, and Add a New §50104(p) to Chapter 50, Both of Title 10, Guam Code Annotated; and to Add a New §22107(g) to Chapter 22 of Title 22, Guam Administrative Rules and Regulations, Relative to the Timely Publication of All Notices of Violation, Orders of Compliance, Notices of Defense, Voluntary Compliance Agreements, Settlement Agreements, and Referrals to the Office of the Attorney General for Prosecution issued by the Guam Environmental Protection Agency (GEPA), and to Require that all of the Above be Reported to the GEPA Board of Directors"***

Dear Madam Speaker:

I have always believed that the key to establishing trust with the public is by being transparent in the services we provide. It is for this reason that I have signed Bill 27-35 into law today as **Public Law 35-6**.

The Guam Environmental Protection Agency ("GEPA") is charged with safeguarding some of our most precious resources as an island community – water, air, and waste all fall within its purview. Publication of violations and timely reporting to the GEPA Board of Directors regarding resolutions of disputes with offenders under the areas regulated by GEPA will serve to advance the public's right to know how GEPA is addressing environmental concerns.

Senseremente,

LOURDES A. LEON GUERRERO
Maga'hågan Guåhan
Governor of Guam

Speaker Tina Rose Muña Barnes

APR 0 5 2019
Time 3:08 ( )AM (PM
Received By:

0330

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Bill No. 27-35 (COR), "AN ACT TO *AMEND* § 45105 OF ARTICLE 1, CHAPTER 45, AND *ADD* A NEW § 50104(p) TO CHAPTER 50, BOTH OF TITLE 10, GUAM CODE ANNOTATED; AND TO *ADD* A NEW § 22107(g) TO CHAPTER 22 OF TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO THE TIMELY PUBLICATION OF ALL NOTICES OF VIOLATION, ORDERS OF COMPLIANCE, NOTICES OF DEFENSE, VOLUNTARY COMPLIANCE AGREEMENTS, SETTLEMENT AGREEMENTS, AND REFERRALS TO THE OFFICE OF THE ATTORNEY GENERAL FOR PROSECUTION ISSUED BY THE GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA), AND TO REQUIRE THAT ALL OF THE ABOVE BE REPORTED TO THE GEPA BOARD OF DIRECTORS,"** was on the 21st day of March 2019, duly and regularly passed.

Tina Rose Muña Barnes
Speaker

Attested:

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 28th day of March, 2019, at 3:08 o'clock P.M.

Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 4/5/2019

Public Law No. 35-6

Jessica Cruz
2019-1693
RCVD AT CENTRAL FILES
MAR 28 '19 PM3:10

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 27-35 (COR)

Introduced by: Therese M. Terlaje
Sabina Flores Perez
Clynton E. Ridgell
William M. Castro
Régine Biscoe Lee
Kelly Marsh (Taitano), PhD
James C. Moylan
Louise B. Muña
Tina Rose Muña Barnes
Telena Cruz Nelson
Joe S. San Agustin
Amanda L. Shelton
Telo T. Taitague
Jose "Pedo" Terlaje
Mary Camacho Torres

AN ACT TO *AMEND* § 45105 OF ARTICLE 1, CHAPTER 45, AND *ADD* A NEW § 50104(p) TO CHAPTER 50, BOTH OF TITLE 10, GUAM CODE ANNOTATED; AND TO *ADD* A NEW § 22107(g) TO CHAPTER 22 OF TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO THE TIMELY PUBLICATION OF ALL NOTICES OF VIOLATION, ORDERS OF COMPLIANCE, NOTICES OF DEFENSE, VOLUNTARY COMPLIANCE AGREEMENTS, SETTLEMENT AGREEMENTS, AND REFERRALS TO THE OFFICE OF THE ATTORNEY GENERAL FOR PROSECUTION ISSUED BY THE GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA), AND TO REQUIRE THAT ALL OF THE ABOVE BE REPORTED TO THE GEPA BOARD OF DIRECTORS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that better communication of potential health risks associated with violations of environmental regulations is important to protecting the health of the community and ensuring compliance of environmental laws and regulations. Notices of Violation (NOV), Orders of Compliance, Notices of Defense, Voluntary Compliance Agreements, Settlement Agreements, and Referrals to the Office of the Attorney General for Prosecution are enforcement procedures put in place by the Guam Environmental Protection Agency (GEPA) to uphold compliance with Guam's environmental laws and regulations.

I Liheslaturan Guåhan finds that GEPA is not mandated by law to inform the public of violations unless a violation poses an immediate threat to the health and safety of the community. Presently, public inquiries for GEPA enforcement documents require a formal request to the GEPA Administrator or the submission of a Freedom of Information Act (FOIA) request. However, GEPA, in an effort towards transparency and open governance, announced on its website that starting October 1, 2018, all Notices of Violations issued by the agency will be published on the agency's website. *I Liheslaturan Guåhan* finds that to support GEPA's commitment towards increased transparency and open governance, and to encourage compliance with Guam's environmental laws and regulations, GEPA should, on a timely basis, publish all NOVs, Orders of Compliance, Notices of Defense, Voluntary Compliance Agreements, Settlement Agreements, and Referrals to the Office of the Attorney General for Prosecution.

It is also the intent of *I Liheslaturan Guåhan* to increase the level of checks and balances of the enforcement process at GEPA by requiring that all settlement agreements be reported to the GEPA Board of Directors.

Section 2. § 45105 of Chapter 45, Title 10, Guam Code Annotated, is hereby *amended* to read:

"**§ 45105. Powers and Duties.**

The Guam Environmental Protection Agency *shall* be responsible for the implementation of the Guam Food, Drug and Cosmetic Act, 10 GCA Chapter 40; the Toxic Substances Exposure Compensation Act, 10 GCA Chapter 41; the Guam Beverage Container Recycling Act of 2010, 10 GCA Chapter 44; the Water Resources Conservation Act, 10 GCA Chapter 46; the Water Pollution Control Act, 10 GCA Chapter 47; the Toilet Facilities and Sewage Disposal Act, 10 GCA Chapter 48; the Air Pollution Control Act, 10 GCA Chapter 49; the Guam Pesticides Act, 10 GCA Chapter 50; the Solid Waste Management and Litter Control Act, 10 GCA Chapter 51; the Water and Wastewater Operator's Mandatory Certification Act, 10 GCA Chapter 52; the Safe Drinking Water Act, 10 GCA Chapter 53; the Guam Lead Ban Act, 10 GCA Chapter 53A; the Environmental Pollution Control Act, 10 GCA Chapter 54; the Guam Oil Spill Responder Act, 10 GCA Chapter 54A; the Choose to Reuse: *Munga Ma Ayek I Plastek* Act of 2018, 10 GCA Chapter 54B; the Underground Storage of Regulated Substances Act, 10 GCA Chapter 76; and the Above Storage of Regulated Substances Act, 10 GCA Chapter 76A.

The Guam Environmental Protection Agency *shall* publish all Notices of Violation, Orders of Compliance, Notices of Defense, Voluntary Compliance Agreements of the Guam Pesticides Act and the Guam Beverage Container Recycling Act of 2010, Settlement Agreements, and Referrals to the Office of Attorney General for Prosecution *no later than* fifteen (15) days from service, and *shall* report all settlement agreements to the GEPA Board of Directors at the next scheduled regular board meeting.

Section 3. A new § 50104(p) is hereby *added* to Chapter 50 of Title 10, Guam Code Annotated, to read:

"(p) Publish all Notices of Violation, Orders of Compliance, Notices of Defense, Voluntary Compliance Agreements, Settlement Agreements, and Referrals to the Office of Attorney General for Prosecution issued to any agency or persons in violation of any of the acts on its website *no later than* fifteen (15) days from service, and *shall* report all of the above to the GEPA Board of Directors at the next scheduled regular board meeting."

Section 4. A new § 22107(g) is hereby *added* to Chapter 22 of Title 22, Guam Administrative Rules and Regulations, to read:

"(g) **Public Notice.** The Guam Environmental Protection Agency Administrator *shall* publish all Notices of Violation, Orders of Compliance, Notices of Defense, Voluntary Compliance Agreements, Settlement Agreements, and Referrals to the Office of Attorney General for Prosecution on its website *no later than* fifteen (15) days from service, and *shall* report all of the above to the GEPA Board of Directors at the next scheduled regular board meeting."

Section 5. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 6. Effective Date. This Act *shall* become effective upon enactment.