

Guam Legislature Clerks <clerks@guamlegislature.org>

Messages and Communications

1 message

Speaker's Office <speaker@guamlegislature.org> Wed, Oct 28, 2020 at 5:16 PM
To: Clerks Office <clerks@guamlegislature.org>
Cc: Rennae Meno <rennae@guamlegislature.org>

10/28/20	4:24 PM	10/28/20	Reporting Requirements for Board of Directors Regular Meetings from January 2020 to September 2020.	Guam Environmental Protection Agency	35GL-20-2359
10/28/20	4:24 PM	08/12/20	Board of Directors Regular Meeting for July 2020.	Guam Environmental Protection Agency	35GL-20-2360
10/28/20	4:24 PM	10/01/20	Board of Directors Regular Meeting for August 2020.	Guam Environmental Protection Agency	35GL-20-2361
10/28/20	4:24 PM	10/28/20	Board of Directors Regular Meeting for September 2020.	Guam Environmental Protection Agency	35GL-20-2362
10/28/20	4:24 PM	10/28/20	Board of Directors Regular Meeting for October 2020.	Guam Environmental Protection Agency	35GL-20-2363

Sinseru yan Minagåhet,

Office of the Speaker • Tina Rose Muña Barnes
Committee on Public Accountability, Human Resources & the Guam Buildup

35th Guam Legislature
I Mina'trentai Singko na Liheslaturan Guåhan

Guam Congress Building | 163 Chalan Santo Papa | Hagatna, GU 96910
T: (671) 477-2520/1
speaker@guamlegislature.org

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Gumai pribilehu yan konfedensia este siha na mensåhi. Solo espesiåtmente para hågu ma entensioña pat ma aturisa para unrisibi. Sen prubidu kumu ti un ma aturisa para manribisa, na'setbe, pat mandespåtcha. Yanggen lachi rinisibu-mu nu este na mensåhi , put fabot ago' guatu gi I numa'huyong gi as speaker@guamlegislature.org yan despues destrosa todu siha I kopian mensåhi. Si Yu'os ma'åse'.

5 attachments

- **GEPA-Rep. Req. for BOD Reg. Mtgs.from 01-2020 to 09-2020.pdf** 847K
- **GEPA-BOD Reg. Mtg. for July 2020.pdf** 3078K
- **GEPA-BOD Reg. Mtg. for August 2020.pdf** 2358K
- **GEPA_BOD Reg. Mtg. for September 2020.pdf** 5404K
- **GEPA-BOD Reg. Mtg. for October 2020.pdf** 2961K

GUAM ENVIRONMENTAL PROTECTION AGENCY • *AHENSIAN PRUTEKSIÓN LINA'LA' GUÅHAN*
LOURDES A. LEON GUERRERO • GOVERNOR OF GUAM | JOSHUA F. TENORIO • LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO • ADMINISTRATOR | MICHELLE C. R. LASTIMOZA • DEPUTY ADMINISTRATOR

October 28, 2020

35GL-20-2363
Speaker Tina Rose Muña Barnes

Honorable Tina Rose Muña-Barnes
Speaker
I Mina'trentai Singko na Liheslaturan Guåhan
163 Chalan Santo Papa
Hagåtña, Guam 96910

OCT 2 8 2020
Time 4:24 ( )AM (✓)PM
Received By:

RE: 5 GCA 8113.1 Reporting Requirements for Board of Directors Regular Meeting – October 2020

Hafa Adai Madam Speaker,

Transmitted herewith are the minutes and other required documents from the Guam Environmental Protection Agency (Guam EPA) Board of Directors Regular Meetings for December 2019, in accordance with 5 GCA §8113.1.

Should you have any questions or if the Agency can be of any assistance to you and your office, please feel free to contact the Agency at 300-4751.

Respectfully,

Arlene S. Acfalle
Guam EPA Board Secretary

cc: **Guam EPA Administrator**
Guam EPA Board Chair

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Guam EPA Board of Directors regular meeting agenda

Thursday, October 22, 2020 – 4:00 p.m.
Location: Google Meet: https://meet.google.com/fgj-ktvm-ehh

Pursuant to Executive Order 2020-07 Item 4, meeting announcement published on:
oagguam.org/govguam-meetings/

Meeting will live stream on youtube.com/guamepa and facebook.com/guamepa

I. Call to Order

II. Approval of Agenda

III. Approval of September 17, 2020 Meeting Minutes and Special Hearing Minutes

IV. Administrator's Report

V. Old Business:
- Active NOV's
  - Safe Drinking Water NOV's update (Lin's Hardware, Su & Zheng Corp and Feiyang Construction & Engineering)
  - Smithbridge update
  - Piti failed septic system update
  - Contract Watts update
  - Dusit Thani update
  - Sand Castle update
  - Verona & Old Royal Palm Garage update
- Underground Storage Tank Rules and Regulations Update

VI. New Business
- MCOG, RRF Funds and appropriation. Update on budget and Budget Law
- Findings of Failure to submit state implementation plans (SIP) for attainment of the 2010 1-HR Primary Sulfur Dioxide (SO2) National Ambient Air Quality
- Introduction for Administrator's, Deputy and Board Secretary performance evaluation

VII. New meeting date and adjournment

Guam Environmental Protection Agency
Virtual Board of Director's Meeting
Thursday, September 17, 2020
Via Google meet platform

MINUTES

I. **Call to Order**: Chairman Robert Perron called the Board of Director's meeting to order at 4:03 p.m. The following individuals were present during the virtual board meeting via Google meet **Board Members**: Robert Perron-*Chairman*, Florida Sanchez, Ann Roth-*Vice Chairwoman*, Nicholas Pape, Steven Carbullido, Steve Carrera and Nonito Blas **Guam EPA Staff**: Walter Leon Guerrero- Administrator Michelle Lastimoza-*Deputy Administrator*, Nic Lee, Jesse Cruz, Sabrina Sablan, Kristan Finney, Connie Aflleje, Conchita Taitano, Brian Bearden, Michael O'Mallan and Betwin Alokoa **General Public:** Hearing Officer Happy Rons, Steven Hollister

II. **Approval of Agenda**: Vice Chairwoman Roth made a motion to approve agenda, second by Director Pape. All in favor, zero (0) opposed and motion passed.

III. **Approval of Minutes**: Vice Chairwoman *Roth* made a correction on Page 1, under old business- the question was who was doing wrong or should it be what Smithbridge was doing wrong. Brian clarified it was Smithbridge so wording should be changed to they not we. Director Pape moved to approve change, second by Director Carrera. All voted in favor, zero (0) opposed and motion passed.

IV. **Administrator's Report:** None Provided

V. **Old Business:**

- Recycling Revolving Fund (RRF)

Connie Aflleje – ASO provided a breakdown for the RRF based on what Steve Guerrero from the legislature stated. Revenue for FY 2020 was $2,525,010.60 and the balance on the current FY20 account is $1,905,647.65 which brings a total to $4,430,658.25 for FY2021. *Chairman Perron* mentioned there were so many numbers floating around and the Senators didn't have a good handle on what the number really was. *Vice Chair Roth* mentioned that the Legislature passed an amendment after a three day discussion that UOG Center for Sustainability's (G3) will receive $500K from the RRF despite the opposition of the board and the letter sent to the Legislature. Senator Regine Lee passed an amendment appropriating $1.3Ml to the Mayors Council of Guam (MCOG) for the coming Fiscal Year (2021) out of the RRF fund. The board had already appropriated $900K to the MCOG back in March of 2020 which Senator Lee raised it to $1.3Mil. There was discussion on whether the board needs to go back to clarify that the $900k that they voted on in March 2020 for the MCOG for FY2021 is not in addition to the $1.3Mil. As for UOG, they were approved for the $500k out of the RRF fund and they have to submit a plan to the Guam EPA Board for approval. Chairman Perron agreed that what was passed has to go through the Board and the responsible individuals need to provide a plan on how the funds are to be spent and they must be in line with the Rules and Regulations of the RRF. It was noted that G3 had a list of things in the past on how they wanted to spend the funds and it was very broad. The recent budget law provides transparency and more input from the board to ensure funds are in line with the Rules and Regulations of the RRF. Administrator Leon Guerrero indicated that it is now part of the budget and that he is in talks with Legal Counsel Kristan on what we have to do as far as agreements with the MCOG and UOG and that both items need to be approved by the board. Additionally,

the MCOG has to abide by the Memorandum of Understanding. Chairman Perron thanked the Vice Chairwoman Roth for her hard work in representing the Board at the Legislature.

VI. **New Meeting Date/ Adjournment**: Next meeting was set for October 15, 2020 at 4pm via Google meet platform. *Director Carrara* made motion to adjourn meeting and seconded by *Director Sanchez.* All voted in favor and regular meeting adjourned at 4:18 p.m.

NEW BUSINESS:

- **Contested Evidentiary Hearing: Appeal of EPA Stop-Sale and removal From Sale Orders on SDS Blockers, in the case of R&R Distributors, Inc., Petitioner v. Guam Environmental Protection Agency, Respondent, GEPA Case No. 2020-1** Attorney Happy Ron's requested that each attorney acknowledge their presence and who they are representing- Kristan Finney represented Guam EPA, Attorney Cunliffe (representing the petitioners) was not present. Hearing Officer Rons' noted that one of the Board members (Director Carbullido) would like to recuse himself from hearing this matter. Director Carbullido stated that due to his relationship and long history with petitioners duly authorized representative's family, he would like to recuse himself from this case as he does not believe that he can be impartial in this case. Hearing Officer Happy Ron's advised Chairman Perron that under the statute, board members may only recuse themselves if there will still be a remaining quorum present after such recusal. Based on the roll call there will still a quorum if Director Carbullido recuses himself. Chairman Perron agreed. Hearing Officer Rons requested if any of the board members or Attorney Finney have any objection to Director Carbullido recusing himself from this matter. Attorney Finney and all board members had no objections Due to no objections from all parties, Hearing Officer Rons advised Director Carbullido that his request to recuse himself was granted (Director Carbullido left the meeting) and that there will still be quorum present to move forward with this hearing. Hearing Officer Rons advised the board that this matter was set for a contested evidentiary hearing this afternoon. Over the past week the parties through their council, AAG Finney and Attorney Cunliffe, have submitted a stipulation and order for dismissal without prejudice. I have no objection to the entry of such an order and signed off on the order subject to and conditioned upon the board members agreement to go ahead and enter that order. Each board member should have received a copy of the order of ratification ahead of time in your board packet. Hearing Officer Rons opened the matter to Chairman Perron for discussion or deliberation amongst the board member and then a vote on the ratification of the order of dismissal. Chairman Perron asked the board members if there is any questions on the dismissal request by both parties. Vice Chairwoman Roth questioned as to what this meant. Do we discuss this at a later date? Hearing Officer Rons responded that once the case is dismissed without prejudice the parties or Guam EPA could move to bring the action again in the future as long as it was within the statute of limitations or there was new evidence after the statute of limitation. Hearing Officer Ron's continued that you can have an order with prejudice, meaning the case can never be brought again or without prejudice, meaning it could be as long as it's within the statute of limitations or a new action occurred triggering a new statute of limitation. Chairman Perron wanted to know if the board needed to know the reason for dismissal or just the fact that it's being dismissed. Hearing Officer Ron stated it is very common in both Administrative Hearings and Court cases for the parties to work amongst themselves and decide how to dismiss the case. Chairman Perron asked the board members if there were any other questions and if none they should go on and vote. Director Carrera made the motion to vote for the Order of Ratification and Stipulation in order for dismissal without prejudice, Vice Chairwoman Roth second the motion.

Vice Chairwoman, Ann Roth – Yes
Director Steve Carrera – Yes
Chairman, Robert Perron – Yes
Director Flori Sanchez–Yes
Director Nick Pape – Yes
Director Nonito Blas- Yes

Since all members have voted each of them would need to sign the form and resubmit to Hearing Officer Happy Ron's and keep for file.

Special Hearing Adjournment: 4:30p.m.

Arlene S Acfalle
Board Secretary

2020-1194

Lillian Kosaka

GUAM ENVIRONMENTAL PROTECTION AGENCY • *AHENSIAN PRUTEKSIÓN LINA'LA' GUÅHAN*

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OCT 14 2020

The Honorable Lourdes A. Leon Guerrero
I Maga'hågan Guåhan – Governor of Guam
Ricardo J. Bordallo Complex
513 West Marine Corps Drive
Hagåtna, Guam 96910

RE: DRAFT UNDERGROUND STORAGE TANK RULES AND REGULATIONS

Buenas yan Hafa Adai Madam Governor,

The Guam Environmental Protection Agency (Guam EPA) is requesting your review and approval of the proposed Underground Storage Tank (UST) Rules and Regulations in compliance with the requirements of the Administrative Adjudication Law (AAL), and compliance with Guam EPA's statutory authority to promulgate rules. Pursuant to 5 Guam Code Annotated (GCA) § 9303(a)(1) of the AAL, as amended by Public Law 34-032 (July 13, 2017) and 10 GCA, Chapter 76, Article 1, § 76104(a).

Guam EPA hereby submits pursuant to 5 GCA § 9303(a)(3) a copy of the proposed UST Rules and Regulations in printed and identical electronic (pdf and word) version and other supporting information and documents for your review and approval:

(1) Guam EPA's Board of Directors Resolution # 19-002;
(2) Posted at Guam EPA's website at www.epa.guam.gov;
(3) DOA Letter for concurrence and approval;
(4) Fact Sheet;
(5) Ads for the Notice of Public Hearing and Public Comment and Review Period for the proposed UST Rules and Regulations. The Ads were posted in the Guam Daily Post on August 5 and August 30, 2019, pursuant to 5 GCA § 9301(a);
(6) Guam EPA's Economic Impact Statement and EPA's Assessment of the Potential Costs, Benefits, and Other Impacts of the Final Revisions to EPA's UST Regulations;
(7) Public Hearing Transcript;
(8) Guam EPA's cover letter to the Attorney General dated December 17, 2019; and
(9) Attorney General's Letter of Approval dated September 17, 2020.

The Agency looks forward to your review and approval of the Draft UST Rules and Regulations. Should you have any questions, please feel free to contact our office at 300-4751 or email me at walter.leonguerrero@epa.guam.gov.

Sincerely,

WALTER S. LEON GUERRERO
Administrator

Doc. No. 35GL-20-2363.*

OFFICE OF THE GOVERNOR
GOVERNOR'S CHAMBER

DATE: 10-15-20
TIME: 11:03a
RECEIVED BY: DB
GC2020-2592

COPY

October 19, 2020

Transmitted via Central Files

Walter S. Leon Guerrero
Administrator
Guam Environmental Protection Agency
17-3304 Mariner Avenue
Tiyan Barrigada, Guam 96913-1617

Re: *Proposed* Rules and Regulations for the Underground Storage Tank

Dear Mr. Leon Guerrero,

Thank you for submitting the proposed Rules and Regulations Governing the Adoption of Codes of Professional Conduct/Ethics by the Guam Environmental Protection Agency. In reviewing the documents, I was pleased to see the attention and detail that was afforded in their preparation. These rules and regulations, in describing the minimum standards for the regulation of underground storage tanks describe well the policy of the government of Guam to protect our environment.

I encourage you to continue the good work in protecting the natural resources of our island.

Now, therefore, I, Lourdes A. Leon Guerrero, *I Maga'hågan Guahan,* Governor of Guam, pursuant to Title 5, Chapter 9, Article 3, am approving these rules and regulations as to policy.

Senseremente,

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

Enclosure(s): EPA letter dated 10 14 2020 with enclosed rules and regulations

cc: Honorable Joshua F. Tenorio, *I Sigundo Maga'lahen Guahan*
Jon Junior Calvo, Chief of Staff

GUAM ENVIRONMENTAL PROTECTION AGENCY • *AHENSIAN PRUTEKSIÓN LINA'LA' GUÅHAN*
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Honorable Tina Muña Barnes
Speaker
I Mina'trentai Sinko Na Lihesturan Guahan
Guam Congress Building
163 Chalan Santo Papa
Hagatna, Guam 96910

RE: **"This is a Transmittal to I Liheslaturan Guåhan of Proposed Rules and Regulations pursuant to the Administrative Adjudication Law."**

Buenas yan Hafa Adai Madam Speaker,

The Guam Environmental Protection Agency (Guam EPA) hereby transmit the proposed Underground Storage Tank (UST) Rules and Regulations in compliance with the requirements of the Administrative Adjudication Law (AAL), and with Guam EPA's statutory authority to promulgate rules. Pursuant to 5 Guam Code Annotated (GCA) §9303(a)(1) of the AAL, as amended by Public Law 34-032 (July 13, 2017) and 10 GCA, Chapter 76, Article 1, §76104(a).

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(7) Public Hearing Transcript;
(8) Guam EPA's cover letter to the Attorney General dated December 17, 2019;
(9) Attorney General's Letter of Approval dated September 17, 2020;
(10) Guam EPA's cover letter to the Governor of Guam dated October 14, 2020; and
(11) Governor's Letter of Approval as to Policy dated October 19, 2020.

The Agency looks forward to your review and approval of the Proposed UST Rules and Regulations. Should you have any questions, please feel free to contact our office at 300-4751 or email me at walter.leonguerrero@epa.guam.gov.

Sincerely,

Doc. No. 35GL-20-2363.*

WALTER S. LEON GUERRERO
Administrator

Doc. No. 35GL-20-2363.*

Findings of Failure to Submit State Implementation Plans Required for Attainment of the 2010 1-Hour Primary Sulfur Dioxide (SO_2) National Ambient Air Quality Standard (NAAQS)

FACT SHEET

ACTION

- On October 8, 2020, the U.S. Environmental Protection Agency (EPA) found that Indiana, Louisiana, Guam, and Puerto Rico failed to submit complete State Implementation Plans (SIPs) showing how areas in the following table will address nonattainment of the 2010 1-hour primary Sulfur Dioxide (SO_2) National Ambient Air Quality Standard (NAAQS):

State/Territory	Area Name
Indiana	Huntington County
Louisiana	Evangeline Parish
Guam	Piti-Cabras
Puerto Rico	Guayama-Salinas San Juan

- These findings of failure to submit attainment plans for the 2010 SO_2 NAAQS establish a 24-month deadline for EPA to either approve SIPs for the affected areas or finalize Federal Implementation Plans (FIPs) that address attainment in each area.

- This action also establishes deadlines for the implementation of two mandatory sanctions that will begin if the named states or territories do not submit complete SIPs:
  1. Eighteen months after the effective date of these findings, a 2-to-1 offset ratio under the nonattainment New Source Review (NSR) permitting program will go into effect, such that for every unit of SO_2 emissions a new or modified source will contribute to the nonattainment area, two units must be reduced.
  2. Six months after the date of offset sanctions, federal highway funding may be withheld.

- EPA is committed to working with Indiana, Louisiana, Guam, and Puerto Rico to expedite the development and submission of nonattainment area SIPs for these areas, and to review and act on their submissions in accordance with the requirements of the Clean Air Act.

BACKGROUND

- On June 22, 2010, EPA promulgated a new 1-hour SO_2 NAAQS of 75 part per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations does not exceed 75 ppb.

- On January 9, 2018, EPA, as part of its third round of initial area designations for the 2010 SO_2 NAAQS, designated five areas of the country as nonattainment for the 1-hour primary 2010 SO_2 NAAQS: Huntington County, IN; Evangeline Parish, LA; Piti-Cabras, GU; and Guayama-Salinas and San Juan, PR.

- Within 18 months of the effective date of a nonattainment area designation, the Clean Air Act requires affected states to submit a SIP demonstrating how the area will meet the standard by the attainment date. For areas designated nonattainment for the 1-hour SO_2 NAAQS on January 9, 2018, with an effective date of April 9, 2018, SIPs were due to EPA by October 9, 2019. These plans were to show how affected areas would meet the standard as expeditiously as practicable but no later than April 9, 2023.

- Nonattainment area SIPs for the 2010 SO2 NAAQS must include:
  - an accurate inventory of current emissions for all sources of SO_2 within the nonattainment area;
  - a nonattainment New Source Review (NSR) permit program;
  - an attainment demonstration using an EPA approved air quality dispersion model;
  - the adoption of reasonably available control measures (RACM), including reasonably available control technology (RACT);
  - a Reasonable Further Progress (RFP) plan; and,
  - contingency measures.

FOR MORE INFORMATION

- To download this action from EPA's website, go to https://www.epa.gov/so2-pollution/2010-sulfur-dioxide-national-ambient-air-quality-standards-implementation-actions. The official version of this rule will be published in the *Federal Register*.

- Today's action and other background information are also available either electronically at http://www.regulations.gov, the EPA's electronic public docket and comment system, or in hardcopy at the EPA Docket Center's Public Reading Room. (Docket ID EPA-HQ-OAR-2020-0377).

- The Public Reading Room is located in the EPA Headquarters, Room Number 3334 in the William Jefferson Clinton West Building, located at 1301 Constitution Avenue, NW, Washington, D.C. Hours of operation are 8:30 a.m. to 4:30 p.m. eastern standard time, Monday through Friday, excluding federal holidays.

BACKGROUND

- On June 22, 2010, EPA promulgated a new 1-hour SO_2 NAAQS of 75 part per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations does not exceed 75 ppb.

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- Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information on EPA Docket Center services and the current status, please visit us online at https://www.epa.gov/dockets.

- Visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor materials will be processed through an x-ray machine as well. Visitors will be provided a badge that must be visible at all times.

- For further information about this action, contact Ms. Sydney Lawrence of EPA's Office of Air Quality Planning and Standards at (919) 541-4768 or by email at *lawrence.sydney@epa.gov*