

*I Mina'trentai Singko Na Liheslaturan Guåhan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
27-35 (COR)	Therese M. Terlaje Sabina Flores Perez Clynt Ridgell	AN ACT TO AMEND § 45105. OF CHAPTER 45, TITLE 10, GUAM CODE ANNOTATED; ADD A NEW SUBSECTION (p) TO §50104 OF CHAPTER 50, TITLE 10, GUAM CODE ANNOTATED; ADD A NEW SUBSECTION (g) TO §22107, CHAPTER 22, 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, AND SETTLEMENT AGREEMENTS AND REFERRALS TO THE OFFICE OF THE ATTORNEY GENERAL FOR PROSECUTION, ISSUED BY THE GUAM ENVIRONMENTAL PROTECTION AGENCY AND TO REQUIRE ALL OF THE ABOVE BE REPORTED TO THE GEPA BOARD OF DIRECTORS.	1/22/19 12:17 p.m.						

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

Bill No. 27-35 (COR)

Introduced by:

Therese M. Terlaje *TH*  
Sabina Flores Perez *SFP*  
Clynt Ridgell *A*

AN ACT TO *AMEND* § 45105. OF CHAPTER 45, TITLE 10, GUAM CODE ANNOTATED; *ADD* A NEW SUBSECTION (p) to §50104 OF CHAPTER 50, TITLE 10, GUAM CODE ANNOTATED; *ADD* A NEW SUBSECTION (g) TO §22107, CHAPTER 22, 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, AND SETTLEMENT AGREEMENTS AND REFERRALS TO THE OFFICE OF THE ATTORNEY GENERAL FOR PROSECUTION, ISSUED BY THE GUAM ENVIRONMENTAL PROTECTION AGENCY AND TO REQUIRE ALL OF THE ABOVE BE REPORTED TO THE GEPA BOARD OF DIRECTORS.

2019 JAN 22 PM 12: 17 KC

1            **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2            **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that better communication of potential health risks associated with violations of  
4 environmental regulations is important to protecting the health of the community

1 and ensuring compliance of environmental laws and regulations. Notices of  
2 Violation (NOV), Orders of Compliance, Notices of Defense, Voluntary  
3 Compliance Agreements, settlement agreements, and referrals to the Office of the  
4 Attorney General for prosecution are enforcement procedures put in place by the  
5 Guam Environmental Protection Agency (GEPA) to uphold compliance with  
6 Guam Environmental laws and regulations.

7 *I Liheslaturan Guåhan* finds that GEPA is not mandated by law to inform  
8 the public of violations, unless a violation poses an immediate threat to the health  
9 and safety of the community. Presently, public inquiries for GEPA enforcement  
10 documents require a formal request to the GEPA Administrator or the submission  
11 of a Freedom of Information Act (FOIA) request. However, GEPA, in an effort  
12 towards transparency and open governance, announced on their website that  
13 starting October 01, 2018, all Notices of Violations issued by the agency will be  
14 published on the agency website. *I Liheslaturan Guåhan* finds that to support  
15 GEPA's commitment towards increased transparency and open governance and to  
16 encourage compliance with Guam Environmental laws and regulations. GEPA  
17 should, on a timely basis, publish all NOV's, Orders of Compliance, Notices of  
18 Defense, Voluntary Compliance Agreements, settlement agreements and referrals  
19 to the Office of the Attorney General for prosecution.

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

23 **Section 2.** § 45105 of Chapter 45, Title 10, GCA is hereby amended to  
24 read:

25 **“ § 45105. Powers and Duties.**

1           The Guam Environmental Protection Agency *shall* be responsible for  
2 the implementation of the Guam Food, Drug and Cosmetic Act, Chapter 40 of the  
3 Part; the Toxic Substances Exposure Compensation Act, Chapter 41 of the Part;  
4 the Guam Beverage Container Recycling Act of 2010, Chapter 44 of the Title;  
5 Water Resources Conservation Act, Chapter 46 of this Part; the Water Pollution  
6 Control Act, Chapter 47 of the Part; Toilet Facilities and Sewage Disposal Act,  
7 Chapter 48 of this Part; the Air Pollution Control Act, Chapter 49 of the Part; the  
8 Guam Pesticides Act, Chapter 50 of the Part; and Solid Waste, Chapter 51 of this  
9 part, the Water and Wastewater Operator’s Mandatory Certification Act, Chapter  
10 52 of the Part; Safe Drinking Water Act, Chapter 53 of the Part; Guam Lead Ban  
11 Act, Chapter 53a of the Part; the Environmental Pollution Control Act, Chapter 54  
12 of the Part; the Guam Oil Spill Responder Act, Chapter 54a of the Part; the  
13 Choose to Reuse: *Munga Ma Ayek I Plastik* Act of 2018, Chapter 54b of the Part;  
14 the Underground Storage of Regulated Substances Act, Chapter 76 of the Title; the  
15 Above Storage of Regulated Substances Act, Chapter 76a of the Part.

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

23           **Section 3.** A new § (p) is hereby added to §50104 of Chapter 50, Title 10,  
24 GCA to read:

25           **“ § 50104. Powers and Duties of the Administrator.**

1 The Administrator *shall* ~~the~~ have the following powers and duties:

- 2 a) Encourage voluntary cooperation by persons and affected groups to  
3 achieve the purpose of this Chapter.
- 4 b) Establish an effective enforcement program for the implementation of  
5 this Chapter;
- 6 c) In implementing the provisions of this Chapter, take actions necessary  
7 to protect human health, welfare, or the environment;
- 8 d) Issue, continue in effect, modify, revoke, reissue, or deny permits,  
9 licenses, certifications, or registrations;
- 10 e) Collect and disseminate information;
- 11 f) Conduct educational, certification, and training programs;
- 12 g) Refuse the importation of any pesticide or pesticide devices;
- 13 h) Issue letters of warning to violators as appropriate;
- 14 i) Issue, amend, rescind, and enforce orders as may be necessary to  
15 ensure compliance with any provisions of this Chapter, of any rules,  
16 regulations, license, certification, registration, standards, or  
17 requirements issued pursuant to this Chapter including, but not limited  
18 to, an administrative penalty or order requiring whatever remedial  
19 measure may be necessary or appropriate to implement or effectuate  
20 the provisions and purposes of this Chapter;
- 21 j) Hold hearings related to any aspect or, or matter in the administration  
22 of, this Chapter, and in connection therewith, administer oaths,  
23 examine witnesses and issue subpoenas to compel the attendance of  
24 witnesses and the production of evidence;
- 25 k) Seize certain pesticides, pesticide devices, or ban specific uses of  
26 certain pesticides;

- 1 l) Suspend certain pesticides or specific uses of certain pesticides;  
2 m) Consult, upon request, with any person proposing to import,  
3 distribute, produce, or manufacture any pesticide or pesticide devices.  
4 Nothing in any consultation *shall* be construed to relieve any person  
5 from compliance with this Chapter, or any other provision of the law;  
6 n) Accept, receive, and administer grants and other funds or fees from  
7 public and private agencies, including the federal government, for  
8 carrying out any of the purposes of this Chapter;  
9 o) Cooperate with or enter into agreements with any person for purposes  
10 of implementing the provisions of this Chapter.  
11 p) Publish all Notices of Violation, Orders of Compliance, Notices of  
12 Defense, Voluntary Compliance Agreements, Settlement  
13 Agreements, and Referrals to the Office of Attorney General for  
14 Prosecution issued to any agency or persons in violation of any of the  
15 acts on its website no later than 15 days from service and shall report  
16 all of the above to the GEPA Board of Directors at the next scheduled  
17 regular board meeting.”

18 **Section 4.** A new (g) is hereby added to §22107 of Chapter 22, Title 22  
19 Division, GAR to read:

20 “ **§22107. Enforcement Procedures.** (a) All procedures shall comply with  
21 the Administrative Adjudication Act of the Government Code of Guam.

22 ((b) **Inspection and Entry.** The Administrator shall have the authority to  
23 enter at a reasonable time upon any private or public property for the purpose of  
24 inspecting and investigating conditions relating to these regulations.

1           (c) **Notice of Violation.** In from an inspection or investigation there appears  
2 to be a violation of these regulations, a Notice of Violation in writing shall be sent  
3 to the person against whom criminal proceedings are contemplated stating the  
4 violation, and giving him fifteen (15) days to correct the problem. The Notice shall  
5 state the manner in which the alleged violator fails to meet the requirements of  
6 these regulations and what should be done to correct the problem.

7           (d) **Order.** After termination of the fifteen (15) day period if not action has  
8 been taken by the recipient to respond to the Notice of Violation, an Order in  
9 writing shall be send via registered mail or personally served upon the recipient,  
10 charging him with the violation. If the recipient had responded to the Notice of  
11 Violation, the case will be discussed and either dropped or, if the recipient is still  
12 found to be in violation, the fifteen (15) day time period before sending of the  
13 Order may be extended so as to count the period as stating from the time the case  
14 was discussed, rather than the date of receipt of the Notice.

15           (e) **Notice of Defense.** A Notice of Defense shall be included with the Order,  
16 which will allow the recipient fifteen (15) days to request a hearing by the GEPA  
17 Board of Directors. If a Notice of Defense is received by the GEPA Board, further  
18 action upon the case will be suspended until the hearing has been concluded.

19           (f) **Prosecution.** If no action has been taken to correct the violation after a  
20 period of fifteen (15) days from receipt of the Order, or for those cases requesting a  
21 hearing, after a time period as specified by the GEPA Board, the violation shall be  
22 referred to the Attorney General's Office for prosecution.

23           (g) **Public Notice.** The Guam Environmental Protection Agency  
24 Administrator shall publish all Notices of Violation, Orders of Compliance,  
25 Notices of Defense, Voluntary Compliance Agreements, settlement agreements,

1 and Referrals to the Office of Attorney General for Prosecution on its website no  
2 later than 15 days from service and *shall* report all of the above to GEPA Board of  
3 Directors at the next scheduled regular board meeting.”

4       **Section 5. Severability.** If any provision of this Act or its application to any  
5 person or circumstance is held invalid, the invalidity *shall not* affect other  
6 provisions or applications of this Act which can be given effect without the invalid  
7 provision or application, and to this end the provisions of this Act is severable.

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