



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

Office of the Speaker  
ANTONIO R. UNPINGCO

Date: 11/19/99

Time: 1:45pm

Rec'd by: R. F. [Signature]

Print Name:

0525/99 - 0350

NOV 19 1999

The Honorable Antonio R. Unpingco  
Speaker  
I Mina'Bente Singko na Liheslaturan Guåhan  
Twenty-Fifth Guam Legislature  
Guam Legislature Temporary Building  
155 Hesler Street  
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	[Signature]
Time	4:45pm
Date	11.19.99

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 291 (COR), "AN ACT TO *DISAPPROVE* THE SUNSHINE REFORM ACT GUIDELINES AND THE LIST OF EXEMPTIONS SUBMITTED BY THE GUAM ENVIRONMENTAL PROTECTION AGENCY", which I have signed into law today as **Public Law No. 25-76**.

I have always been a proponent of open government, and giving the public as much information as possible concerning their government. According to the provisions of the Sunshine Law, in place since the Nineteenth Guam Legislature, most documents of the government of Guam were open to the inspection of the public. There were very few exceptions, consisting mostly of documents related to common law privileges such as privacy of communications with one's doctor, privacy of communications with one's lawyer, and pending cases being investigated by the Guam Police Department. A ten day time period was allowed to government agencies to respond to requests for documents.

I Liheslatura, the Legislature, enacted another statute, Public Law No. 25-06, under the guise of updating our laws to account for the new electronic information now being kept on computers. In addition to this, the time period for the government agencies to respond to requests was shortened to four days.

00550


As part of the new statute, i Liheslatura determined that all of the government agencies needed to submit lists of specific documents to the Legislature, for that body to pick through and make separate decisions on each and every document. As I said in my first message concerning Public Law No. 25-06:

**"I Liheslatura should have included in this legislation [Public Law No. 25-06] the necessary policy guidelines to be applied to the release of all information of the government. It is not productive to require agencies to make up lists of specific items, after a bill is passed, and attempt to justify the inclusion of each of the specific items as releasable or non-releasable to i Liheslatura in a collection of public hearings."**

This has proved true. Of what use were the many public hearings held on these lists of documents? Of what use was i Liheslatura's deliberation in session for an entire week on these lists of documents? Apparently, next to nothing. The bills transmitted to me for consideration are merely **disapprovals** of the various lists. The public hearings and Committee of the Whole sessions were exercises in futility, looking for media attention. Next time, it would do i Liheslatura well not to ask for any more lists from agencies, for purposes of politics only.

The reason for releasing information is to inform the public, not play politics. The requirement of making of lists, discussing them at public hearings, and conducting sessions concerning them, then disapproving all the lists, appears to have been busy work for personnel working in agencies already overburdened with legislative mandates.

Very truly yours,



Carl T. C. Gutierrez  
I Maga'Lahen Guáhan  
Governor of Guam

Attachment:     copy attached for signed bill or overridden bill  
                  original attached for vetoed bill

cc:    The Honorable Joanne M. S. Brown  
       Legislative Secretary

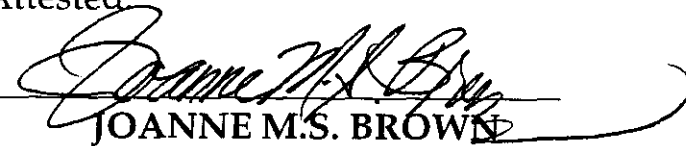
MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN  
1999 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

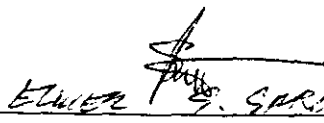
This is to certify that Substitute Bill No. 291 (COR) "AN ACT TO DISAPPROVE THE SUNSHINE REFORM ACT GUIDELINES AND THE LIST OF EXEMPTIONS SUBMITTED BY THE GUAM ENVIRONMENTAL PROTECTION AGENCY," was on the 5<sup>th</sup> day of November, 1999, duly and regularly passed.

  
ANTONIO R. UNPINGCO  
Speaker

Attested:

  
JOANNE M.S. BROWN  
Senator and Legislative Secretary

-----  
This Act was received by *I Maga'lahen Guahan* this 5<sup>th</sup> day of NOVEMBER, 1999,  
at 6:22 o'clock P. M.

  
EDWIN S. SARDON  
Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

  
CARL T. C. GUTIERREZ  
*I Maga'lahen Guahan*

Date: 11-19-99

Public Law No. 25-76

**MINA'BENTE SINGKO NA LIHESLATURAN GUÁHAN**  
**1999 (FIRST) Regular Session**

**Bill No. 291 (COR)**

As substituted by the Committee on  
Natural Resources, and further substituted  
on the Floor.

Introduced by:

J. M.S. Brown  
C. A. Leon Guerrero  
L. F. Kasperbauer  
F. B. Aguon, Jr.  
E. C. Bermudes  
A. C. Blaz  
E. B. Calvo  
M. G. Camacho  
Mark Forbes  
A. C. Lamorena, V  
K. S. Moylan  
V. C. Pangelinan  
J. C. Salas  
S. A. Sanchez, II  
A. R. Unpingco

**AN ACT TO DISAPPROVE THE SUNSHINE  
REFORM ACT GUIDELINES AND THE LIST OF  
EXEMPTIONS SUBMITTED BY THE GUAM  
ENVIRONMENTAL PROTECTION AGENCY.**

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

1           **Section 1. Legislative Findings and Intent.** Public Law Number 25-06,  
2 also known as the "*Sunshine Reform Act of 1999*," became law on May 12, 1999.  
3 The Sunshine Reform Act of 1999 reformed and amended the laws of Guam  
4 governing disclosure of public records and permitted individual government  
5 of Guam agencies to propose guidelines for dealing with requests under the  
6 Sunshine Reform Act of 1999 and to propose exemptions to the public  
7 disclosure requirements of said law for records held by that agency.

8           On July 12, 1999 in accordance with that portion of the Sunshine Reform  
9 Act of 1999, which is now §10106(a) of Title 5 of the Guam Code Annotated,  
10 the Guam Environmental Protection Agency ('GEPA') submitted to *I*  
11 *Liheslaturan Guåhan* proposed guidelines for dealing with requests under said  
12 Act and a list of the documents that GEPA would like to see exempted from  
13 the disclosure requirements of the Sunshine Reform Act.

14           Section 10106(b) further requires *I Liheslaturan Guåhan* to either approve  
15 or disapprove said lists by December 1, 1999. This Act is intended to  
16 *disapprove* GEPA's proposed guidelines and exemption list. The disapproval  
17 of the GEPA guidelines and exemption lists are *not* intended to disapprove an  
18 exemption created in the Sunshine Reform Act that would apply to GEPA.

19           **Section 2. Disapproval of GEPA Proposed Guidelines.** The GEPA  
20 July 12, 1999 proposed guidelines submitted pursuant to the requirements of  
21 the Sunshine Reform Act of 1999 are hereby *disapproved*, but shall *not* affect  
22 the existing limitations already contained within the Sunshine Reform Act of  
23 1999, including within §10108, and their applicability to said agencies.



COPY

**MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN**  
**TWENTY-FIFTH GUAM LEGISLATURE**  
155 Hesler Street, Hagåtña, Guam 96910


November 8, 1999

Honorable Carl T.C. Gutierrez  
*I Maga'lahaen Guahan*  
Office of *I Maga'lahi*  
Hagåtña, Guam 96910

Dear *Maga'lahi* Gutierrez:

Transmitted herewith are Substitute Bill Nos. 334(COR), 304(COR), 305(COR), 291(COR), 294(COR), 302(COR) and Bill No. 303(COR), which were passed by *I Mina'Bente Singko Na Liheslaturan Guahan* on November 5, 1999.

Sincerely,

  
JOANNE M.S. BROWN  
Senator and Legislative Secretary

*Elmer S. ...*  
*15 99*

Enclosures (7)

**CLERK OF THE LEGISLATURE**  
**TRANSMISSION CHECKLIST TO I MAGA'LAHEN GUAHAN**

(Included in File w/ All Bills Transmitted)

BILL NO. 291 (OK)

**FINAL PROOF-READING OF BLUEBACK COPY**

Initialed by:

and Date:

- EXHIBITS ATTACHED
- CONFIRM NUMBER OF PAGES 3480
- CAPTION ON CERTIFICATION MATCHES BILL CAPTION
- ENGROSSED SIGN "\*" REMOVED FROM BILL
- 15 SENATORS IN SPONSORSHIP OR CONFIRM OTHERWISE
- CERTIFICATION SIGNED BY SPEAKER & LEGIS. SECRETARY
- EMERGENCY DECLARATION, if any

Confirmed By: DR

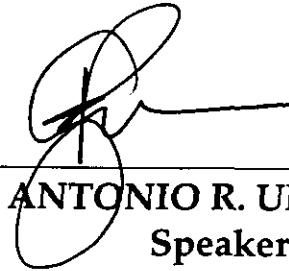
Dated: 11/8/99

- HAND CARRY BILL IN BLUEBACK (ORIGINAL & COPY)  
TO THE GOVERNOR. (DANNY, ROBERT OR OTHERS )
- ACKNOWLEDGED COPY W/ ORIGINAL BLUEBACK  
PLACED ON CLERK'S DESK. (Same copy given to Susan)
- FILED by: Danny, Robert or others

SENIO SINGKO NA LIHESLATURAN GUAHAN  
1999 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN


This is to certify that Substitute Bill No. 291 (COR) "AN ACT TO DISAPPROVE THE SUNSHINE REFORM ACT GUIDELINES AND THE LIST OF EXEMPTIONS SUBMITTED BY THE GUAM ENVIRONMENTAL PROTECTION AGENCY," was on the 5<sup>th</sup> day of November, 1999, duly and regularly passed.



---

ANTONIO R. UNPINGCO  
Speaker

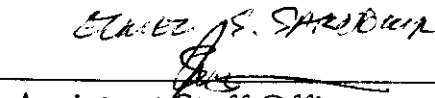
Attested:



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JOANNE M.S. BROWN  
Senator and Legislative Secretary

-----  
This Act was received by I Maga'lahaen Guahan this 5<sup>th</sup> day of November, 1999,  
at 6:07 o'clock P..M.



---

Elizabeth S. Sandoval  
Assistant Staff Officer  
Maga'lahaen's Office

APPROVED:

---

CARL T. C. GUTIERREZ  
I Maga'lahaen Guahan

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_



MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN  
1999 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 291 (COR) "AN ACT TO DISAPPROVE THE SUNSHINE REFORM ACT GUIDELINES AND THE LIST OF EXEMPTIONS SUBMITTED BY THE GUAM ENVIRONMENTAL PROTECTION AGENCY," was on the 5<sup>th</sup> day of November, 1999, duly and regularly passed.

\_\_\_\_\_  
**ANTONIO R. UNPINGCO**  
Speaker

Attested:

\_\_\_\_\_  
**JOANNE M.S. BROWN**  
Senator and Legislative Secretary

-----  
This Act was received by *I Maga'lahen Guahan* this \_\_\_\_\_ day of \_\_\_\_\_, 1999,  
at \_\_\_\_\_ o'clock \_\_\_\_\_.M.

\_\_\_\_\_  
Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

\_\_\_\_\_  
CARL T. C. GUTIERREZ  
*I Maga'lahen Guahan*

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**1999 (FIRST) Regular Session**

**Bill No. 291 (COR)**

As substituted by the Committee on  
Natural Resources, and further substituted  
on the Floor.

Introduced by:

J. M.S. Brown  
C. A. Leon Guerrero  
L. F. Kasperbauer  
F. B. Aguon, Jr.  
E. C. Bermudes  
A. C. Blaz  
E. B. Calvo  
M. G. Camacho  
Mark Forbes  
A. C. Lamorena, V  
K. S. Moylan  
V. C. Pangelinan  
J. C. Salas  
S. A. Sanchez, II  
A. R. Unpingco

**AN ACT TO *DISAPPROVE* THE SUNSHINE  
REFORM ACT GUIDELINES AND THE LIST OF  
EXEMPTIONS SUBMITTED BY THE GUAM  
ENVIRONMENTAL PROTECTION AGENCY.**

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

1           **Section 1. Legislative Findings and Intent.** Public Law Number 25-06,  
2 also known as the "*Sunshine Reform Act of 1999*," became law on May 12, 1999.  
3 The Sunshine Reform Act of 1999 reformed and amended the laws of Guam  
4 governing disclosure of public records and permitted individual government  
5 of Guam agencies to propose guidelines for dealing with requests under the  
6 Sunshine Reform Act of 1999 and to propose exemptions to the public  
7 disclosure requirements of said law for records held by that agency.

8           On July 12, 1999 in accordance with that portion of the Sunshine Reform  
9 Act of 1999, which is now §10106(a) of Title 5 of the Guam Code Annotated,  
10 the Guam Environmental Protection Agency ('GEPA') submitted to *I*  
11 *Liheslaturan Guåhan* proposed guidelines for dealing with requests under said  
12 Act and a list of the documents that GEPA would like to see exempted from  
13 the disclosure requirements of the Sunshine Reform Act.

14           Section 10106(b) further requires *I Liheslaturan Guåhan* to either approve  
15 or disapprove said lists by December 1, 1999. This Act is intended to  
16 *disapprove* GEPA's proposed guidelines and exemption list. The disapproval  
17 of the GEPA guidelines and exemption lists are *not* intended to disapprove an  
18 exemption created in the Sunshine Reform Act that would apply to GEPA.

19           **Section 2. Disapproval of GEPA Proposed Guidelines.** The GEPA  
20 July 12, 1999 proposed guidelines submitted pursuant to the requirements of  
21 the Sunshine Reform Act of 1999 are hereby *disapproved*, but shall *not* affect  
22 the existing limitations already contained within the Sunshine Reform Act of  
23 1999, including within §10108, and their applicability to said agencies.

1           **Section 3. Disapproval of GEPA Proposed Exemptions.** The     GEPA  
2 July 12, 1999 list of proposed exemptions submitted pursuant to the  
3 requirements of the Sunshine Reform Act of 1999 are hereby *disapproved*, but  
4 shall *not* affect the existing limitations already contained within the Sunshine  
5 Reform Act of 1999, including within §10108, and their applicability to said  
6 agencies.

7           **Section 4. Severability.**    *If* any provision of this Law or its  
8 application to any person or circumstance is found to be invalid or contrary to  
9 law, such invalidity shall *not* affect other provisions or applications of this  
10 Law which can be given effect without the invalid provisions or application,  
11 and to this end the provisions of this Law are severable.



FILE

**MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**TWENTY-FIFTH GUAM LEGISLATURE**  
155 Hesler Street, Hagåtña, Guam 96910

October 27, 1999  
( DATE )

Memorandum

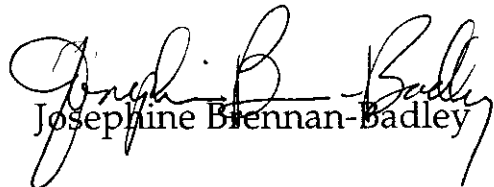
To: Senator Joanne M.S. Brown

From: Clerk of the Legislature

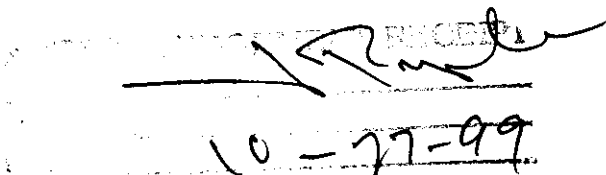
Subject: Report on Bill No. 291 (COR)

Pursuant to §7.04 of Rule VII of the 25<sup>th</sup> Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 291 (COR), for which you are the prime sponsor.

Should you have any questions or need further information, please call the undersigned at 472-3464/5.

  
Josephine Brennan-Badley

Attachment

  
10-27-99



Office of Senator

# Joanne M. Salas Brown

MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

October 27, 1999

Speaker Antonio R. Unpingco  
Mina' Bente Singko Na Liheslaturan Guahan  
155 Hesler Street  
Hagatna, Guam 96910

Dear Speaker Unpingco:

The Committee on Natural Resources, to which was referred Bill No. 291 - An Act to Disapprove the Sunshine Reform Act Guidelines and the List of the Sunshine Reform Act Exemptions submitted by the Guam Environmental Protection Agency (as substituted) wishes to report back to the Legislature its recommendation **TO APPROVE**.

The voting sheet is as follows:

TO APPROVE	<u>9</u>
TO DISAPPROVE	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are enclosed.

Thank you for your attention to this matter.

Sincerely,

JOANNE M. S. BROWN  
Senator

Enclosure



Office of Senator

**Joanne M. Salas Brown**

MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN

October 26, 1999

MEMORANDUM

To: Committee Members

From: Chairperson, Committee on Natural Resources

Subject: **Bill No. 291 (COR):** An Act to Disapprove the Sunshine Reform Act Guidelines and the List of the Sunshine Reform Act Exemptions Submitted by the Guam Environmental Protection Agency. **(As substituted)**

Transmitted herewith for your consideration and action is our Committee Report on the above subject matter.

Please indicate your choice on the Attached Voting Sheet and return the documents to my office for transmittal to the other members.

Should you have any questions on the narrative report on the accompanying documents, please do not hesitate to contact me at 472-3450/51.

Your attention and cooperation on this matter is greatly appreciated.

  
JOANNE M.S. BROWN

Attachments

# MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

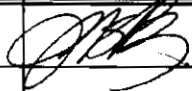
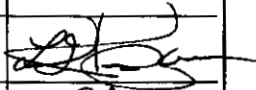
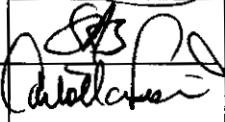
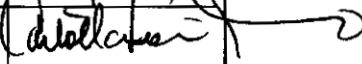
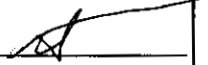



## Committee on Natural Resources

Joanne M.S. Brown  
Chairperson

# VOTING SHEET

## Committee Report on

**BILL 291(COR) AN ACT TO DISAPPROVE THE SUNSHINE REFORM ACT GUIDELINES AND THE LIST OF THE SUNSHINE REFORM ACT EXEMPTIONS SUBMITTED BY THE GUAM ENVIRONMENTAL PROTECTION AGENCY. (As substituted)**

COMMITTEE MEMBERS	TO APPROVE	TO DISAPPROVE	TO ABSTAIN	PLACE IN INACTIVE FILE	SIGNATURE
Joanne M.S. Brown Chairperson	✓				
A.C. Lamorena, V Vice Chairman					
L. Kasperbauer Member	x				
S. Sanchez, II Member	✓				
C. Leon Guerrero Member	✓				
M. Forbes Member	✓				
K. Moylan Member	✓				
V. Pangelinan Member					
M. Camacho Member	✓				
J. Salas Member	✓				
F. Aguon, Jr. Member					
A.R. Unpingco Speaker Ex-Officio Member	✓				6



**MINA ‘ BENTE SINGKO NA LIHESLATURAN GUAHAN  
1999 (FIRST) Regular Session**

**Bill No. 291 (COR)**

**As substituted by the Committee on Natural Resources**

**Introduced by:**

**J.M.S. Brown**

**AN ACT TO DISAPPROVE THE SUNSHINE REFORM ACT  
GUIDELINES AND THE LIST OF THE SUNSHINE REFORM ACT  
EXEMPTIONS SUBMITTED BY THE GUAM ENVIRONMENTAL  
PROTECTION AGENCY**

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

**Section 1. Legislative Findings and Intent.**

Whereas, P.L. 25-06, also known as “The Sunshine Reform Act of 1999,” became law on May 12, 1999,

Whereas, the Sunshine Reform Act of 1999 reformed and amended the laws of Guam governing disclosure of public records and permitted individual Government of Guam agencies to propose guidelines for dealing with requests under the Sunshine Reform Act of 1999 and to propose exemptions to the public disclosure requirements of said law for records held by that agency,

Whereas, on July 12, 1999, in accordance with that portion of the Sunshine Reform Act of 1999 which is now Title 5 G.C.A. Section 10106(a), the Guam Environmental Protection Agency and the Attorney General submitted to I Liheslaturan Guahan proposed guidelines for dealing with requests under said Act,

Whereas, on July 12, 1999, in accordance with that portion of The Sunshine Reform Act which is now Title 5 G.C.A. Section 10106(b), Guam Environmental Protection Agency and the Attorney General submitted to I Liheslaturan Guahan a list of the documents that Guam Environmental Protection Agency would like to see exempted from the disclosure requirements of the Sunshine Reform Act,

Whereas, Title 5 G.C.A. Section 10106(b) requires I Liheslaturan Guahan to either approve or disapprove said list within ninety days after its submission,

**Section 2.** The proposed guidelines for dealing with Sunshine Reform Act requests submitted by the Guam Environmental Protection Agency is attached hereto and hereby incorporated herein as Exhibit A. Said guidelines are hereby disapproved.

**Section 3.** The list of proposed exemptions to the Sunshine Reform Act submitted by Guam Environmental Protection Agency is attached hereto as Exhibit B and hereby incorporated herein. Said list is hereby disapproved.

# EXHIBIT A

## GUAM ENVIRONMENTAL PROTECTION AGENCY

### APPENDIX 1:

#### §10106, Section (a): Proposed Guidelines of the Guam Environmental Protection Agency:

The Sunshine Reform Act of 1999/Freedom of Information Act provides for public access to records maintained by the Guam Environmental Protection Agency. A SRA/FOIA request is a written request that specifically refers to the SRA/FOIA for records held or believed to be held by Guam EPA. The Act requires that agencies provide records unless they are exempt from disclosure as defined in §10106 (b), Records of the Guam Environmental Protection Agency exempted from disclosure and §10108, Limitation on Right of Inspection.

#### 1. Requesting for Information:

According to Agency proposed regulations, requests for records to Guam EPA must be submitted in **writing** to the Sunshine Reform Act of 1999 Freedom of Information Act officer. Any request submitted to any other program office is considered "misdirected" and may result in a delayed reply.

The request is officially received when the Freedom of Information Act Officer/Sunshine Reform Act logs it in. A phone call to the customer (to narrow request) **STOPS THE CLOCK!** Customer then has five (5) days to get back or else file is closed. Requests for records to Guam EPA must be submitted to the Freedom of Information Act/Sunshine Reform Act Officer.

#### 2. Fees and Waivers:

Guam EPA is allowed to charge fees to requesters in order to recover the direct costs of search, duplication, and review of requested records. (For more information on fees, the Agency will be formally submitting its fee schedule that will be processed through the Administrative Adjudication Act). However, if the total cost of the requested information is less than \$5, the fees are waived. However, if the costs exceed \$5, prepayment will be required. In some cases, fee waivers or reduction of fees are granted in the public interest, but must be requested and justified by supporting documentation. Monies collected will go to the Guam EPA Management Information System account. Funds from this account will allow the Agency to establish and maintain a database and will allow the Agency to efficiently manage information as required under §10105, Efficient Disclosure of Records.

Guam EPA charges 15 cents per page, plus computer production time (actual computer usage), plus personnel search and review time (\$5 to \$20 per ½ hour — based on salary grade structure of employee) for providing copies of records. Also, fees charged vary with the status or purpose of the requester. Different fees are charged to commercial users, representatives of the news

media, educational or noncommercial scientific institutions, and individuals. In some cases, fee waivers or reduction of fees are granted in the public interest, but must be requested and justified by supporting documentation.

**3. Office of the Sunshine Reform Act of 1999 Freedom of Information Act Officer designee:**

Should you desire to speak with someone concerning your request, contact the Agency's SRA/FOIA office at 671-475-1623. Written SRA/FOIA requests should be submitted to:

Sunshine Reform Act of 1999  
Freedom of Information Act Officer  
Guam Environmental Protection Agency  
P.O. Box 22439 GMF  
Barrigada, GUAM 96921  
U.S.A.

The facsimile number is 671-477-9402  
and the electronic mail address: [guamepa@ns.gov.gu](mailto:guamepa@ns.gov.gu)

**4. Requesters Identification Number, §10105, Efficient Disclosure of Records (a):**

Your request will be received by the Sunshine Reform Act of 1999 Freedom of Information Act Officer. The request will be logged and assigned a unique identifying number called the "Requesters Identification Number" (RIN), which is used to track your SRA/FOIA request. You should reference the RIN number in all communications with Guam EPA. You will be notified by mail or fax of the RIN number, the date request was received, and that Guam EPA will respond within four (4) working days from the date received.

**5. Partial or Full Denials:**

Any document that are denied in whole or in part will be indexed, including exemption(s) claimed for the denial. Under the SRA/FOIA, you have the right legal/administrative appeal for a denial of records and no records response received from the Agency. The appeal information will be included in your response from the Agency. Any questions concerning these procedures may be directed to the Sunshine Reform Act of 1999 Freedom of Information Act Officer at 475-1623.

**FEE WAIVER REQUEST**

Documents shall be furnished without charge or at a charge reduced below the fees established if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. In order to evaluate whether the statutory standard authorizing a fee waiver or reduction has been met, we will need additional information upon which to base our determination.

## **EXHIBIT B**

### **GUAM ENVIRONMENTAL PROTECTION AGENCY**

#### **APPENDIX 2:**

**§10106, Section (b):Records of the Guam Environmental Protection Agency exempted from disclosure:**

1. Personnel files and documents containing personnel information (including employees, former employees, volunteers, interns and job applicants).
2. Documents in use for on-going investigations (including writings, tables, figures, maps, photos and computer files).
3. Unsigned draft documents of any kind.
4. Unsigned field notes and meeting notes.
5. Reference documents and printed materials, electronic or otherwise, not produced or regularly distributed by Guam EPA but available from more appropriate sources (e.g., books, reports, maps, CDS, diskettes and other documents generated and distributed by other agencies or private companies. Requesters should go to the proper sources, not Guam EPA.)
6. Individuals' personally owned documents, acquired at their own expense for their own use, not provided by the government.
7. All electronic mail, which include all in-box, draft and deleted electronic mail.
8. Contract, service or product proposals submitted to Guam EPA in response to Guam EPA's Request For Proposals or Invitations To Bid.
9. Private trade or product secrets submitted with proposals.
10. Proposals not selected in a Request For Proposals or Invitations To Bid procurement process.
11. Trade secrets or proprietary data.
12. Information that would disclose a company's clientele listing or inventory sales.
13. Unsigned contracts or agreements (draft and final).

14. Records of discussions resulting from Guam EPA's Board of Directors executive sessions (e.g., tapes, handwritten notes, etc.) until releasable by law.
15. Laboratory data and all supporting documents that have not been reviewed and approved by Guam EPA's Quality Assurance Officer, Environmental Monitoring and Analytical Services Division Administrator, Guam EPA Administrator.
16. Examinations administered by Guam EPA, which include answer sheets and test scores of individuals. Individuals who take a Guam EPA administered test may, upon his/her request, receive his/her test score.
17. On-going administrative investigation/enforcement documents.

**The Committee on Natural Resources**  
Senator Joanne M. S. Brown, Chairperson

**PUBLIC HEARING**  
**Guam Environmental Protection Agency**

**Tuesday, August 31, 1999, 9:00 a.m.**  
**Committee Report**

The Committee on Natural Resources held a Public Hearing for Guam Environmental Protection Agency on Tuesday, August 31, 1999 at 9:00 a.m. at the Legislative Public Hearing Room on the following:

**Bill No. 291 (COR): AN ACT TO APPROVE/DISAPPROVE THE  
SUNSHINE REFORM ACT GUIDELINES AND THE LIST OF THE  
SUNSHINE REFORM ACT EXEMPTIONS SUBMITTED BY THE  
GUAM ENVIRONMENTAL PROTECTION AGENCY.**

The discussion of this bill commenced immediately following the appointments of Mr. Jose P. Chargualaf and Mr. Bradley Hokanson to the Guam Environmental Protection Agency, Board of Directors at 10:05 a.m.

Senator Joanne Brown, along with Senator Vicente Pangelinan, welcomed each and everyone for coming to the public hearing. She asked Mr. David Longa to begin his testimony by introducing his staff who were present with him. The GEPA representatives who were present to give an oral testimony or to answer questions were as follows: Mr. David Longa, Deputy Administrator; Mr. Jordan Kaye; Ms. Grace Garces; Ms. Liz Cruz, GEPA's legal counsel; and Ms. Conchita Taitano, Air and Land Administrator.

Mr. Longa stated that he will go line by line as there are seventeen (17) items on the list of GEPA which are exempted from disclosure:

**Personnel files and documents containing personnel information (including employees, former employees, volunteers, interns and job applicants).**

- ▶ **Senator Joanne Brown** inquired as to why GEPA has personnel files for volunteers and interns, assuming those job applicants are also under personnel files.

- ▶ **Mr. David Longa** said that GEPA has interns who come to Guam during the summers who are trying to get a degree on environmental related fields. These interns would work, alongside with GEPA employees, to get the training on the particular job.
- ▶ **Senator Vincente Pangelinan** asked if there is a Memorandum of Understanding, an agreement, or internship with regard to this issue.
- ▶ **Mr. Longa** gave an example of an intern from the Region IX office who came to Guam to work as an intern. In that regard, there was a Memorandum of Understanding that was made.
- ▶ **Senator Pangelinan** said he has hired interns in his office as well. These interns are required to fill an application. He then processed their applications as GG1's, non paid status.
- ▶ **Senator Brown** acknowledged the presence of Adrienne Loerzel, Board Member of the Micronesia Chapter of the Society of Professional Journalists and asked if she had any objections on GEPA's position.

**Documents in use for on-going investigations (including writings, tables, figures, maps, photos and computer files).**

- ▶ **Senator Brown** said this should have been already exempted.
- ▶ **Mr. Longa** agreed.

**Unsigned draft documents of any kind.**

**Unsigned field notes and meeting notes.**

- ▶ **Senator Brown** asked if unsigned draft documents are exempted since the documents are not official.
- ▶ **Mr. Longa** agreed.

**Reference documents and printed materials, electronic or otherwise, not produced or regularly distributed by Guam EPA but available from more appropriate sources (e.g., books, reports, maps, CDS, diskettes and other documents generated and distributed by other agencies or private companies. Requesters should go to the proper sources, not Guam EPA.)**

- ▶ **Senator Brown** inquired as to why this item needed to be exempt.
- ▶ **Ms. Grace Garces** said the law related to this issue went to the staff members of GEPA for their input, but some of the division heads were on emergency leave at the time. So this item came from GEPA's Monitoring Environmental Division. They usually get their reference

material from academic books. Therefore, they would want the person requesting the information to get it from libraries or from bookstores.

- ▶ **Senator Brown** said the reason she is asking is because should students come in and want information and someone specializes on a certain field, she does not feel it would be so odd for them to ask for that information. If you are not a depository who's responsible for specific things, you don't have to provide it. So she does not necessarily know if we need to outline it in the law that you are exempted from providing reference documents or printed materials. If they don't generate the document, then they are not some caretakers of it, and they don't have to produce it. She feels that this language may not be necessary because there may be other people who are just students looking for assistance or information. She does not want the Agency denying them the information they are requesting because the law prevents them from doing so.
- ▶ **Mr. Longa** said the Agency sometimes receives posters from Region IX. When they have several, they distribute them to schools. However, there are schools that assume that this service will continue on a regular basis. If they don't get it the following year, a teacher may request for it.
- ▶ **Senator Brown** said this is more of an administrative issue than a Freedom of Information Act issue. Simply tell them that the Agency does not have additional documents available.
- ▶ **Mr. Longa** said the Agency can delete this.

**Individuals' personally owned documents, acquired at their own expense for their own use, not provided by the government.**

- ▶ **Senator Brown** asked if this is non-public anyway.
- ▶ **Senator Pangelinan** said if the individual has it at his workplace and is using it for a work product and it's generating work for the Agency, then he is not sure if it should be protected. Even if the government information is on his or her own personal diskette, he does not feel the information should be private.
- ▶ **Senator Brown** added that if we do not even reference it, under the current law, or if it is what we would look at, in terms of their official capacity, then it could still be accessed. We could be causing more problems by including this item.



**All electronic mail, which include all in-box, draft and deleted electronic mail.**

**Contract, service or product proposals submitted to Guam EPA in response to Guam EPA's Request for Proposals or Invitations to Bid.**

**Proposals not selected in a Request for Proposals or Invitations To Bid procurement process.**

- ▶ **Senator Pangelinan** said this is similar to saying all letters should be protected.
- ▶ **Ms. Liz Cruz** said that some electronic mails are written in conversational form. She provided an example: It may be an Agency member sending an email to someone at the AG's office asking an opinion. She is not concerned about the public knowing it, but rather another attorney getting the information.
- ▶ **Senator Brown** inquired if the document is considered official if it is not signed. She asked if you would be able to argue that it is not up for disclosure because it is a work product?
- ▶ **Ms. Cruz** said she could argue that. The Agency is just providing this listing to let her know that this would probably be one of their arguments: not to disclose email.
- ▶ **Senator Brown** asked Ms. Loerzel if she had any comments.
- ▶ **Ms. Adrienne Loerzel** said one of the main concerns from a journalist's point of view are official documents going back and forth, especially from EPA because there are transfers being made between Region IX and GEPA.
- ▶ **Senator Brown** said a legal counsel could review a document as to what point the document is considered official. It could be a work product in dialogue versus a policy decision that has been made. She added that this could be looking into further before we delete this item because they do have a good point. There may be more information transmitted now through the use of computers that may qualify as official documents which reporters or the general public wants. Tossing ideas regarding an enforcement issue, for example, may not be official correspondence but as we go along, we are treading fine lines on either side.
- ▶ **Mr. Jordan Kaye** said one of the reasons they added items on the list was because "if we didn't do that and then you get into the open

session that some of the stuff may be included and nobody had the chance to say why we object to some of these things; Some of these things are normal and we know won't be in the final document, but we wanted to express it, especially it's in small things: in personnel files. Just to give you an example of what can happen.

We hire an individual, a female. She presents us with all her personnel files. We look at it; we put it all to the side. Then the public would say, why did you hire her if she's had two children out of wedlock? That is something we can't afford to have." EPA also get a lot of contract service or product proposals, especially in Invitation to Bid on a proposal when they first come in. Should EPA release one document prior to the bid selection, it would cause a problem.

- ▶ **Senator Brown** said, legally, we cannot do this anymore. As a government of Guam Agency, we cannot entertain non solicited proposals without going through the bid process. We recently have prohibition in the law that would not allow a government agency to engage in any proposals without going through a formal bid process. More than likely number eight will be omitted.

#### **Private trade or product secrets submitted with proposals.**

- ▶ **Senator Brown** said this is already covered so it does not need to be added.

#### **Trade secrets or proprietary data.**

- ▶ **Senator Pangelinan** said trade secrets are also covered. The new business licence requires disclosure on companies to file reports regarding the identities of the share holders.

#### **Information that would disclose a company's clientele listing or inventory sales.**

- ▶ **Ms. Conchita Taitano** said this item was added to the list based on their experience during inspections. She inspected a reputable dry cleaning operations and part of the requirement during that inspection is looking into their processes. This requires also looking at their records. Sometimes by knowing whom their clients are, you have a good idea on what type of waste streams are going in. Sometimes companies do not want this to become public information. In other words, they do not want their competitors to know who their

clients are and how much they charge them. It's a matter of protecting their company's interest. Another example is a waste oil collector. It's a matter of protecting their market share.

- ▶ **Senator Pangelinan** said their competitors know this because if they are in the same business, they know whom they are providing services to. They compete with them every day; we try to take them away from other businesses. One waste oil recycling company knows, for example, who generates it and if he's not servicing him, the other guy must be. When he worked with a private company selling health insurance programs, they knew every business relating to health and who signed up for health insurance services.
- ▶ **Ms. Taitano** said the government of Guam should be a source for competitors.
- ▶ **Senator Brown** responded that the information would be part of the investigative records because we are not looking at a dry cleaner to know who their clientele is. You may be looking to access information to determine what their waste streams are, if they generate on volume.
- ▶ **Ms. Taitano** said it is after the enforcement action is complete and the compliance is met, then it becomes available for public review and the clientele listing is open game. She would not want every competitor to come in because they know GEPA will provide a listing. This becomes a problem when corporations come in for their own benefit and EPA has four days to provide that information. These are common questions and request that have been made, to us, as inspectors on the field requesting that we keep this confidential.
- ▶ **Senator Brown** asked EPA if they have ever experienced other companies calling in to get that information concerning an investigation they've done on a similar business.
- ▶ **Ms. Taitano** said no. The request, however, has always been made to them even though a request has not come in to access that.
- ▶ **Senator Pangelinan** said that Guam Energy, for example, keeps a list of the number of gallons whether it is leaded or unleaded that is sold by gas stations and gas companies. The information is readily available.
- ▶ **Ms. Taitano** said she is just expressing what EPA has experienced out on the field and the request that have been placed to them.
- ▶ **Senator Pangelinan** said that could be classified when gave as

proprietary data which would be protected.

- ▶ **Senator Brown** agreed. A big dry-cleaning company can have their legal counsel to provide them advice on how to submit that. What is contained is not necessarily what you need in terms of your investigation; you may be looking, for general volume of the work they are doing, not necessarily who they are doing the work for, or how much they are paying to do it. That may be a way for EPA to deal with when they have their investigation to deal with these businesses so they submit it to you on that basis legally and that is their property. So you are not burdened with it or concerned about any other competitor trying to come in, when your only interest is on the environmental side.

#### **Unsigned contracts or agreements (draft and final).**

- ▶ **Senator Brown** inquired, under the current Sunshine Act, if these are not official documents.
- ▶ **Mr. Longa** agreed.

#### **Records of discussions resulting from Guam EPA's Board of Directors executive sessions (e.g., tapes, handwritten notes, etc.) until releasable by law.**

- ▶ **This was already discussed earlier.**

#### **Laboratory data and all supporting documents that have been reviewed and approved by Guam EPA's Quality Assurance Officer, Environmental Monitoring and Analytical Services Division Administrator, Guam EPA Administrator.**

- ▶ **Ms. Taitano** said this listing was made by the head of the Environmental Monitoring and Analytical Services Division. She was not present at the public hearing, but Ms. Taitano talked to her yesterday. She said she would like the data to go through the Quality Assurance and Quality Control (QAQC) process so they are sure the data is legally defensible and valid. A situation that occurred a few days ago was with regard to an entity that performed a laboratory analysis. They violated their QAQC about temperature. The Agency didn't want to accept it as valid data. Her intention on putting this on the listing was that until it has gone through and it has been approved that whoever has done the analysis, as gone through the proper QAQC measures, which is not official.

- ▶ **Senator Brown** then asked if it was something that could be determined as a final work product of the Agency. She does not necessarily know if they should prohibit this and if it should go through the administrative process.
- ▶ **Ms. Taitano** responded that based on their discussion, a laboratory sent the analysis to GEPA and when GEPA reviewed it, it violated the temperature control.
- ▶ **Senator Brown** asked what value it would have if someone from off the street was to request it. The Agency can always come back and say that it did not meet their testing parameters. Thus, it is not an acceptable valid testing information. We do not want to create the impression that EPA may be doing some type of investigation on a particular case and they are not releasing this information. As a public agency, you want to be as public as much as possible, unless there are legitimate reasons. If you want to receive a data and this data hasn't gone through the following procedures of the Agency, and therefore, it is not valid information until it has been certified.

**Examinations administered by Guam EPA, which include answer sheets and test scores of individuals. Individuals who take a Guam EPA administered test may, upon his/her request, receive his/her test score.**

- ▶ This is already covered under the current Sunshine law.

**On-going administrative investigation/enforcement documents.**

- ▶ This is already covered under the current Sunshine law.

**Ms. Cruz** uttered that the Agency is bringing before the legislature what documents would fit under the FOIA exemptions or not.

**Senator Brown** said that in terms of what we are eliminating and what already is currently covered under the law, is the electronic mail issue, and the computer issue for the most part. She also inquired as to why the Agency is proposing a Freedom of Information Act Officer. Normally the head of the Agency, whether it is the Director or the Administrator would be the one to respond to such a request and direct their staff accordingly. She does not feel it is necessary as this new law would have any effect on the current request or the volume of request the Agency receives on any given time for information.

**Senator Pangelinan** added that at times it doesn't go to the right person and it is misdirected. He feels that if an agency receives a request relating to the Freedom of Information Act, the Agency that receives the request, should direct it to an appropriate agency as long as the information request is sufficient. Even if it is misaddressed, but the body of the letter indicates that it is a Freedom of Information Act request and so forth, the Agency should still forward it to the appropriate person.

**Senator Brown** suggested to Mr. Longa to inform his employees, in the future, as a request comes in, to refer it to him or to the administrator to properly address or respond to the inquirer within the time frame. Some people can be very specific and yet there are others who are not as specific. Either way, they should be able to know where to go. EPA employees should know if the request comes to them, they should forward it to the Administrator to respond. In the end, the Administrator should be responsible. This is not an overburdening request that is being made now on the departments that were not made before. If there are other things that we don't feel should be covered, we want to have that information revealed. For example with Guam Waterworks, she would like to know how much any government agency owes them. Under their previous policy, we had to go to the particular agency or department who owed them money to ask. This took up time. She advises EPA to encourage their employees and make them aware of what is urgent and what is a priority.

The public hearing adjourned at 10:45 a.m.

**MINA ' BENTE SINGKO NA LIHESLATURAN GUAHAN**  
**1999 (FIRST) Regular Session**

Bill No. 291(COR)

Introduced by:

J.M.S. Brown 

**AN ACT TO APPROVE/DISAPPROVE THE SUNSHINE REFORM  
ACT GUIDELINES AND THE LIST OF THE SUNSHINE REFORM  
ACT EXEMPTIONS SUBMITTED BY THE GUAM  
ENVIRONMENTAL PROTECTION AGENCY**

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

2 **Section 1. Legislative Findings and Intent.**

3 Whereas, P.L. 25-06, also known as "The Sunshine Reform Act of 1999," became law on  
4 May 12, 1999,

5 Whereas, the Sunshine Reform Act of 1999 reformed and amended the laws of Guam  
6 governing disclosure of public records and permitted individual Government of Guam  
7 agencies to propose guidelines for dealing with requests under the Sunshine Reform Act of  
8 1999 and to propose exemptions to the public disclosure requirements of said law for records  
9 held by that agency,

10 Whereas, on July 12, 1999, in accordance with that portion of the Sunshine Reform Act of  
11 1999 which is now Title 5 G.C.A. Section 10106(a), the Guam Environmental Protection  
12 Agency and the Attorney General submitted to I Liheslaturan Guahan proposed guidelines  
13 for dealing with requests under said Act,

14 Whereas, on July 12, 1999, in accordance with that portion of The Sunshine Reform Act  
15 which is now Title 5 G.C.A. Section 10106(b), Guam Environmental Protection Agency and  
16 the Attorney General submitted to I Liheslaturan Guahan a list of the documents that Guam  
17 Environmental Protection Agency would like to see exempted from the disclosure  
18 requirements of the Sunshine Reform Act,

19 Whereas, Title 5 G.C.A. Section 10106(b) requires I Liheslaturan Guahan to either approve  
20 or disapprove said list within ninety days after its submission,

21 **Section 2.** The proposed guidelines for dealing with Sunshine Reform Act requests  
22 submitted by the Guam Environmental Protection Agency is attached hereto and hereby  
23 incorporated herein as Exhibit A. Said guidelines are hereby approved/disapproved.

24 **Section 3.** The list of proposed exemptions to the Sunshine Reform Act submitted by Guam  
25 Environmental Protection Agency is attached hereto as Exhibit B and hereby incorporated  
26 herein. Said list is hereby approved/disapproved.

# EXHIBIT A

## GUAM ENVIRONMENTAL PROTECTION AGENCY

### APPENDIX 1:

#### §10106, Section (a): Proposed Guidelines of the Guam Environmental Protection Agency:

The Sunshine Reform Act of 1999/Freedom of Information Act provides for public access to records maintained by the Guam Environmental Protection Agency. A SRA/FOIA request is a written request that specifically refers to the SRA/FOIA for records held or believed to be held by Guam EPA. The Act requires that agencies provide records unless they are exempt from disclosure as defined in §10106 (b), Records of the Guam Environmental Protection Agency exempted from disclosure and §10108, Limitation on Right of Inspection.

#### 1. Requesting for Information:

According to Agency proposed regulations, requests for records to Guam EPA must be submitted in writing to the Sunshine Reform Act of 1999 Freedom of Information Act officer. Any request submitted to any other program office is considered "misdirected" and may result in a delayed reply.

The request is officially received when the Freedom of Information Act Officer/Sunshine Reform Act logs it in. A phone call to the customer (to narrow request) STOPS THE CLOCK! Customer then has five (5) days to get back or else file is closed. Requests for records to Guam EPA must be submitted to the Freedom of Information Act/Sunshine Reform Act Officer.

#### 2. Fees and Waivers:

Guam EPA is allowed to charge fees to requesters in order to recover the direct costs of search, duplication, and review of requested records. (For more information on fees, the Agency will be formally submitting its fee schedule that will be processed through the Administrative Adjudication Act). However, if the total cost of the requested information is less than \$5, the fees are waived. However, if the costs exceed \$5, prepayment will be required. In some cases, fee waivers or reduction of fees are granted in the public interest, but must be requested and justified by supporting documentation. Monies collected will go to the Guam EPA Management Information System account. Funds from this account will allow the Agency to establish and maintain a database and will allow the Agency to efficiently manage information as required under §10105, Efficient Disclosure of Records.

Guam EPA charges 15 cents per page, plus computer production time (actual computer usage), plus personnel search and review time (\$5 to \$20 per ½ hour — based on salary grade structure of employee) for providing copies of records. Also, fees charged vary with the status or purpose of the requester. Different fees are charged to commercial users, representatives of the news



media, educational or noncommercial scientific institutions, and individuals. In some cases, fee waivers or reduction of fees are granted in the public interest, but must be requested and justified by supporting documentation.

**3. Office of the Sunshine Reform Act of 1999 Freedom of Information Act Officer designee:**

Should you desire to speak with someone concerning your request, contact the Agency's SRA/FOIA office at 671-475-1623. Written SRA/FOIA requests should be submitted to:

Sunshine Reform Act of 1999  
Freedom of Information Act Officer  
Guam Environmental Protection Agency  
P.O. Box 22439 GMF  
Barrigada, GUAM 96921  
U.S.A.

The facsimile number is 671-477-9402  
and the electronic mail address: [guamepa@ns.gov.gu](mailto:guamepa@ns.gov.gu)

**4. Requesters Identification Number, §10105, Efficient Disclosure of Records (a):**

Your request will be received by the Sunshine Reform Act of 1999 Freedom of Information Act Officer. The request will be logged and assigned a unique identifying number called the "Requesters Identification Number" (RIN), which is used to track your SRA/FOIA request. You should reference the RIN number in all communications with Guam EPA. You will be notified by mail or fax of the RIN number, the date request was received, and that Guam EPA will respond within four (4) working days from the date received.

**5. Partial or Full Denials:**

Any document that are denied in whole or in part will be indexed, including exemption(s) claimed for the denial. Under the SRA/FOIA, you have the right legal/administrative appeal for a denial of records and no records response received from the Agency. The appeal information will be included in your response from the Agency. Any questions concerning these procedures may be directed to the Sunshine Reform Act of 1999 Freedom of Information Act Officer at 475-1623.

**FEE WAIVER REQUEST**

Documents shall be furnished without charge or at a charge reduced below the fees established if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. In order to evaluate whether the statutory standard authorizing a fee waiver or reduction has been met, we will need additional information upon which to base our determination.

## **EXHIBIT B**

### **GUAM ENVIRONMENTAL PROTECTION AGENCY**

#### **APPENDIX 2:**

**§10106, Section (b):Records of the Guam Environmental Protection Agency exempted from disclosure:**

1. Personnel files and documents containing personnel information (including employees, former employees, volunteers, interns and job applicants).
2. Documents in use for on-going investigations (including writings, tables, figures, maps, photos and computer files).
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16. Examinations administered by Guam EPA, which include answer sheets and test scores of individuals. Individuals who take a Guam EPA administered test may, upon his/her request, receive his/her test score.
17. On-going administrative investigation/enforcement documents.

MINA BENTE SINGKO NA LIHESLATURAN GUAHAN



Committee on Natural Resources  
Senator Joanne M. S. Brown  
Chairperson

**Notice of**

**Confirmation and Public Hearing**

The Committee on Natural Resources will be conducting a Confirmation and Public Hearing on Tuesday, August 31, 1999, 9:00 a.m. at the Legislative Public Hearing Room, 155 Hesler Street, Hagatna on the following:

**Confirmation Hearing**

7/29/99  
Jose P. Chargualaf  
Bradley A. Hokanson  
GEPA Board of Directors

**Public Hearing**

**BILL 291COR: AN ACT TO APPROVE/DISAPPROVE THE SUNSHINE REFORM ACT GUIDELINES AND THE LIST OF THE SUNSHINE REFORM ACT EXEMPTIONS SUBMITTED BY THE GUAM ENVIRONMENTAL PROTECTION AGENCY**

ADA Coordinator: Mrs. Toni Gumataotao at 472-3450/51

The public is invited to attend.

Pacific Daily News, Tuesday, August 24, 1999

**MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN**



**Committee on Natural Resources  
Senator Joanne M. S. Brown  
Chairperson**

**Notice of  
Confirmation and Public Hearing**

The Committee on Natural Resources will be conducting a Confirmation and Public Hearing on Tuesday, August 31, 1999, 9:00 a.m. at the Legislative Public Hearing Room, 155 Hesler Street, Hagatna on the following:

**Confirmation Hearing  
Jose P. Chargualaf  
Bradley A. Hokanson  
GEPA Board of Directors**

**Public Hearing**

**BILL 291COR: AN ACT TO APPROVE/DISAPPROVE THE SUNSHINE REFORM ACT GUIDELINES AND THE LIST OF THE SUNSHINE REFORM ACT EXEMPTIONS SUBMITTED BY THE GUAM ENVIRONMENTAL PROTECTION AGENCY**

**ADA Coordinator: Mrs. Toni Gumataotao at 472-3450/51**

**The public is invited to attend.**

**MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN**

**COMMITTEE ON NATURAL RESOURCES**

**SENATOR JOANNE M. S. BROWN  
CHAIRPERSON**

**CONFIRMATION OF MEMBERS  
BOARD OF DIRECTORS, GEPA**

**&**

**PUBLIC HEARING  
BILL NO. 291 (COR)**

**Guam Environmental Protection Agency (GEPA)**

**TUESDAY, AUGUST 31, 1999  
9:00 a.m.**

**A G E N D A**

**1. Introduction of Committee Members**

**2. Commencement of Confirmation Hearing**

**A) Mr. Jose P. Chargualaf, Member**

**Board of Directors, Guam Environmental Protection Agency**

**B) Mr. Bradley A. Hokanson, Member**

**Board of Directors, Guam Environmental Protection Agency**

**3. Public Hearing for Bill No. 291 (COR)**

**An Act to approve/disapprove the Sunshine Reform Act  
guidelines and the list of the Sunshine Reform Act exemptions  
submitted by the Guam Environmental Protection Agency.**

**4. Public Comment**

**5. Adjournment**

**Mina' Bente Singko Na Liheslaturan Guahan**

**COMMITTEE ON NATURAL RESOURCES  
GUAM ENVIRONMENTAL PROTECTION AGENCY**

**PUBLIC HEARING**

**Tuesday, August 31, 1999, 9:00 a.m.**

**Bill No: 291 (COR) AN ACT TO APPROVE/DISAPPROVE THE SUNSHINE  
REFORM ACT GUIDELINES AND THE LIST OF THE SUNSHINE REFORM  
ACT EXEMPTIONS SUBMITTED BY THE GUAM ENVIRONMENTAL  
PROTECTION AGENCY**

***SIGN IN SHEET***

<i>Names</i>	<i>Representing</i>	<i>Oral Testimony</i>	<i>Written Testimony</i>
DAVID W. LONGA	GEPA	✓	
Adrienne Loerzel	MSPJ Board	✓	✓

# Micronesia Chapter of the Society of Professional Journalists

To: The Esteemed Senators of I Liheslaturan Guahan

I Liheslaturan Guahan is now considering multiple requests by government agencies to have additional documents exempt from public scrutiny. Our position on this matter is very simple: We believe that the law already allows sufficient exemptions for documents to be kept private. There is no need to allow more documents to be withheld from the public and we firmly believe these requests for exemptions should be rejected.


Directors of government of Guam agencies have filed pages and pages of requests for additional exemptions: the exemption loophole clearly is being abused. Some of these exemptions include such vague items as "memos" and "miscellaneous reports," as well as meeting minutes and car wash order sheets. As working journalists, we worry that this loophole will make it difficult to provide our audiences and readers with timely, important information. As citizens, we fear that the exemption loophole threatens the very foundation of democratic society. Free from public scrutiny, how can the bureaucracy be held accountable for its actions? A secretive government contradicts the basic principles of democracy.

And it goes against the public policy of this esteemed body, which has made significant progress and great strides in opening our government to the people of Guam. You, the members of I Liheslaturan Guahan, are responsible for a government that is open and accountable to a degree unmatched since its founding. Yet now you stand on the brink of throwing that away as if that were meaningless. We urge you to reject these exemption lists and let democracy continue to grow stronger on our island. Stand by your well-received Sunshine Reform Act of 1999. We urge you to reject attempts by directors to close the government to its citizens. History will judge you by your actions.

Respectfully submitted by the members of the board of directors of the Micronesia Chapter of the Society of Professional Journalists.

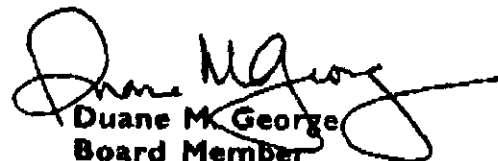
  
Leah Beth Flores  
President

  
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AUG 23 1999

**MINA ' BENTE SINGKO NA LIHESLATURAN GUAHAN  
1999 (FIRST) Regular Session**

Bill No.

291 (COR)

Introduced by:

J.M.S. Brown



**AN ACT TO APPROVE/DISAPPROVE THE SUNSHINE REFORM  
ACT GUIDELINES AND THE LIST OF THE SUNSHINE REFORM  
ACT EXEMPTIONS SUBMITTED BY THE GUAM  
ENVIRONMENTAL PROTECTION AGENCY**

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

**Section 1. Legislative Findings and Intent.**

Whereas, P.L. 25-06, also known as "The Sunshine Reform Act of 1999," became law on May 12, 1999,

Whereas, the Sunshine Reform Act of 1999 reformed and amended the laws of Guam governing disclosure of public records and permitted individual Government of Guam agencies to propose guidelines for dealing with requests under the Sunshine Reform Act of 1999 and to propose exemptions to the public disclosure requirements of said law for records held by that agency,

Whereas, on July 12, 1999, in accordance with that portion of the Sunshine Reform Act of 1999 which is now Title 5 G.C.A. Section 10106(a), the Guam Environmental Protection Agency and the Attorney General submitted to I Liheslaturan Guahan proposed guidelines for dealing with requests under said Act,

Whereas, on July 12, 1999, in accordance with that portion of The Sunshine Reform Act which is now Title 5 G.C.A. Section 10106(b), Guam Environmental Protection Agency and the Attorney General submitted to I Liheslaturan Guahan a list of the documents that Guam Environmental Protection Agency would like to see exempted from the disclosure requirements of the Sunshine Reform Act,

Whereas, Title 5 G.C.A. Section 10106(b) requires I Liheslaturan Guahan to either approve or disapprove said list within ninety days after its submission,

**Section 2.** The proposed guidelines for dealing with Sunshine Reform Act requests submitted by the Guam Environmental Protection Agency is attached hereto and hereby incorporated herein as Exhibit A. Said guidelines are hereby approved/disapproved.

**Section 3.** The list of proposed exemptions to the Sunshine Reform Act submitted by Guam Environmental Protection Agency is attached hereto as Exhibit B and hereby incorporated herein. Said list is hereby approved/disapproved.

# EXHIBIT A

## GUAM ENVIRONMENTAL PROTECTION AGENCY

### APPENDIX 1:

#### **§10106, Section (a): Proposed Guidelines of the Guam Environmental Protection Agency:**

The Sunshine Reform Act of 1999/Freedom of Information Act provides for public access to records maintained by the Guam Environmental Protection Agency. A SRA/FOIA request is a written request that specifically refers to the SRA/FOIA for records held or believed to be held by Guam EPA. The Act requires that agencies provide records unless they are exempt from disclosure as defined in §10106 (b), Records of the Guam Environmental Protection Agency exempted from disclosure and §10108, Limitation on Right of Inspection.

#### **1. Requesting for Information:**

According to Agency proposed regulations, requests for records to Guam EPA must be submitted in **writing** to the Sunshine Reform Act of 1999 Freedom of Information Act officer. Any request submitted to any other program office is considered "misdirected" and may result in a delayed reply.

The request is officially received when the Freedom of Information Act Officer/Sunshine Reform Act logs it in. A phone call to the customer (to narrow request) **STOPS THE CLOCK!** Customer then has five (5) days to get back or else file is closed. Requests for records to Guam EPA must be submitted to the Freedom of Information Act/Sunshine Reform Act Officer.

#### **2. Fees and Waivers:**

Guam EPA is allowed to charge fees to requesters in order to recover the direct costs of search, duplication, and review of requested records. (For more information on fees, the Agency will be formally submitting its fee schedule that will be processed through the Administrative Adjudication Act). However, if the total cost of the requested information is less than \$5, the fees are waived. However, if the costs exceed \$5, prepayment will be required. In some cases, fee waivers or reduction of fees are granted in the public interest, but must be requested and justified by supporting documentation. Monies collected will go to the Guam EPA Management Information System account. Funds from this account will allow the Agency to establish and maintain a database and will allow the Agency to efficiently manage information as required under §10105, Efficient Disclosure of Records.

Guam EPA charges 15 cents per page, plus computer production time (actual computer usage), plus personnel search and review time (\$5 to \$20 per ½ hour — based on salary grade structure of employee) for providing copies of records. Also, fees charged vary with the status or purpose of the requester. Different fees are charged to commercial users, representatives of the news

media, educational or noncommercial scientific institutions, and individuals. In some cases, fee waivers or reduction of fees are granted in the public interest, but must be requested and justified by supporting documentation.

**3. Office of the Sunshine Reform Act of 1999 Freedom of Information Act Officer designee:**

Should you desire to speak with someone concerning your request, contact the Agency's SRA/FOIA office at 671-475-1623. Written SRA/FOIA requests should be submitted to:

Sunshine Reform Act of 1999  
Freedom of Information Act Officer  
Guam Environmental Protection Agency  
P.O. Box 22439 GMF  
Barrigada, GUAM 96921  
U.S.A.

The facsimile number is 671-477-9402  
and the electronic mail address: [guamepa@ns.gov.gu](mailto:guamepa@ns.gov.gu)

**4. Requesters Identification Number, §10105, Efficient Disclosure of Records (a):**  
Your request will be received by the Sunshine Reform Act of 1999 Freedom of Information Act Officer. The request will be logged and assigned a unique identifying number called the "Requesters Identification Number" (RIN), which is used to track your SRA/FOIA request. You should reference the RIN number in all communications with Guam EPA. You will be notified by mail or fax of the RIN number, the date request was received, and that Guam EPA will respond within four (4) working days from the date received.

**5. Partial or Full Denials:**

Any document that are denied in whole or in part will be indexed, including exemption(s) claimed for the denial. Under the SRA/FOIA, you have the right legal/administrative appeal for a denial of records and no records response received from the Agency. The appeal information will be included in your response from the Agency. Any questions concerning these procedures may be directed to the Sunshine Reform Act of 1999 Freedom of Information Act Officer at 475-1623.

**FEE WAIVER REQUEST**

Documents shall be furnished without charge or at a charge reduced below the fees established if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. In order to evaluate whether the statutory standard authorizing a fee waiver or reduction has been met, we will need additional information upon which to base our determination.

# **EXHIBIT B**

## **GUAM ENVIRONMENTAL PROTECTION AGENCY**

### **APPENDIX 2:**

**§10106, Section (b):Records of the Guam Environmental Protection Agency exempted from disclosure:**

1. Personnel files and documents containing personnel information (including employees, former employees, volunteers, interns and job applicants).
2. Documents in use for on-going investigations (including writings, tables, figures, maps, photos and computer files).
3. Unsigned draft documents of any kind.
4. Unsigned field notes and meeting notes.
5. Reference documents and printed materials, electronic or otherwise, not produced or regularly distributed by Guam EPA but available from more appropriate sources (e.g., books, reports, maps, CDS, diskettes and other documents generated and distributed by other agencies or private companies. Requesters should go to the proper sources, not Guam EPA.)
6. Individuals' personally owned documents, acquired at their own expense for their own use, not provided by the government.
7. All electronic mail, which include all in-box, draft and deleted electronic mail.
8. Contract, service or product proposals submitted to Guam EPA in response to Guam EPA's Request For Proposals or Invitations To Bid.
9. Private trade or product secrets submitted with proposals.
10. Proposals not selected in a Request For Proposals or Invitations To Bid procurement process.
11. Trade secrets or proprietary data.
12. Information that would disclose a company's clientele listing or inventory sales.
13. Unsigned contracts or agreements (draft and final).

14. Records of discussions resulting from Guam EPA's Board of Directors executive sessions (e.g., tapes, handwritten notes, etc.) until releasable by law.
15. Laboratory data and all supporting documents that have not been reviewed and approved by Guam EPA's Quality Assurance Officer, Environmental Monitoring and Analytical Services Division Administrator, Guam EPA Administrator.
16. Examinations administered by Guam EPA, which include answer sheets and test scores of individuals. Individuals who take a Guam EPA administered test may, upon his/her request, receive his/her test score.
17. On-going administrative investigation/enforcement documents.

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# I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

1999 (FIRST) Regular Session

Date: 11-5-99

## VOTING SHEET

Bill No. 291

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT ROLL CALL
AGUON, Frank B., Jr.					EA ✓
BERMUDES, Eulogio C.		✓			
BLAZ, Anthony C.      11	✓				
BROWN, Joanne M.S.	✓				
CALVO, Eduardo B.	✓				
CAMACHO, Marcel G.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LAMORENA, Alberto C., V	✓				
LEON GUERRERO, Carlotta A.	✓				
MOYLAN, Kaleo Scott	✓				
PANGELINAN, Vicente C.	✓				
SALAS, John C.	✓				
SANCHEZ, Simon A., II	✓				
UNPINGCO, Antonio R.	✓				

TOTAL

13      1      \_\_\_\_\_      \_\_\_\_\_      1

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence

11-5-99

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**1999 (FIRST) Regular Session**

**Bill No. 291 (COR)**

As substituted by the Committee on  
Natural Resources, and further substituted  
on the Floor.

\*

Introduced by:

- J. M.S. Brown
- C. A. Leon Guerrero
- L. F. Kasperbauer
- F. B. Aguon, Jr.
- E. C. Bermudes
- A. C. Blaz
- E. B. Calvo
- M. G. Camacho
- Mark Forbes
- A. C. Lamorena, V
- K. S. Moylan
- V. C. Pangelinan
- J. C. Salas
- S. A. Sanchez, II
- A. R. Unpingco

**AN ACT TO DISAPPROVE THE SUNSHINE  
REFORM ACT GUIDELINES AND THE LIST OF  
EXEMPTIONS SUBMITTED BY THE GUAM  
ENVIRONMENTAL PROTECTION AGENCY.**

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

1           **Section 1. Legislative Findings and Intent.** Public Law Number 25-06,  
2 also known as the "*Sunshine Reform Act of 1999*," became law on May 12, 1999.  
3 The Sunshine Reform Act of 1999 reformed and amended the laws of Guam  
4 governing disclosure of public records and permitted individual government  
5 of Guam agencies to propose guidelines for dealing with requests under the  
6 Sunshine Reform Act of 1999 and to propose exemptions to the public  
7 disclosure requirements of said law for records held by that agency.

8           On July 12, 1999 in accordance with that portion of the Sunshine Reform  
9 Act of 1999, which is now §10106(a) of Title 5 of the Guam Code Annotated,  
10 the Guam Environmental Protection Agency ('GEPA') submitted to *I*  
11 *Liheslaturan Guåhan* proposed guidelines for dealing with requests under said  
12 Act and a list of the documents that GEPA would like to see exempted from  
13 the disclosure requirements of the Sunshine Reform Act.

14           Section 10106(b) further requires *I Liheslaturan Guåhan* to either approve  
15 or disapprove said lists by December 1, 1999. This Act is intended to  
16 *disapprove* GEPA's proposed guidelines and exemption list. The disapproval  
17 of the GEPA guidelines and exemption lists are *not* intended to disapprove an  
18 exemption created in the Sunshine Reform Act that would apply to GEPA.

19           **Section 2. Disapproval of GEPA Proposed Guidelines.** The GEPA  
20 July 12, 1999 proposed guidelines submitted pursuant to the requirements of  
21 the Sunshine Reform Act of 1999 are hereby *disapproved*, but shall *not* affect  
22 the existing limitations already contained within the Sunshine Reform Act of  
23 1999, including within §10108, and their applicability to said agencies.



1           **Section 3. Disapproval of GEPA Proposed Exemptions.** The     GEPA  
2 July 12, 1999 list of proposed exemptions submitted pursuant to the  
3 requirements of the Sunshine Reform Act of 1999 are hereby *disapproved*, but  
4 shall *not* affect the existing limitations already contained within the Sunshine  
5 Reform Act of 1999, including within §10108, and their applicability to said  
6 agencies.

7           **Section 4. Severability.**     *If* any provision of this Law or its  
8 application to any person or circumstance is found to be invalid or contrary to  
9 law, such invalidity shall *not* affect other provisions or applications of this  
10 Law which can be given effect without the invalid provisions or application,  
11 and to this end the provisions of this Law are severable.