

I Mina'trentai Sais 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 |
|--------------|--------------------|--|----------------------|---------------|---|-----------------------|---|-----------------------------------|------------|
| 209-36 (COR) | Therese M. Terlaje | AN ACT TO ADOPT THE PROPOSED AMENDMENTS TO ARTICLE 5 OF CHAPTER 4, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, AS TRANSMITTED TO I LIHESLATURAN GUÅHAN PURSUANT TO THE ADMINISTRATIVE ADJUDICATION LAW, ATTACHED HERETO AS EXHIBIT A. | 10/7/21 4:33 p.m. | 10/11/21 | Committee on Health, Land, Justice, and Culture | 10/19/21 9:00 a.m. | 10/22/21 10:10 a.m. As amended by the Committee on Health, Land, Justice, and Culture | Request: 10/13/21 10/19/21 | EXHIBIT A. |



Office of the Speaker
THERESE M. TERLAJE

I Mina'trentai Sais na Liheslaturan Guåhan | 36th Guam Legislature
Committee on Health, Land, Justice and Culture

October 20, 2021

The Honorable Amanda L. Shelton 
Acting Chairperson, Committee on Rules
I Mina'trentai Sais na Liheslaturan Guåhan
163 Chalan Santo Papa
Hagåtña Guam, 96910

RE: Committee Report on Bill No. 209-36 (COR), As Amended by the Committee on Health, Land, Justice and Culture

Håfa Adai Acting Chairperson Shelton:

Transmitted herewith is the Committee Report on the **Bill No. 209-36 (COR)**, As Amended by the Committee on Health, Land, Justice and Culture, Introduced by Speaker Therese M. Terlaje– “An Act to Adopt the Proposed Amendments to Article 5 of Chapter 4, Title 26, Guam Administrative Rules and Regulations, As Transmitted to *I Liheslaturan Guåhan* Pursuant to the Administrative Adjudication Law, Attached Hereto as Exhibit A.”

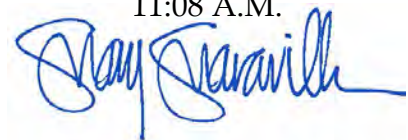
Committee votes are as follows:

| | |
|----------|---------------------------|
| <u>3</u> | TO DO PASS |
| <u>0</u> | TO NOT PASS |
| <u>2</u> | TO REPORT OUT ONLY |
| <u>0</u> | TO ABSTAIN |
| <u>0</u> | TO PLACE IN INACTIVE FILE |

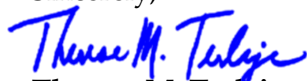
**COMMITTEE ON RULES
RECEIVED:**

October 20, 2021

11:08 A.M.



Sincerely,


Therese M. Terlaje

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: senatorterlajeguam@gmail.com | www.senatorterlaje.com

**For transmittal of official Messages & Communications to the Guam Legislature to be distributed to all Senators,
please send to: speaker@guamlegislature.org*



Office of the Speaker
THERESE M. TERLAJE
I Mina'trentai Sais na Liheslaturan Guåhan | 36th Guam Legislature
Committee on Health, Land, Justice and Culture

COMMITTEE REPORT

Bill No. 209-36 (COR)

As Amended by the Committee on Health,
Land, Justice and Culture

Introduced by:
Speaker Therese M. Terlaje

**“An Act to Adopt the Proposed Amendments to
Article 5 of Chapter 4, Title 26, Guam
Administrative Rules and Regulations, As
Transmitted to *I Liheslaturan Guåhan* Pursuant to
the Administrative Adjudication Law, Attached
Hereto as Exhibit A.”**



Office of the Speaker
THERESE M. TERLAJE

I Mina'trentai Sais na Liheslaturan Guåhan | 36th Guam Legislature
Committee on Health, Land, Justice and Culture

October 19, 2021

MEMORANDUM

To: All Members
Committee on Health, Land, Justice and Culture

From: Speaker Therese M. Terlaje *TMT*
Committee Chairperson

Subject: Committee Report on Bill No. 209-36 (COR), As Amended by the Committee on Health, Land, Justice and Culture

Transmitted herewith for your consideration is the Committee Report on Bill No. 209-36 (COR), As Amended by the Committee on Health, Land, Justice and Culture.

This report includes the following:

- Copy of COR Referral of Bill No. 209-36 (COR), As Introduced
- Notices of Public Hearing & Other Correspondence
- Public Hearing Agenda
- Public Hearing Sign-in Sheet
- Submitted Written Testimonies & Supporting Documents
- Committee Report Digest
- Copy of Bill No. 209-36 (COR), As Introduced
- Copy of Bill No. 209-36 (COR), As Amended
- Amended Mark-up Version
- Copy of Fiscal Note
- Committee Vote Sheet

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Si Yu'os Ma'åse'!



Vice Speaker

TINA ROSE MUÑA BARNES

CHAIRPERSON, COMMITTEE ON RULES

I Mina'trentai Sais Na Liheslaturan Guåhan

GUAM CONGRESS BUILDING
163 CHALAN SANTO PAPA
HAGÅTÑA, GUAM 96910
TEL 671-472-2461
COR@GUAMLEGISLATURE.ORG

October 11, 2021

MEMO

To: **Rennae Meno**
Clerk of the Legislature

Attorney Ana Won Pat-Borja
Legislative Legal Counsel

From: **Senator Amanda L. Shelton**
Acting Chairperson, Committee on Rules

Re: **Referral of Bill No. 209-36 (COR)**

Håfa Adai,

As per my authority as Acting Chairperson of the Committee on Rules and subject to §6.01(d), Rule VI of our Standing Rules, I am forwarding the referral of Bill No. 209-36 (COR) – Therese M. Terlaje – “AN ACT TO ADOPT THE PROPOSED AMENDMENTS TO ARTICLE 5 OF CHAPTER 4, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, AS TRANSMITTED TO *I LIHESLATURAN GUÅHAN* PURSUANT TO THE ADMINISTRATIVE ADJUDICATION LAW, ATTACHED HERETO AS EXHIBIT A.”

Please ensure that the subject bill is referred to the **Committee on Health, Land, Justice, and Culture chaired by Speaker Therese M. Terlaje**.

I also request that the same be forwarded to the prime sponsor of the subject bill.

If you have any questions or concerns, please feel free to contact Mary Maravilla, Committee on Rules Director at 472-2461.

Thank you for your attention to this important matter.

Respectfully,

Senator Amanda L. Shelton
Acting Chairperson, Committee on Rules



I Mina'trentai Sais Na Liheslaturan Guåhan
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Speaker Therese M. Terlaje <senatorterlajegum@gmail.com>

FIRST NOTICE of Virtual Public Hearing – Tuesday, October 19, 2021

4 messages

Speaker Therese M. Terlaje <senatorterlajegum@gmail.com>

Tue, Oct 12, 2021 at 12:47 PM

To: phnotice@guamlegislature.org

Cc: Audio / Video <av@guamlegislature.org>, Guam MIS <mis@guamlegislature.org>, Ibarra Hernandez <ihernandez@guamlegislature.org>

Bcc: Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, Senator Sabina Perez <office@senatorperez.org>, Office of Senator Moylan Guam Legislature <officeofsenatormoylan@guamlegislature.org>, "Honorable Frank F. Blas Jr." <office@senatorfrankblas.com>, mindy@postguam.com, The Post Editor in Chief <editor@postguam.com>, Oyaol Ngirairiki <managingeditor@postguam.com>, haidee@postguam.com, John Oconnor <john@postguam.com>, reporters@postguam.com, rlimtiaco@guampdn.com, Rindraty Limtiaco <slimtiaco@guampdn.com>, Guam PDN <news@guampdn.com>, Jerick Sablan <jpsablan@guampdn.com>, life@guampdn.com, dmgeorge@guampdn.com, Mar-Vic Cagurangan <publisher@pacificislandtimes.com>, Pacific Island Times <pacificislandtimes@gmail.com>, Maureen Maratita <publisher@glimpsesofguam.com>, bryan@mvariety.com, emmanuel@mvariety.com, mabuhaynews@yahoo.com, editor@saipantribune.com, Bruce Hill <pacificjournalist@gmail.com>, Jason Salas <jason@kuam.com>, Sabrina Salas Matanane <sabrina@kuam.com>, Chris Malafunkshun Barnett <Chris@kuam.com>, Nestor Licanto <nestor@kuam.com>, reporters@kuam.com, K57 <news@k57.com>, Patti Rodriguez <parroyo@spbgum.com>, pattiontheradio@yahoo.com, Sorensen Pacific Broadcasting <news@spbgum.com>, raygibsonshow@gmail.com, [REDACTED], KISH [REDACTED], Manuel Cruz [REDACTED], Troy Torres <troy@kanditnews.com>, Maria Louella Losinio [REDACTED], "Mayors' Council of Guam - Admin." <mcogadmin@teleguam.net>, "Mayor Paul M. McDonald" <mayor.mcdonald671@gmail.com>, agatmayor@yahoo.com, agatvice.chrisfejeran@yahoo.com, "Mayor Frankie A. Salas" <asanmainamayor@gmail.com>, June Blas <mayorbarrigada@gmail.com>, Jessie Bautista [REDACTED], Jessie Gogue <ocp.mayor@gmail.com>, MELISSA SAVARES [REDACTED], "Vice Mayor Peter John S. Benavente" [REDACTED], hagatnamayor@hotmail.com, Mayor Anthony Chargualaf <inalahanmayor@gmail.com>, Allan Ungacta <mayorallan.ungacta@yahoo.com>, Vice Mayor Kevin AN Delgado <mangilao.vicemayor@gmail.com>, mayorernestc@yahoo.com, mtmmayorpaco17@gmail.com, Jesse Alig <jesse.alig@pitiguam.com>, Dale Alvarez [REDACTED], Robert Hofmann <guammayor@gmail.com>, rudy iriarte [REDACTED], Mayor Taitague <talofomayor@gmail.com>, "Mayor Louise C. Rivera" <Mayorlcrivera.tatuha@gmail.com>, "Vice Mayor Albert M. Toves" <atoves.tatuha@gmail.com>, Umatac Mayor <umatacmo@gmail.com>, "Mayor Anthony P. Sanchez" <yamayortony@gmail.com>, "Vice Mayor Loreto V. Leones" [REDACTED], "Mayor Bill A. Quenga" <yonamayor2020@gmail.com>, jolene@postguam.com, Phil Leon Guerrero <phil@postguam.com>, Gerry Partido <[REDACTED]>, gerry@spbgum.com, Damen Borja <damen@spbgum.com>, [REDACTED], jsantotoma@guampdn.com, "Taitano, Joseph" <JTaitano@guampdn.com>, "David B. Herrera" <[REDACTED]>, "John Reyes, Jr." <cltccommissioner.reyes@cltc.guam.gov>, Arlene Bordallo <cltccommissioner.bordallo@cltc.guam.gov>, Angela Camacho <angela.camacho@cltc.guam.gov>, Angela Santos <asantosfanohgeprutehidifende@gmail.com>, "Arthur U. San Agustin" <arthur.sanagustin@dphss.guam.gov>, Masatomo Nadeau <masatomo.nadeau@dphss.guam.gov>, "Rosanna Y. Rabago" <Rosanna.Rabago@dphss.guam.gov>, Jeffrey Pinaula <Jeffrey.Pinaula@dphss.guam.gov>

October 12, 2021

MEMORANDUM

To: All Senators, Stakeholders and Media

From: Speaker Therese M. Terlaje, Chairperson
Committee on Health, Land, Justice and Culture

Subject: **FIRST NOTICE of Virtual Public Hearing – Tuesday, October 19, 2021**

Buenas yan Håfa Adai,

Please be advised that the Committee on Health, Land, Justice and Culture will convene a virtual public hearing, using the Legislature's virtual Zoom platform on **Tuesday, October 19, 2021, beginning at 9:00 a.m.** for the following agenda items:

9:00 AM:

- **BILL NO. 209-36 (COR)**- *THERESE M. TERLAJE*- "AN ACT TO ADOPT THE PROPOSED AMENDMENTS TO ARTICLE 5 OF CHAPTER 4, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, AS TRANSMITTED TO I LIHESLATURAN GUÅHAN PURSUANT TO THE ADMINISTRATIVE ADJUDICATION LAW, ATTACHED HERETO AS EXHIBIT A." **BILL LINK:** [https://www.guamlegislature.com/36th_Guam_Legislature/Bills_Introduced_36th/Bill%20No.%20209-36%20\(COR\).pdf](https://www.guamlegislature.com/36th_Guam_Legislature/Bills_Introduced_36th/Bill%20No.%20209-36%20(COR).pdf)

1:00 PM

- **APPOINTMENT HEARING**: DAVID HERRERA TO SERVE AS A MEMBER, CHAMORU LAND TRUST COMMISSION, FOR A TERM LENGTH OF THREE (3) YEARS; APRIL 11, 2019 TO APRIL 10, 2022, TO FILL THE UNEXPIRED TERM OF JOSEPH CRUZ. **APPOINTMENT PACKET LINK:** <https://guamlegislature.com/index/messages-and-communications/>

3:00 PM

- **BILL NO. 168-36 (LS)**- *TELENA C. NELSON*- AN ACT TO ADD NEW §§ 41806 AND AMEND §§ 41810 OF ARTICLE 18, CHAPTER 4, DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO THE REQUIRED REGISTRATION OF PRESCRIBERS TO THE GUAM PRESCRIPTION MONITORING PROGRAM (PDMP). **BILL LINK:** [https://www.guamlegislature.com/36th_Guam_Legislature/Bills_Introduced_36th/Bill%20No.%20168-36%20\(LS\).pdf](https://www.guamlegislature.com/36th_Guam_Legislature/Bills_Introduced_36th/Bill%20No.%20168-36%20(LS).pdf)
- **BILL NO. 169-36 (LS)**- *TELENA C. NELSON*- AN ACT TO AMEND APPENDIX A, APPENDIX B, APPENDIX C, APPENDIX D, AND APPENDIX E OF CHAPTER 26, TITLE 9 OF GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE LIST OF SCHEDULED CONTROLLED SUBSTANCES PROVIDED IN THE GUAM UNIFORM CONTROLLED SUBSTANCES ACT. **BILL LINK:** [https://www.guamlegislature.com/36th_Guam_Legislature/Bills_Introduced_36th/Bill%20No.%20169-36%20\(LS\).pdf](https://www.guamlegislature.com/36th_Guam_Legislature/Bills_Introduced_36th/Bill%20No.%20169-36%20(LS).pdf)

Email senatorterlajeguam@gmail.com or call 472-3586 by October 18, 2021 to register to provide virtual testimony on the agenda items. Written testimony can also be submitted via email or to the Guam Congress Bldg; 163 Chalan Santo Papa, Hagåtña, Guam.

All hearings broadcast on GTA TV Channel 21, Docomo Channel 117/112.4, and the Guam Legislature YouTube. In compliance with the Americans with Disabilities Act, Individuals needing assistance or accommodations can contact the Office of Speaker Therese M. Terlaje.

Office of Speaker Therese M. Terlaje

Committee on Health, Land, Justice and Culture

I Mina'trentai Sais na Liheslaturan Guåhan

36th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 989-3590 Email: senatorterlajeguam@gmail.com

website: www.senatorterlaje.com

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FIRST NOTICE OF VIRTUAL PUBLIC HEARINGS- October 19, 2021_TMT.pdf

388K

Ibarra Hernandez <ihernandez@guamlegislature.org>
To: "Speaker Therese M. Terlaje" <senatorterlajeguam@gmail.com>

Tue, Oct 12, 2021 at 1:06 PM

Guam Legislature is inviting you to a scheduled Zoom meeting.

Topic: Virtual Public Hearing - Therese M. Terlaje

Time: Oct 19, 2021 09:00 AM Guam, Port Moresby

Join Zoom Meeting

<https://us02web.zoom.us/j/87844547079?pwd=SkxZa2VUVFVTbE1ET2M5Y29ZT2U4UT09>

Meeting ID: 878 4454 7079

Passcode: 302874

[Quoted text hidden]

--

Cheers,

Ibarra "Barry" Hernandez

MIS

I Mina'trentai Sais Na Liheslaturan Guåhan - 36th Guam Legislature

671-472-3519



Office of the Speaker
THERESE M. TERLAJE

I Mina'trentai Sais na Liheslaturan Guåhan 36th Guam Legislature
Committee on Health, Land, Justice and Culture

October 12, 2021

MEMORANDUM

To: All Senators, Stakeholders and Media

From: Speaker Therese M. Terlaje, Chairperson *TMT*
Committee on Health, Land, Justice and Culture

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Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: senatorterlajeguam@gmail.com | www.senatorterlaje.com

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REGISTRATION OF PRESCRIBERS TO THE GUAM PRESCRIPTION MONITORING PROGRAM (PDMP). **BILL LINK:**

[https://www.guamlegislature.com/36th Guam Legislature/Bills Introduced 36th/Bill%20No.%20168-36%20\(LS\).pdf](https://www.guamlegislature.com/36th%20Guam%20Legislature/Bills%20Introduced%2036th/Bill%20No.%20168-36%20(LS).pdf)

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LOCAL

Psst! Haha? You're in the Local section of the Post – the news that concerns you the most. Do you have a news tip? Feel free to email editor@postguam.com.

5

13 students, 4 employees test positive since schools reopened Sept. 27

By Jolene Toves
jolene@postguam.com

The Guam Department of Education released its first COVID-19 situation update since directly reporting COVID-19 cases as announced last week.

As of October 11, GDOE confirmed 13 positive COVID-19 cases involving students.

The cases were identified at:

- 2; Daniel L. Perez Elementary School;
- Finegayan Elementary School, 1;
- Maria A. Ulloa Elementary School, 1;
- Upi Elementary School, 1;
- Wettengel Elementary School, 1;
- Astumbo Middle School, 2;
- F.B. Leon Guerrero Middle School, 1;
- John F. Kennedy High School, 2; and
- Simon Sanchez High School, 2.

The students were attending face-to-face classes when testing

confirmed they were positive.

In addition to the cases, four GDOE employees were also identified as positive for cases.

The cases were identified at B.P. Carbullido Elementary School, Luis P. Untalan Middle School, John F. Kennedy High School, and Simon Sanchez High School, a Guam Department of Education release stated.

This is the first report GDOE has provided since schools reopened on Sept. 27.

Superintendent Jon Fernandez said even parents of online students who don't have any contact with schools physically are also reporting cases of positivity.

To date, GDOE and health officials have continued to assert that there is no evidence of COVID-19 spread occurring within school communities. They also noted that infections among

students were a result of contact outside school grounds.

"We want to let parents and employees know that if a student is deemed positive, has been on campus and where there's contact tracing that needs to occur, we want to make sure those numbers are updated," Fernandez said.

To make the information clearer for stakeholders, GDOE has revamped its School Readiness Dashboard which is supposed to be updated every Wednesday.

The new dashboard can be used as a tool by parents to gauge the possibility of school closures based on the COVID-19 situation at schools and within the community.

The dashboard will provide parents with a weekly breakdown of the level of risk of transmission relative to each school's population.



SAFETY: Untalan Middle School robotics teacher Roz Pama conducts a class behind a transparent safety barrier on Monday at the Barrigada campus. Classrooms have been outfitted with temperature check monitors, hand sanitizers, mask supplies and safety barriers, among other equipment.

Dontana Keraskes/The Guam Daily Post

GDOE is on the lookout for schools that show a high percentage of cases and has pegged the red flag at 5% as an indicator that a school must be looked at closely.

Fernandez said the information on the dashboard can be used by parents to gauge whether they should start planning for school closures and an immediate switch to distance learning.

McDonald's recognizes educators with free breakfast



BREAKFAST TO-GO: Guam Department of Education Superintendent Jon Fernandez, center, receives free breakfast meals from Maria Socorro Yandoc, general manager, left, and Joe Ayuyay Jr., vice president of McDonald's of Guam and Saipan, as part of the first day of the breakfast for educators program. The program offers free breakfast to all educators from Oct. 11 to 15. The program is available at all McDonald's locations in Guam and Saipan. David Castro/The Guam Daily Post



GUAM EDUCATION BOARD

501 Mariner Avenue
Barrigada, Guam 96913-1608
Telephone Number: (671) 300-1627
Facsimile Number: (671) 472-5003
Website Address: www.gdoe.net/gwb



REGULAR MONTHLY MEETING

Tuesday, October 19, 2021
6 PM

3rd Floor Conference Room, Bldg. B, Tiyan

AGENDA

- I. Meeting Call to Order
- II. Approval of Minutes
 1. Minutes of September 23, 2021 Regular Meeting - Subject to Board Action
 2. Minutes of October 7, 2021 Special Meeting - Subject to Board Action
- III. Public Participation (Board Policy 125.6) Time Limit 3 minutes
- IV. Communications
 1. Correspondence received by the Board after September 23
 2. Superintendent's Report
- V. Ex-Officio Member Reports
 1. Islandwide Board of Governing Students (IBOGS) Report
 2. Guam Federation of Teachers (GFT) Report
 3. Mayor's Council of Guam (MCOG) Report
- VI. Unfinished Business/Committee Reports
 1. Executive Committee
 - a. Superintendent's Evaluation - Subject to Board Action
 2. Instructional & Academic Support Committee
 - a. October 2021 Head Start Report - Subject to Board Action
 3. Safe & Healthy Schools Committee
 - a. District School Readiness Task Force (DSRTF) Report
 4. Policy Review & Strategic Planning Committee
 - a. Strategic Planning Committee Report
 5. Fiscal Management Committee
 - a. GDOE Financial Report
 - i. Accounts Payable Aging Report
 - ii. Unaudited Statement of Appropriation, Expenditures, and Encumbrances for Fiscal Year 2021
 - b. US Department of Education Specific Conditions Report
- VII. New Business
 1. Retirement Certificate Presentation for Rebecca Duenas
 2. Certificate Presentation for National Principals Month
- VIII. Executive Session
- IX. Adjournment

The public is welcome to view the meeting via live stream at <https://www.facebook.com/DOEGuam>.

Individuals requiring special accommodations or information or wish to submit public testimony via email may contact Tia Salas by email: tissalas@gdoe.net.

Agenda to be available on GEB website at least 72 hours before the meeting.

This advertisement was paid by GDOE local funds.

SPEAKER THERESE M. TERLAJE
Committee on Health, Land, Justice & Culture
I Mina'trentai Sais na Liheslaturan Guahan

NOTICE OF VIRTUAL PUBLIC HEARINGS- TUESDAY OCTOBER 19, 2021

9:00 AM:

- **BILL NO. 209-36 (COR)- THERESA M. TERLAJE-** "AN ACT TO ADOPT THE PROPOSED AMENDMENTS TO ARTICLE 5 OF CHAPTER 4, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, AS TRANSMITTED TO I LIHESLATURAN GUAHAN PURSUANT TO THE ADMINISTRATIVE ADJUDICATION LAW, ATTACHED HERETO AS EXHIBIT A."

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- **APPOINTMENT HEARING:** DAVID HERRERA TO SERVE AS A MEMBER, CHAMORU LAND TRUST COMMISSION, FOR A TERM LENGTH OF THREE (3) YEARS: APRIL 11, 2019 TO APRIL 10, 2022. TO FILL THE UNEXPIRED TERM OF JOSEPH CRUZ.

3:00 PM

- **BILL NO. 168-36 (LS)- TELENA C. NELSON-** AN ACT TO ADD NEW §§ 41806 AND AMEND §§ 41810 OF ARTICLE 18, CHAPTER 4, DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO THE REQUIRED REGISTRATION OF PRESCRIBERS TO THE GUAM PRESCRIPTION MONITORING PROGRAM (POMP).
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Email senatorterlaje@gmail.com or call 472-3586 by **October 18, 2021** to register to provide virtual testimony on the agenda items. Written testimony can also be submitted via email or to the Guam Congress Bldg. 163 Orlan Santo Papa, Hagatña, Guam. All hearings broadcast on GTA TV Channel 21, Docomo Channel 117/112.4, and the Guam Legislature YouTube. In compliance with the Americans with Disabilities Act, Individuals needing assistance or accommodations can contact the Office of Speaker Therese M. Terlaje. This Ad was paid with Legislature Funds.



Speaker Therese M. Terlaje <senatorterlajeguan@gmail.com>

AMENDED SECOND NOTICE of Virtual Public Hearing: Tuesday, October 19, 2021

2 messages

Speaker Therese M. Terlaje <senatorterlajeguan@gmail.com>

Fri, Oct 15, 2021 at 9:43 AM

To: phnotice@guamlegislature.org

Cc: Audio / Video <av@guamlegislature.org>, Guam MIS <mis@guamlegislature.org>, Tom Unsiog <sgtarms@guamlegislature.org>, Ibarra Hernandez <ihernandez@guamlegislature.org>

Bcc: Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, Senator Sabina Perez <office@senatorperez.org>, Office of Senator Moylan Guam Legislature <officeofsenatormoylan@guamlegislature.org>, "Honorable Frank F. Blas Jr." <office@senatorfrankblas.com>, mindy@postguam.com, The Post Editor in Chief <editor@postguam.com>, Oyaol Ngirairiki <managingeditor@postguam.com>, haidee@postguam.com, John Oconnor <john@postguam.com>, reporters@postguam.com, rlimtiaco@guampdn.com, Rindraty Limtiaco <slimtiaco@guampdn.com>, Guam PDN <news@guampdn.com>, Jerick Sablan <jpsablan@guampdn.com>, life@guampdn.com, dmgeorge@guampdn.com, Mar-Vic Cagurangan <publisher@pacificislandtimes.com>, Pacific Island Times <pacificislandtimes@gmail.com>, Maureen Maratita <publisher@glimpsesofofguam.com>, bryan@mvariety.com, emmanuel@mvariety.com, mabuhaynews@yahoo.com, editor@saipantribune.com, Bruce Hill <pacificjournalist@gmail.com>, Jason Salas <jason@kuam.com>, Sabrina Salas Matanane <sabrina@kuam.com>, Chris Malafunkshun Barnett <Chris@kuam.com>, Nestor Licanto <nestor@kuam.com>, reporters@kuam.com, K57 <news@k57.com>, Patti Rodriguez <parroyo@spbgum.com>, pattiontheradio@yahoo.com, Sorensen Pacific Broadcasting <news@spbgum.com>, raygibsonshow@gmail.com, [REDACTED], KISH <[REDACTED]>, Manuel Cruz <[REDACTED]>, Troy Torres <troy@kanditnews.com>, Maria Louella Losinio <[REDACTED]>, "Mayors' Council of Guam - Admin." <mcogadmin@teleguam.net>, "Mayor Paul M. McDonald" <mayor.mcdonald671@gmail.com>, agatmayor@yahoo.com, agatvice.chrisfejeran@yahoo.com, "Mayor Frankie A. Salas" <asanmainamayor@gmail.com>, June Blas <mayorbarrigada@gmail.com>, Jessie Bautista <[REDACTED]>, Jessy Gogue <ocp.mayor@gmail.com>, MELISSA SAVARES <[REDACTED]>, "Vice Mayor Peter John S. Benavente" <[REDACTED]>, hagatnamayor@hotmail.com, Mayor Anthony Chargualaf <inalahanmayor@gmail.com>, Allan Ungacta <mayorallan.ungacta@yahoo.com>, Vice Mayor Kevin AN Delgado <mangilao.vicemayor@gmail.com>, mayorernestc@yahoo.com, mtmmayorpaco17@gmail.com, Jesse Alig <jesse.alig@pitiguam.com>, Dale Alvarez <[REDACTED]>, Robert Hofmann <guammayor@gmail.com>, rudy iriarte <[REDACTED]>, Mayor Taitague <talofomayor@gmail.com>, "Mayor Louise C. Rivera" <Mayorlcrivera.tatuha@gmail.com>, "Vice Mayor Albert M. Toves" <atoves.tatuha@gmail.com>, Umatac Mayor <umatacmo@gmail.com>, "Mayor Anthony P. Sanchez" <yamayortony@gmail.com>, "Vice Mayor Loreto V. Leones" <[REDACTED]>, "Mayor Bill A. Quenga" <yonamayor2020@gmail.com>, jolene@postguam.com, Phil Leon Guerrero <phil@postguam.com>, Gerry Partido <[REDACTED]>, gerry@spbgum.com, Damen Borja <damen@spbgum.com>, [REDACTED], jsantotoma@guampdn.com, "Taitano, Joseph" <JTaitano@guampdn.com>, "David B. Herrera" <dbherrera@guam.net>, "John Reyes, Jr." <cltccommissioner.reyes@cltc.guam.gov>, Arlene Bordallo <cltccommissioner.bordallo@cltc.guam.gov>, Angela Camacho <angela.camacho@cltc.guam.gov>, Angela Santos <asantosfanohgeprutehidifende@gmail.com>, "Arthur U. San Agustin" <arthur.sanagustin@dphss.guam.gov>, Masatomo Nadeau <masatomo.nadeau@dphss.guam.gov>, "Rosanna Y. Rabago" <Rosanna.Rabago@dphss.guam.gov>, Jeffrey Pinaula <Jeffrey.Pinaula@dphss.guam.gov>

October 15, 2021

MEMORANDUM

To: All Senators, Stakeholders and Media

From: Speaker Therese M. Terlaje, Chairperson
Committee on Health, Land, Justice and Culture

Subject: **AMENDED SECOND NOTICE of Virtual Public Hearing: Tuesday, October 19, 2021**

Buenas yan Håfa Adai,

Please be advised that the Committee on Health, Land, Justice and Culture will convene a virtual public hearing, using the Legislature's virtual Zoom platform on **Tuesday, October 19, 2021, beginning at 9:00 a.m.** for the following agenda items:

9:00 AM:

- **BILL NO. 209-36 (COR)- THERESE M. TERLAJE-** "AN ACT TO ADOPT THE PROPOSED AMENDMENTS TO ARTICLE 5 OF CHAPTER 4, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, AS TRANSMITTED TO I LIHESLATURAN GUÅHAN PURSUANT TO THE ADMINISTRATIVE ADJUDICATION LAW, ATTACHED HERETO AS EXHIBIT A." **BILL LINK:** [https://www.guamlegislature.com/36th_Guam_Legislature/Bills_Introduced_36th/Bill%20No.%20209-36%20\(COR\).pdf](https://www.guamlegislature.com/36th_Guam_Legislature/Bills_Introduced_36th/Bill%20No.%20209-36%20(COR).pdf)

1:00 PM

- **APPOINTMENT HEARING:** DAVID HERRERA TO SERVE AS A MEMBER, CHAMORU LAND TRUST COMMISSION, FOR A TERM LENGTH OF THREE (3) YEARS; APRIL 11, 2019 TO APRIL 10, 2022, TO FILL THE UNEXPIRED TERM OF JOSEPH CRUZ. **APPOINTMENT PACKET LINK:** <https://guamlegislature.com/index/messages-and-communications/>

3:00 PM. (POSTPONED. TO BE RESCHEDULED)

- ~~**BILL NO. 168-36 (LS)- TELENA C. NELSON-** AN ACT TO ADD NEW §§ 41806 AND AMEND §§ 41810 OF ARTICLE 18, CHAPTER 4, DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO THE REQUIRED REGISTRATION OF PRESCRIBERS TO THE GUAM PRESCRIPTION MONITORING PROGRAM (PDMP). **BILL LINK:** [https://www.guamlegislature.com/36th_Guam_Legislature/Bills_Introduced_36th/Bill%20No.%20168-36%20\(LS\).pdf](https://www.guamlegislature.com/36th_Guam_Legislature/Bills_Introduced_36th/Bill%20No.%20168-36%20(LS).pdf)~~
- ~~**BILL NO. 169-36 (LS)- TELENA C. NELSON-** AN ACT TO AMEND APPENDIX A, APPENDIX B, APPENDIX C, APPENDIX D, AND APPENDIX E OF CHAPTER 26, TITLE 9 OF GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE LIST OF SCHEDULED CONTROLLED SUBSTANCES PROVIDED IN THE GUAM UNIFORM CONTROLLED SUBSTANCES ACT. **BILL LINK:** [https://www.guamlegislature.com/36th_Guam_Legislature/Bills_Introduced_36th/Bill%20No.%20169-36%20\(LS\).pdf](https://www.guamlegislature.com/36th_Guam_Legislature/Bills_Introduced_36th/Bill%20No.%20169-36%20(LS).pdf)~~

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Office of Speaker Therese M. Terlaje
Committee on Health, Land, Justice and Culture

I Mina'trentai Sais na Liheslaturan Guåhan

36th Guam Legislature

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 989-3590 Email: senatorterlajeguam@gmail.com

website: www.senatorterlaje.com

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 **AMENDED SECOND NOTICE OF VIRTUAL PUBLIC HEARINGS- October 19, 2021_TMT.pdf**
387K

Ed Pocaigue <sgtarms@guamlegislature.org>
To: "Speaker Therese M. Terlaje" <senatorterlajeguam@gmail.com>

Fri, Oct 15, 2021 at 10:11 AM

Håfa Adai,
Noted and updated on the calendar.
SYM

[Quoted text hidden]

--



Edward S. Pocaigue, Jr.
Sergeant at Arms

36th Guam Legislature
I Mina'trentai Sais na Liheslaturan Guåhan

Tel: (671) 969-3514

Email: sgtarms@guamlegislature.org

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Office of the Speaker **THERESE M. TERLAJE**

I Mina'trentai Sais na Liheslaturan Guåhan 36th Guam Legislature
Committee on Health, Land, Justice and Culture

October 15, 2021

MEMORANDUM

To: All Senators, Stakeholders and Media

From: Speaker Therese M. Terlaje, Chairperson *TMT*
Committee on Health, Land, Justice and Culture

Subject: **AMENDED SECOND NOTICE of Virtual Public Hearing: Tuesday, October 19, 2021**

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[https://www.guamlegislature.com/36th Guam Legislature/Bills Introduced 36th/Bill%20No.%20209-36%20\(COR\).pdf](https://www.guamlegislature.com/36th%20Guam%20Legislature/Bills%20Introduced%2036th/Bill%20No.%20209-36%20(COR).pdf)

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~~3:00 PM. (POSTPONED. TO BE RESCHEDULED)~~

- ~~**BILL NO. 168-36 (LS) TELENA C. NELSON** AN ACT TO ADD NEW §§ 41806 AND AMEND §§ 41810 OF ARTICLE 18, CHAPTER 4, DIVISION 1, TITLE 26, GUAM~~

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: senatorterlajeguam@gmail.com | www.senatorterlaje.com

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ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO THE REQUIRED REGISTRATION OF PRESCRIBERS TO THE GUAM PRESCRIPTION MONITORING PROGRAM (PDMP). **BILL LINK:**

[https://www.guamlegislature.com/36th-Guam-Legislature/Bills-Introduced-36th/Bill%20Ne.%20168-36%20\(LS\).pdf](https://www.guamlegislature.com/36th-Guam-Legislature/Bills-Introduced-36th/Bill%20Ne.%20168-36%20(LS).pdf)

- **BILL NO. 169 36 (LS)** ~~TELENA C. NELSON~~ AN ACT TO AMEND APPENDIX A, APPENDIX B, APPENDIX C, APPENDIX D, AND APPENDIX E OF CHAPTER 26, TITLE 9 OF GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE LIST OF SCHEDULED CONTROLLED SUBSTANCES PROVIDED IN THE GUAM UNIFORM CONTROLLED SUBSTANCES ACT. **BILL LINK:**

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GUAM DAILY POST • FRIDAY, OCTOBER 15, 2021

GOVERNMENT OF GUAM
BEFORE THE COMMISSIONER OF
BANKING & INSURANCE

Transamerica Premier Life Insurance Company
Petitioner

In the Matter of the
Application for Withdrawal and to
Permanently Discontinue the
Transaction of Insurance Business
In Guam pursuant to Title 22 GCA §15113

NOTICE OF INTENTION TO WITHDRAW

Notice is hereby given that Transamerica Premier Life Insurance Company
Of 4333 Edgewood Road NE, Cedar Rapids, IA 52499, USA

Intends to Withdraw and to
Permanently Discontinue the Transaction of
Insurance Business in Guam.

All persons interested in this matter should write to
Transamerica Premier Life Insurance Company at the above address
Or call (319) 355-8511 or the Office of
The Commissioner of Banking and Insurance
At Barrigada, Guam at 671-635-1843/4/5/6

GOVERNMENT OF GUAM
BEFORE THE COMMISSIONER OF
BANKING & INSURANCE

Transamerica Advisors Life Insurance Company
Petitioner

In the Matter of the
Application for Withdrawal and to
Permanently Discontinue the
Transaction of Insurance Business
In Guam pursuant to Title 22 GCA §15113

NOTICE OF INTENTION TO WITHDRAW

Notice is hereby given that Transamerica Advisors Life Insurance Company
Of 423 West Capitol Avenue, Suite 1800, Little Rock, AR 72201, USA

Intends to Withdraw and to
Permanently Discontinue the Transaction of
Insurance Business in Guam.

All persons interested in this matter should write to
Transamerica Advisors Life Insurance Company at the following address: 4333
Edgewood Road NE, Cedar Rapids, IA 52499, USA
Or call (319) 355-8511 or the Office of
The Commissioner of Banking and Insurance
At Barrigada, Guam at 671-635-1843/4/5/6



TWO MINUTES With The Bible

BEREAN BIBLE SOCIETY
PO Box 756, Germantown, WI 53022
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Now Is The Time

by Pastor Cornelius R. Stam

Today we think of St. Paul's words to the Corinthians in II Cor. 6:1, 2:

"We then as workers together with [God], beseech you also that ye receive not the grace of God in vain.... Behold, now is the accepted time; behold, now is the day of salvation."

This passage reminds us that it is not enough that "Christ Jesus came into the world to save sinners" collectively. We, each one individually, must do something about appropriating this salvation for ourselves.

After the classic passage in II Cor. 5:14-21 where the Apostle tells how Christ "died for all," and how God deals with all men in grace since "He hath made Him to be sin for us" so that "we might be made the righteousness of God in Him" – after this great unfolding of what God, through Christ, has done for us, he urges individual acceptance of this great truth.

As "workers together with God," the Apostle and his associates begged men not to "receive... the grace of God in vain," but to trust Christ, each one as His own personal Savior, to apply His redemptive work to themselves.

And even at that early date in the history of the Church, the Apostle gave men to understand that there was no time to lose; the day of grace was not to last forever, but was to give place to the day of judgment and wrath.

If this was so then, how much more is it so now! God has been very long suffering with the world. He has continued to deal with mankind in grace for nearly two thousand years but according to both Old Testament prophecy and Paul's "mystery" He will judge this world for its rejection of Christ.

When will this happen? No one knows. It is the very essence of grace that no one knows when the dispensation of grace will end. It is grace, pure grace, on God's part that causes Him to linger day after day in mercy toward a world that rejects Him.

Thus God's messengers cannot offer even one more day of grace. We must say as St. Paul did: "Behold, now is the accepted time; behold, now is the day of salvation." "Christ died for our sins" (I Cor. 15:3). "Believe on the Lord Jesus Christ, and thou shalt be saved" (Acts 16:31).



JUDICIARY OF GUAM

Guam Judicial Center
120 West O'Brien Drive, Hagåtña, Guam 96910
www.guamcourts.org

**INVITATION FOR BID
NO. IFB 22-01**

8TH COURTROOM INTERIOR RENOVATIONS

The Judiciary of Guam is accepting bids from qualified vendors for the Interior Renovations of the 8th Courtroom for the Judiciary of Guam.

Interested and qualified vendors may request for a printed or electronic copies of the IFB package from the Procurement Office, 1st Floor, Guam Judicial Center in Hagåtña, Guam beginning **Friday, October 15, 2021 from 8:00am to 5:00pm, Guam Standard Time, Monday to Friday**, except Government of Guam holidays.

All bids must be submitted to the Procurement Office **no later than 11:00am, Monday, November 8, 2021, Guam Standard Time**. All bids will be publicly opened and read aloud on that said date and time at the Administrator of the Courts Conference Room, 1st Floor, Guam Judicial Center in Hagåtña, Guam.

For any periodic updates of the IFB please visit the Judiciary's website <http://guamcourts.org>. For further information or to request for copies of the IFB package, please contact the Procurement Office at 671-475-3393/3175/3141/3290 or email jpcpepeda@guamcourts.org and/or mantonio@guamcourts.org

/s/ KRISTINA L. BAIRD
Administrator of the Courts.

The Judiciary of Guam is an equal opportunity provider and employer.

Supreme Court of Guam



Notice of Bar Examination

The Guam Board of Law Examiners is accepting applications for the
February 2022 Guam Bar Examination.

Bar Applications are available on the Supreme Court website at: www.guamsupremecourt.com or at
the Supreme Court of Guam Clerk's Office - Suite 300, Guam Judicial Center, Hagåtña.

Bar Examination Dates:
February 23 & February 24, 2022

Applications must be received by:

Timely Filing Deadline:
December 1, 2021, 4:00 p.m.

Regular Exam: \$800.00 application fee
Attorney's Exam: \$1,250.00 application fee

Late Filing Deadline:
January 3, 2022, 4:00 p.m.

Regular Exam: \$800.00 application fee plus \$250.00 late fee
Attorney's Exam: \$1,250.00 application fee plus \$250.00 late fee

For more information, you may contact:

Hannah Gutierrez Arroyo, Esq.
BOARD OF LAW EXAMINERS
Supreme Court of Guam
Suite 300, Guam Judicial Center
120 West O'Brien Drive Hagåtña, Guam 96910-5174
Office hours: 8:00 a.m. - 4:00 p.m.
Telephone: (671) 475-3120
Facsimile: (671) 475-3140
Email: bole@guamsupremecourt.com



SPEAKER THERESE M. TERLAJE

Committee on Health, Land, Justice & Culture
I Minu'trentai Saie na Liheslaturan Guahan



NOTICE OF VIRTUAL PUBLIC HEARINGS- TUESDAY OCTOBER 19, 2021

9:00 AM:

- BILL NO. 209-36 (COR)- THERESE M. TERLAJE-**AN ACT TO ADOPT THE PROPOSED AMENDMENTS TO ARTICLE 5 OF CHAPTER 4, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, AS TRANSMITTED TO LIHESLATURAN GUAHAN PURSUANT TO THE ADMINISTRATIVE ADJUDICATION LAW, ATTACHED HERETO AS EXHIBIT A."

1:00 PM

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3:00 PM

- BILL NO. 148-36 (LS)- TELENA C. NELSON-**AN ACT TO ADD NEW §§ 41806 AND AMEND §§ 41810 OF ARTICLE 10, CHAPTER 4, DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO THE REQUIRED REGISTRATION OF PRESCRIBERS TO THE GUAM PRESCRIPTION MONITORING PROGRAM (POMP).
- BILL NO. 149-36 (LS)- TELENA C. NELSON-**AN ACT TO AMEND APPENDIX A, APPENDIX B, APPENDIX C, APPENDIX D, AND APPENDIX E OF CHAPTER 26, TITLE 9 OF GUAM CODE ANNOTATED, RELATIVE TO UPDATING THE LIST OF SCHEDULED CONTROLLED SUBSTANCES PROVIDED IN THE GUAM UNIFORM CONTROLLED SUBSTANCES ACT.

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Office of the Speaker
THERESE M. TERLAJE

I Mina'trentai Sais na Liheslaturan Guåhan 36th Guam Legislature
Committee on Health, Land, Justice and Culture

AGENDA

Virtual Public Hearing
Tuesday, October 19, 2021

9:00 AM:

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LINK: [https://www.guamlegislature.com/36th Guam Legislature/Bills Introduced 36th/Bill%20No.%20209-36%20\(COR\).pdf](https://www.guamlegislature.com/36th%20Guam%20Legislature/Bills%20Introduced%2036th/Bill%20No.%20209-36%20(COR).pdf)

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Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: senatorterlajeguam@gmail.com | www.senatorterlaje.com

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I Mina'trentai Sais na Liheslaturan Guåhan | 36th Guam Legislature
Office of Speaker Therese M. Terlaje

Committee on Health, Land, Justice and Culture

Date: TUESDAY, OCTOBER 19, 2021

Time: 9:00 AM

VIRTUAL PUBLIC HEARING: BILL NO. 209-36 (COR)- THERESE M. TERLAJE- "AN ACT TO ADOPT THE PROPOSED AMENDMENTS TO ARTICLE 5 OF CHAPTER 4, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, AS TRANSMITTED TO I LIHESLATURAN GUÅHAN PURSUANT TO THE ADMINISTRATIVE ADJUDICATION LAW, ATTACHED HERETO AS EXHIBIT A."

| | NAME | ADDRESS | CONTACT NO. | E-MAIL | Type of Testimony | | Support | |
|----|--|---------|-------------|--------|-------------------|------|---------|----|
| | | | | | WRITTEN | ORAL | Yes | No |
| 1 | M. Thomas Nadeau, Chief Environmental Public Health Officer, Department of Public Health and Social Services | | | | x | X | X | |
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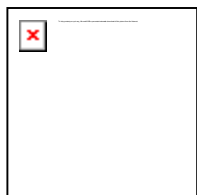
From: Committee on Rules 36GL <cor@guamlegislature.org>
Sent: Tuesday, August 10, 2021 4:12 PM
To: Clerks; Rennae Meno
Cc: Speaker Therese M. Terlaje
Subject: Messages and Communications for Doc. No. 36GL-21-0958*.
Attachments: 36GL-21-0958.pdf

Håfa Adai Clerks,

Please see attached M&C Doc. No. 36GL-21-0958 for processing:

| | | |
|--------------|--|---|
| 36GL-21-0958 | DPHSS' Proposed Rules and Regulations Governing the Issuance of Sanitary Permits*. | Department of Public Health and Social Services |
|--------------|--|---|

Si Yu'os Ma'åse',



COMMITTEE ON RULES

Vice Speaker Tina Rose Muña Barnes
36th Guam Legislature
I Mina'trentai Sais Na Liheslaturan Guåhan
163 Chalan Santo Papa Hågatña Guam 96910
Email: cor@guamlegislature.org

"Disclaimer: This message is intended only for the use of the individual or entity to which it is addressed and may contain information which is privileged, confidential, proprietary, or exempt from disclosure under applicable law. If you are not the intended recipient or the individual responsible for delivering the message to the intended recipient, you are strictly prohibited from disclosing, distributing, copying, or in any way using this message. If you have received this communication in error, please notify the sender and immediately delete any copies you may have received. Thank you."

----- Forwarded message -----

From: **Speaker Therese M. Terlaje** <speaker@guamlegislature.org>
Date: Tue, Aug 10, 2021 at 1:32 PM
Subject: Messages and Communications for 36GL-21-0958
To: Legislative Secretary Amanda Shelton <officeofsenatorshelton@guamlegislature.org>, Committee on Rules 36GL <cor@guamlegislature.org>

Håfa Adai,

Please see attached M&C Doc. No. 36GL-21-0958.

| | | |
|--------------|--|---|
| 36GL-21-0958 | DPHSS' Proposed Rules and Regulations Governing the Issuance of Sanitary Permits*. | Department of Public Health and Social Services |
|--------------|--|---|

Si Yu'os Ma'åse',

Maria Abante
Legislative Assistant

Office of Speaker Therese M. Terlaje
Committee on Health, Land, Justice and Culture

I Mina'trentai Sais na Liheslaturan Guahan

36th Guam Legislature

Office Location: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910

Address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 989-3590 Email: speaker@guamlegislature.org

website: www.senatorterlaje.com

----- Forwarded message -----

From: **Masatomo Nadeau** <Masatomo.Nadeau@dphss.guam.gov>

Date: Tue, Aug 10, 2021 at 8:41 AM

Subject: Electronic copy of Proposed Rules and Regulations for Sanitary Permit

To: speaker@guamlegislature.org <speaker@guamlegislature.org>

Cc: Jeffrey Pinault <Jeffrey.Pinault@dphss.guam.gov>

Hafa adai Speaker Terlaje:

Attached is an advance, electronic courtesy copy of the transmittal letter to you of DPHSS' proposed Rules and Regulations Governing the Issuance of Sanitary Permits, which DPHSS seeks to adopt pursuant to the Administrative Adjudication Law. The original, hardcopy of the proposal should be transmitted sometime today. Thank you.

Respectfully,

Tom

M. Thomas Nadeau

Chief Environmental Public Health Officer

Division of Environmental Health

Department of Public Health and Social Services

671-300-9579

Masatomo.nadeau@dphss.guam.gov

"The information contained in this e-mail document is confidential and intended only to be viewed by the recipient listed above. If you are not the intended recipient (or the employee or agent responsible to deliver this to the intended recipient), you are hereby notified that any distribution or copying of this document is strictly prohibited. If you have received this document in error, please contact the sender listed above and destroy the document. Thank you."



Speaker Therese M. Terlaje <speaker@guamlegislature.org>

Electronic copy of Proposed Rules and Regulations for Sanitary Permit

Masatomo Nadeau <Masatomo.Nadeau@dphss.guam.gov>

Tue, Aug 10, 2021 at 8:41 AM

To: "speaker@guamlegislature.org" <speaker@guamlegislature.org>

Cc: Jeffrey Pinaula <Jeffrey.Pinaula@dphss.guam.gov>

Hafa adai Speaker Terlaje:

Attached is an advance, electronic courtesy copy of the transmittal letter to you of DPHSS' proposed Rules and Regulations Governing the Issuance of Sanitary Permits, which DPHSS seeks to adopt pursuant to the Administrative Adjudication Law. The original, hardcopy of the proposal should be transmitted sometime today. Thank you.

Respectfully,

Tom

36GL-21-0958
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

~~08-10~~ 2021

Time: 8:41am

Received:

M. Thomas Nadeau

Chief Environmental Public Health Officer

Division of Environmental Health

Department of Public Health and Social Services

671-300-9579

Masatomo.nadeau@dphss.guam.gov

COMMITTEE ON RULES**RECEIVED:**

August 10, 2021

1:32 P.M.

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Transmittal Letter to 36th Legislature of Proposed SP Regulations dated 08.05.21.pdf

1883K



GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT



LOURDES A. LEON GUERRERO
GOVERNOR, MAGA'HAGA'

JOSHUA F. TENORIO
LT. GOVERNOR, SIGUNDO MAGA'LAHI

ARTHUR U. SAN AGUSTIN, MHR
DIRECTOR

LAURENT SF DUENAS, MPH, BSN
DEPUTY DIRECTOR

TERRY G. AGUON
DEPUTY DIRECTOR

AUG 05 2021

Honorable Therese M. Terlaje
Speaker, Thirty-Sixth Guam Legislature
163 Chalan Santo Papa
Hagatna, Guam 96910

Via: Honorable Amanda L. Shelton
Secretary of the Legislature

Dear Speaker Terlaje:

This is a transmittal to *I Liheslaturan Guåhan* of the proposed *Rules and Regulations Governing the Issuance of Sanitary Permits* (the "Rules and Regulations") pursuant to the Administrative Adjudication Law.

The Division of Environmental Health (DEH) of the Department of Public Health and Social Services (DPHSS) held a public hearing on December 3, 2019 to receive public comments on proposed Rules and Regulations. The proposed rules and regulations were posted on the website of the Guam DPHSS (www.dphss.guam.gov) on December 3, 2019. The announcements for the public hearing were also published in the Guam Daily Post on November 15, 2019 and December 2, 2019 and five (5) copies of the proposal and the Economic Impact Statement (EIS) were also on file at the DEH.

The public hearing was held on December 3, 2019 from 9:00 AM – 11:00 PM at the Guam Environmental Public Health Laboratory in Dededo. No one from the public was in attendance at the hearing and no oral or written testimonies were received at the time or 10 days thereafter. All procedures provided in the Administrative Adjudication Law (Title 5 GCA Chapter 9, Article 3) were followed in notifying and conducting the public hearing.

The proposed draft of these rules and regulations was submitted for review to the Office of the Attorney General on June 28, 2020. Approval as to form of the proposed rules and regulation was received by DPHSS on August 25, 2020 (copy enclosed).

A copy of the letter posted on the webpage of the Compiler of Laws which states, "Compliance with the recommended format will be de facto indication that the submission is in a format approved by the Compiler of Laws" is enclosed. The proposed rules and regulations are in compliance with the recommended format.


We have enclosed the following materials for your reference:

- A hardcopy of the public hearing notice that was printed in the Guam Daily Post on November 15, 2019 and December 2, 2019;
- A hardcopy of the draft proposed *Rules and Regulations Governing the Issuance of Sanitary Permits*, as well as an electronic copy;
- A hardcopy of the memo of approval from the Office of the Attorney General;
- A hardcopy of the letter regarding the format from the Office of the Compiler of Law;
- A hardcopy of the minutes of the December 3, 2019 public hearing;
- Recording of the public hearing on December 3, 2019; and
- A hardcopy of the memo of approval from the Governor's Office.

Because of the adverse economic impact of COVID-19 pandemic, we are proposing that the revised fee schedule in the proposal be effective 365 days after the end of the Governor's public health emergency declaration or after these Rules and Regulations adoption, whichever is later. However, DPHSS still seeks the remaining provisions be effective immediately upon adoption.

Should you have any questions regarding this matter, please contact Mr. Thomas Nadeau, Chief Environmental Public Health Officer of the Division of Environmental Health, Department of Public Health and Social Services, at 922-2547 or masatomo.nadeau@dphss.guam.gov.

Senseramente,


ARTHUR U. SAN AGUSTIN, MHR
Director
Department of Public Health and Social Services

Enclosures



GUAM COMMUNITY COLLEGE
OFFICE OF THE PRESIDENT
Mary A.Y. Okada, Ed.D.

PUBLIC ANNOUNCEMENT

This Advertisement is paid with Government of Guam General Funds by
Guam Community College

The Guam Community College is soliciting proposals from qualified firms or individuals interested in providing legal services

Request for Proposal (RFP) packages may be obtained at the Guam Community College's Materials Management Office in Mangiao (GCC Student Services & Administration Building Room 2105, 1st floor, Guam) from Monday through Friday, excluding Government holidays between 8:00 a.m. and 5:00 p.m. The RFP package may also be requested electronically via email: materialsmanagement@guamcc.edu. Deadline for submission of all proposals to the GCC Materials Management Office is no later than 5:00 p.m. Chamorro Standard Time (Guam Time), Tuesday, December 3, 2019. All proposals must be submitted to the attention of Mary A.Y. Okada, Ed.D., Guam Community College President.

Guam Community College reserves the right to reject any or all proposals, solicit new proposals, waive minor informalities or irregularities or award the Legal Services in whole or in part.

All questions regarding the proposal should be made in writing and directed to Guam Community College President at materialsmanagement@guamcc.edu or facsimile at (671) 734-5238. Except to the above person named, direct or indirect contact with GCC's Management or Staff Board members or any person participating in the selection process is prohibited.

/s/ MARY A.Y. OKADA, Ed.D.
President

GCC is an equal opportunity employer and a provider of services to individuals having special needs. All interested parties should contact (671) 735-1517.



PORT OF GUAM
ATUNDAI / PUERTON GUAMAN
Jorge D. Leon Guerrero, Commercial Port
1938 Cabras Highway, Suite 201, P.O. Box 96025
Telephone: (671) 477-5914/715 Facsimile: (671) 477-5699/6641
Website: www.portofguam.gu



London A. Leon Guerrero
Governor of Guam
Joshua F. Tenorio
Lieutenant Governor

The Port Authority of Guam Board of Directors will hold its Regular Board meeting on Tuesday, November 19, 2019 at 3:00 p.m. at the Board of Directors' Conference Room, Port Authority of Guam, Cabras Island, Piti. Business to be transacted include: Legal Matters pursuant to §8111(c) as well as other regular agenda items. Individuals with disabilities who may need special accommodations may contact Mr. Simeon Delos Santos, ADA Coordinator at 477-5931/4, ext. 430.

GUAM HOUSING AND URBAN RENEWAL AUTHORITY

Board of Commissioners Meeting & Executive Session
12:00 P.M., Friday, November 22, 2019

GHURA Main Office

1st Floor Conference Room

117 Bien Venida Avenue, Sinajana

For special accommodation, contact Ms. Kathy Taitano Tel No. 475-1322 or TTY #472-3701



GOVERNMENT OF GUAM

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPATTAMONTON SALUT PUPILEKO TAN SETOGION SUSIAT
123 Chalan Kareta Mangilao, Guam 96913-6304

NOTICE OF PUBLIC HEARING

PURSUANT TO § 9301, DIVISION 1, CHAPTER 9 TITLE 5, GCA, ALL AGENCIES OF THE GOVERNMENT OF GUAM ARE REQUIRED TO PUBLISH A NOTICE OF PUBLIC HEARING ON THE ADOPTION, PROMULGATION, REPEAL, REVISION, OR AMENDMENT OF RULES. THE DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES WILL BE ACCEPTING PUBLIC COMMENTS ON THE PROMULGATION OF REVISED RULES AND REGULATIONS GOVERNING THE ISSUANCE OF SANITARY PERMIT:

DATE: Thursday, December 3, 2019

TIME: 9:00 A.M. TO 11:00 P.M.

PLACE: Guam Environmental Public Health Laboratory, Dededo

Copies of the proposed rules and regulations are available for inspection at the Division of Environmental Health (DEH) on the 2nd floor of the Department of Public Health and Social Services in Mangilao, and on the DPHSS webpage at dphss.guam.gu. Please call DEH at 735-7221 for questions and assistance.

LINDA UNPINGCO DENORCEY, MPH, Director

HEDCO Local Development Corporation

Statement of Financial Condition
September 30, 2019

Assets

| | |
|---------------------------|------------------------|
| Cash and Cash Equivalents | \$ 4,072,680.45 |
| Net Fixed Assets | 196,194.14 |
| Other Assets | 55.00 |
| Total Assets | \$ 4,268,929.59 |

Liabilities

| | |
|------------------------|------------------------|
| Fund Balance | \$ 256,292.94 |
| Total Net Worth | \$ 4,012,636.65 |

Statement of Revenue, Expenditures and Changes in Fund Balance
September 30, 2019

| | |
|---|----------------------|
| Revenues | \$ 1,230,559.37 |
| Expenses | 1,126,979.80 |
| Excess of Revenues over Expenses | \$ 103,579.57 |

SUPREME COURT OF GUAM



Notice of Bar Examination

The Guam Board of Law Examiners is accepting applications for the
February 2020 Guam Bar Examination

Bar Applications are available at the Supreme Court website at: www.guamsupremecourt.com or at the
Supreme Court of Guam Clerk's Office, Suite 300 Guam Judicial Center, Hagåtña

Bar Examination Dates

February 26 & February 27, 2020

Applications must be received by

Final Filing Deadline

December 2, 2019, 4:00 p.m.

\$800.00 application fee

Final Filing Deadline

January 2, 2020, 4:00 p.m.

\$800.00 application fee plus \$250.00 late fee

For more information, you may contact

Martha Guerrero Acosta, Esq.

BOARD OF LAW EXAMINERS

Supreme Court of Guam

Suite 300 Guam Judicial Center

127 West O'Brien Drive Hagåtña, Guam 96913-5174

Office hours: 8:00 a.m. - 4:00 p.m.

Telephone: (671) 475-3120

Facsimile: (671) 475-3143

E-mail: info@guamsupremecourt.com

GUAM

AUTHORITY

Better Water. Better Lives.
Gloria S. Nelson Public Service Building
688 Route 15, Mangilao, Guam 96913
Tel: (671) 300-6126/27 Fax: (671) 643-3750

THIS AD IS PAID FOR BY GWA (PUBLIC LAW 26-12)

INVITATION FOR BID

The GUAM WATERWORKS AUTHORITY will receive sealed bids for Variable Frequency Drive System, GWA IFB NO. 2020-01. Bids will be accepted until 10:00 a.m. Chamorro Standard Time December 04, 2019 at the GWA Procurement Office 1st floor located at the Gloria S. Nelson Public Service Building in Mangilao at which time and place all bids will be publicly opened and read aloud. All bids must be accompanied by a Bid Performance Bond in the amount of 15 percent (15%) of the total bid price. Bid security may be bid performance bond, Surety Bond, certified check or cashier's check made payable to Guam Waterworks Authority. A non-refundable amount of \$15,000 is required for the purchase price of every set of bidding documents which are available at the GWA Procurement Office. Bidders can download a bid package at www.guamwaterworks.gu without charge, although vendors are strongly encouraged to contact or visit GWA Procurement Office to register to ensure that updated information, notices or bid amendments are distributed to you.

GWA reserves the right to revise or reject any or all proposals and to waive any minor imperfection in the bid proposal in the interest of the Guam Waterworks Authority.

/s/ MIGUEL C. BORDALLO, PE
General Manager

Ron Francis says he responded immediately

By Chip Alexander
The News & Observer
(Raleigh, N.C.)
(Tribune News Service)

Former Carolina Hurricanes general manager Ron Francis issued his first public comments Saturday on physical incidents involving former Canes coach Bill Peters and two players, and his statement contradicts comments made this week by former majority owner Peter Karmanos.

Peters, who coached the Canes from 2014 to 2018, kicked former defenseman Michal Jordan and punched another player, who has not been identified. Canes coach Rod Brind'Amour, a former assistant under Peters, confirmed this week that the incidents occurred.

Francis, in his statement, said he took "immediate action" after being informed of the incidents and added that he "briefed ownership."

Peters resigned Friday as head coach of the Calgary Flames. Former NHL defenseman Akim Aliu had accused him of using racial slurs while Aliu played on an American Hockey League



PRESSURE: In this June 2014 file photo, Carolina Hurricanes head coach Bill Peters, left, and general manager Ron Francis speak to the media during Peters' introductory news conference at PNC Arena in Raleigh, N.C. Francis, for incidents that happened while he was GM, is coming under pressure. Jill Knight/Raleigh News & Observer/Tribune News Service

team coached by Peters a decade ago. Jordan later came forward, also via Twitter, to say Peters kicked him and punched another Canes player during a game.

Karmanos, in an interview this week with the Seattle Times, said he was not informed by Francis about the two incidents, saying he would have fired Peters had he been told.

Francis, who hired Peters to be the Canes coach, was Carolina's general manager until 2018. He now is general manager of the Seattle NHL expansion franchise.

Francis said in the statement, issued by the NHL, that while Hurricanes GM he was first made aware of the two physical incidents by a group of players and hockey staff members.

"I took this matter very seriously," Francis said in the statement. "I took immediate action to address the matter and briefed ownership. To my knowledge no further incidents occurred."

Francis extended Peters' contract in July 2016 through the 2018-19 season. Peters resigned after the 2017-18 season, having failed to reach the Stanley Cup playoffs in any of his four seasons.

Francis said he would make no further comments, saying it would be inappropriate "while an active investigation was being conducted by another team."

Brind'Amour said this week that he believed the situation was handled correctly at the time by management. Jordan, who now plays in the KHL, last played for the Hurricanes in the 2015-16 season.

Karmanos sold majority interest in the Hurricanes to Tom Dundon in January 2018 but remains a minority owner. Contacted Saturday via text, he declined to comment at this time.

Neither Francis nor Peters responded this week to requests for comment.

GUAM DAILY POST • MONDAY, DECEMBER 2, 2019

Committee On Health, Tourism, Historic Preservation, Land and Justice

PUBLIC HEARING • 5:00 PM • Tuesday, DECEMBER 10, 2019

Guam Legislative Public Hearing Room, Guam Congress Building, Hagåtña

AGENDA

Oversight Hearing on Guam State Historic Preservation Office:

Update on the negotiation of a new Programmatic Agreement (PA) between the Department of Defense and Guam State Historic Preservation Office to ensure protection of Guam's cultural and historic properties in Mariana Islands Training and Testing (MITT) areas

If you require a special accommodation or for further information, please contact the Office of Senator Therese M. Terlaue at 722-3550. Testimonies may be submitted to our office at Ada Plaza Center, Suite 201, 112 Agaña Avenue, Hagåtña, Guam 96910, to the Guam Congress Building, or via email at senate@legis.gov.gu. The hearing will be broadcast on local television, GFA Channel 21, Dorrance Channel 11/60.4 and stream online via 11 LiveStation Guam on live feed at www.11live.com. If you need a sign language interpreter, please contact the Office of Senator Therese M. Terlaue at 722-3550.

SENATOR THERESA M. TERLAUE

11th District, Senator, Guam Legislature

Guam Legislature

#024-20 INSTRUCTOR TO ASSOCIATE PROFESSOR (ADULT HEALTH/COMMUNITY HEALTH NURSING)

#025-20 INSTRUCTOR TO ASSOCIATE PROFESSOR (OBSTETRIC MATERNAL-CHILD HEALTH NURSING)

#026-20 INSTRUCTOR TO ASSOCIATE PROFESSOR (PEDIATRIC NURSING)

For more information regarding these positions, please contact the Human Resources Office at 722-2244 or visit our website at www.guam.gov.gu. For more information regarding these positions, please contact the Human Resources Office at 722-2244 or visit our website at www.guam.gov.gu.

JOSEPH B. GUIMATAOIAO
Acting Chief Human Resources Officer

THE UNIVERSITY OF GUAM

11th District, University of Guam

GOVERNMENT OF GUAM

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DEPARTAMENTON SALUD Y SERBISION SUSAAT
113 Chalan Kareta Mangilao, Guam 96913 6304

NOTICE OF PUBLIC HEARING

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DATE: Thursday, December 3, 2019
TIME: 9:00 A.M. TO 11:00 P.M.
PLACE: Guam Environmental Public Health Laboratory, Dededo

Copies of the proposed rules and regulations are available for inspection at the Division of Environmental Health (DEH) on the 2nd floor of the Department of Public Health and Social Services in Mangilao, and on the DPHSS webpage at dphss.guam.gov. Please call DEH at 735-7221 for questions and assistance.

LINDA UNPINGCO DENORCEY, MPH, Director

GOVERNMENT OF GUAM

11th District, Government of Guam

FIREFIGHTERS ON GUAM

To all firefighters on Guam who were exposed to and or worked with AFFF (foam) and are now suffering from any of the ailments noted below.

1 Kidney cancer

2 Ulcerative colitis

3 Thyroid disease

You are strongly encouraged to contact the undersigned so that your legal rights and possible remedies can be explained to you

Michael J. Berman
Berman O'Connor & Mann
111 W. Chalan Santo Papa Ste 503
Hagåtña, GU 96910
Telephone: (671) 477-2778
email: mjberman@pacificl原因.com

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GOVERNMENT OF GUÅHAN
DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES
DIVISION OF ENVIRONMENTAL HEALTH

**RULES AND REGULATIONS GOVERNING THE
ISSUANCE OF SANITARY PERMITS**

Title 26 Guam Administrative Rules and Regulations

Chapter 4

Article 5

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1 **§4501. Purpose.** The purpose of these rules and regulations is to govern the issuance,
2 fees, and administrative penalty for Sanitary Permits.

3 **§4502. Authority.** Section 20105 of Chapter 20 and Section 21102 of Chapter 21, Title
4 10 Guam Code Annotated authorizes the Director of the Department of Public Health and Social
5 Services to promulgate rules and regulations necessary to carry out the provisions of the law
6 governing the sanitary operations of health-regulated establishments. Section 20118 of Chapter
7 20 of Title 10 Guam Code Annotated authorizes the Department to promulgate rules and
8 regulations for administrative penalties.

9 **§4503. Title.** These rules and regulations shall also be known and cited as the *Sanitary*
10 *Permit Rules and Regulations.*

11 **§4504. Definitions.** As used in these rules and regulations:

12 ~~(a) Chemical Toilet shall mean a building or structure housing one (1) or more water-~~
13 ~~tight containers of liquid chemical disinfectants intended to receive and hold human~~
14 ~~excrement.~~

15 (a) *Cosmetic Establishment* shall mean any premises or portion thereof, wherein any
16 of the following is practiced for compensation:

17 (1) Shaving, clipping, trimming, or cutting human hair;

18 (2) Singeing, shampooing, arranging, adorning, dressing, curling, waving,
19 permanent waving, tinting, applying tonic to or dyeing human hair;

20 (3) Giving facial, scalp, neck or body massages or treatments with oils, creams,
21 lotions, or other preparations either by hand or mechanical appliances;

22 (4) Applying cosmetic preparations, antiseptics, powders, oils, clays, lotions, or
23 other preparations to scalp, face, neck, or hands; or

1 (5) Manicuring or pedicuring.

2 (b) *Department* shall mean the Department of Public Health and Social Services of the
3 government of Guam.

4 (c) *Director* shall mean the Director of the Department of Public Health and Social
5 Services, or his designated representative.

6 (d) *Dry Cleaning Establishment* shall mean any place, building, structure, room,
7 premises, or portions thereof, used in the business of dry cleaning and dyeing of wearing apparel,
8 household linens and other articles, including coin-operated dry-cleaning establishments.

9 (e) *Eating and Drinking Establishment* shall mean any food service establishment,
10 mobile food service establishment, or vending machine.

11 (f) *Edible Garbage Feeding Establishment* shall mean ~~swill or leavings of food or any~~
12 ~~abandoned, spoiled, condemned meat, fish, fowl, vegetable matter, or offal from slaughtered~~
13 ~~animals, liquid or solid, which is free of toxic, or deleterious substances, and is deemed by the~~
14 ~~Director as being suitable for use solely as animal feed.~~ a farm, ranch, facility, premises, site, or
15 any place approved by the Director for operation to process edible garbage for the purpose of
16 livestock feeding.

17 (g) *Employee* shall mean any individual, including the owner, operator, manager, or
18 other person performing any function in a health-regulated establishment, whether for
19 compensation or otherwise.

20 (h) *Food Establishment* shall mean and includes every establishment or place which is
21 used or occupied as a bakery, confectionary, cannery, dairy, creamery, packing house, grocery,
22 supermarket, meat or poultry market, fruit or vegetable market, delicatessen, beverage plant,
23 slaughterhouse, poultry processing plant, fish processing plant, frozen food processing plant,

1 public market, food warehouse, or for the production, processing, manufacture, preparation for
2 sale, canning, bottling, packing, packaging, storage, sale, or distribution of food.

3 (i) *Health-Regulated Establishment* shall mean any (1) eating and drinking
4 establishment; (2) food establishment; (3) institutional facility; (4) hotel; (5) cosmetic
5 establishment; (6) laundry and dry-cleaning establishment; (7) public swimming pool; (8)
6 mortuary; (9) edible garbage feeding establishment; ~~(10) chemical toilet~~; and (10) any other
7 establishment required to possess a Sanitary Permit issued by the Department.

8 (j) *Hotel* shall mean any structure or any portion of any structure, including any
9 lodging house, rooming house, dormitory (including a dormitory housing for contract employees),
10 health spa, bachelor hotel, studio hotel, motel, private club, containing four (4) or more guest
11 rooms and which is occupied or is intended or designed for occupancy, by four (4) or more guests,
12 whether rent is paid in money, goods, labor, or otherwise, or whether with or without meals. It
13 does not include any penal institutions, hospital, clinic, nursing home, school, laboratory, or child
14 care facility.

15 (k) *Institutional Facility* shall mean any structure or any portion of any structure
16 operating as a child care facility, penal institution, school, hospital, clinic, nursing home, or
17 laboratory as defined in Title 10 GCA, Chapter 25.

18 (l) *Mortuary* shall mean any place used for such activities as are incident, convenient,
19 or related to the preparation and arrangements for the funeral, transportation, burial, cremation, or
20 other disposition of dead human bodies.

21 (m) ~~*Public Laundry and Dry Cleaning Establishment*~~ shall mean any place, building,
22 structure, room, establishment, premises or portions thereof, used in the business of making,
23 sorting, washing, drying, starching, ironing, or wearing apparel, household linens and other

1 articles, including any establishment providing laundering equipment for use by customers for a
2 fee, and known by various terms such as laundromat, wash-o-mat, or launderette.

3 (n) *Public Swimming Pool* shall mean any artificial structure, basin, chamber, or tank
4 constructed of impervious material used or intended to be used for swimming, diving, wading, or
5 recreational bathing (but *does not* include conventional bath-tubs where the primary purpose is the
6 cleaning of the body or individual therapeutic tubs) and that is available for public use, whether
7 for a fee or free of charge; or owned or used by any business, partnership, corporation or person
8 for the use of their customers, clients, guests or employees, including, but not limited to, a
9 commercial pool, a community pool or a pool at a hotel, motel, resort, auto park, trailer park,
10 apartment house, or other multiple rental unit, private club, public club, public or private school,
11 gymnasium or health establishment.

12 (o) *Sanitary Permit* shall mean the official document issued by the Department of
13 Public Health and Social Services authorizing a health-regulated establishment to operate its
14 business.

15 (p) *Temporary Food Service Establishment (also known as TFSE)* shall mean any
16 eating and drinking establishment which operates at a fixed location for a period of time ~~not~~
17 ~~exceeding six (6) months~~ 1 to 180 days in conjunction with a carnival, fair, circus, exhibition, or
18 other transitory gathering not of a permanent structure, which are further described and identified
19 below based on its duration of operation:

20 (1) TFSE-1 which shall be those operating for 1 day only;

21 (2) TFSE-W which shall be those operating for 1 day, every week, for a year;

22 (3) TFSE-7 which shall be those operating for up to 7 days, but not less than two
23 consecutive days;

1 (4) TFSE-180 which shall be those operating for up to 180 consecutive days; and

2 (5) TFSE-X which shall be those operating in various combination of days not
3 defined elsewhere; provided, it does not exceed 180 days.

4 (q) *Special Village Event* shall mean a carnival, fair, circus, exhibition, or other
5 transitory gathering sponsored by the village Municipal Planning Council, *not to exceed seven (7)*
6 *consecutive days.*

7 **§4505. Sanitary Permit Applications for New and Renewal.**

8 (a) All applications, and supporting documents, for a Sanitary Permit shall be in a
9 form, format, and medium prescribed by the Director.

10 (b) A non-refundable deposit of ~~Twenty~~ Thirty Dollars (~~\$20.00~~\$30.00) shall be made
11 to the 'Treasurer of Guam' at the time the application for Sanitary Permit is submitted to the
12 Department. Upon completion and processing of the application, the deposit amount shall be
13 deducted from the appropriate fee listed in §4506. In the event the calculated, prorated fee for the
14 Sanitary Permit is less than the non-refundable deposit then the applicant shall pay the prorated
15 fee as the deposit.

16 (c) Any application that remains inactive for sixty (60) consecutive days because of
17 the inaction by the applicant (i.e., pending submission of required supporting documents), shall be
18 considered permanently inactive, removed from the file for processing, and then destroyed, and
19 the non-refundable ~~Twenty Dollars (\$20.00)~~ deposit shall be automatically forfeited.

20 (d) An applicant who wishes to re-apply after his or her application has become
21 permanently inactive under the provision of §4505(c) shall be considered a new applicant and shall
22 re-submit the application and supporting documents and pay all required fees, including the
23 ~~Twenty Dollars (\$20.00)~~ non-refundable deposit fee.

1 (e) Failure to renew a Sanitary Permit within sixty (60) days of the due date shall void
2 the Sanitary Permit. A valid Sanitary Permit may not be reinstated until a new application is filed
3 and approved by the Department and payment is received, along with any other fees and monetary
4 penalty.

5 (f) A health-regulated establishment that fails to renew its Sanitary Permit for two
6 consecutive renewal periods shall be considered inactive, and any application received thereafter
7 for that establishment shall be treated as a new application and meet all the requirements as a new
8 applicant.

9 (g) The expiration date of a Sanitary Permit issued for a Temporary Food Service
10 Establishment shall be the final date of the temporary event.

11 (h) Any Temporary Food Service Establishment or Special Village Event that meets
12 criteria, as determined by the Department, based on the event's anticipated number of people
13 attending, including highly susceptible populations; expected number of vendors; and types of
14 food to be served or offered for sale must provide at least one designated, reserved parking space
15 near the event and a sheltered booth to be utilized by the Department for the duration of the event
16 by the organizer. The designated parking space shall be no further than the nearest parking made
17 available to the event organizer and/or the public, whichever is closer, and the booth shall have, at
18 a minimum, a table for writing that is no less than 24 sq. ft. in size, two chairs, and an overhead
19 protection from the elements, such as a canopy or other covering.

20 §4506. Fees. Fees for the issuance of a Sanitary Permit *shall* be as follows:

21 (a) Excluding TFSE, the Sanitary Permit fee for all health-regulated establishments
22 shall be the following, which shall be pro-rated based on the annual renewal date of the permit:

1 (1) Three Hundred Sixty-Eight Dollars (\$368.00), effective immediately upon
2 the adoption of these rules and regulations, if the establishment has 1 to 10 employees. For
3 health-regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be
4 assessed for each additional employee above 10.

5 (2) Four Hundred Sixty-Eight Dollars (\$468.00) on the second anniversary of
6 these rules and regulations adoption, if the establishment has 1 to 10 employees. For
7 health-regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be
8 assessed for each additional employee above 10.

9 (3) Five Hundred Sixty-Eight Dollars (\$568.00) on the third anniversary of these
10 rules and regulations adoption, if the establishment has 1 to 10 employees. For health-
11 regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be assessed
12 for each additional employee above 10.

13 (4) Six Hundred Sixty-Eight Dollars (\$668.00) on the fourth anniversary of these
14 rules and regulations adoption, if the establishment has 1 to 10 employees. For health-
15 regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be assessed
16 for each additional employee above 10.

17 (5) Seven Hundred Sixty-Eight Dollars (\$768.00) on the fifth anniversary of
18 these rules and regulations adoption, and thereafter, if the establishment has 1 to 10
19 employees. For health-regulated establishments with 11 or more employees, Five Dollars
20 (\$5.00) shall be assessed for each additional employee above 10.

21 (b) The Sanitary Permit fee for Temporary Food Service Establishments shall be:

22 (1) Fifty Dollars (\$50.00) for TFSE-1;

23 (2) One Hundred Fifty-Five Dollars (\$155.00) for TFSE-W;

- 1 (3) One Hundred Twenty-Five Dollars (\$125.00) for TFSE-7;
- 2 (4) Two Hundred Dollars (\$200.00) for TFSE-180;
- 3 (5) Three Hundred Dollars (\$300.00) for TFSE-X; and
- 4 (6) Twenty-Five Dollars (\$25.00) for Special Village Events officially sponsored
5 by a village Municipal Planning Council, provided, however, that the vendor shall be
6 limited to three (3) events per calendar year per permit issued.
- 7 (c) The Sanitary Permit fee for vending machines shall be:
- 8 (1) Five Hundred Dollars (\$500.00) per vending machine for each of the first
9 style or model of vending machine; and
- 10 (2) Ten Dollars (\$5.00-\$10.00) for each additional vending machine.
- 11 ~~(d) The Sanitary Permit fee for chemical toilet operator shall be Five Hundred Dollars~~
12 ~~(\$500.00) regardless of the number chemical toilets possessed by the operator.~~
- 13 (d) Issuance of a duplicate Sanitary Permit shall be Ten Dollars (\$10.00).
- 14 (e) Amendments to an existing Sanitary Permit shall be Ten Dollars (\$10.00).
- 15 (f) An applicant for a Sanitary Permit may request for the permit to be expedited and
16 processed within 24 hours the request is submitted. The Department may grant such request
17 provided the applicant has met all the requirements of the Department to obtain a Sanitary Permit,
18 including the requirement for the Pre-Operational Inspection. The Department shall assess a fee
19 One Hundred Dollars (\$100.00) for expedited processing in addition to the regular processing fee.
20 Applications for a Sanitary Permit for Temporary Food Service Establishments which are
21 submitted one day or less prior to the event will automatically be assessed an expedited processing
22 fee of Fifty Dollars (\$50.00), in addition to the regular processing fee.

1 (g) The cost of the Pre-Operational Inspection is included in the initial payment for the
2 Sanitary Permit. However, a fee of Fifty Dollars (\$50.00) an hour shall be assessed for all
3 subsequent inspections. With the exception of the first hour, fractional hours shall be rounded up
4 to the nearest whole hour if more than one half (0.5) hour, and rounded down if less than one half
5 (0.5) hour.

6 (h) Request for an expedited Pre-Operational Inspection may be granted, as determined
7 by the Director, if such inspection does not cause the disruption of any pre-existing inspections
8 scheduled for other applicants. The fee for expedited Pre-Operational Inspection shall be Two
9 Hundred Dollars (\$200.00) in addition to all other required fees established in these rules and
10 regulations if performed during normal Government of Guam business hours (8:00 am – 5:00 pm;
11 Monday through Friday). Expedited Pre-Operational Inspection conducted outside normal
12 business hours, including weekends, shall be Five Hundred Dollars (\$500.00).

13 (i) Any establishment that has its Sanitary Permit suspended under the provision of
14 Title 10 GCA, Chapter 21, §21109:

15 (1) That requests and obtains a re-inspection from the Department that results
16 in the finding that it had not corrected all of its violations shall be assessed a fee of One
17 Hundred Twenty-Five Dollars (\$125.00), which must be paid by the establishment prior to
18 any subsequent re-inspection by the Department.

19 (2) That requests to be re-inspected outside normal Government of Guam
20 business hours (8:00 a.m. to 5:00 p.m.; Monday through Friday) may submit a request to
21 the Department, and if approved, shall be assessed a flat fee of Three Hundred Dollars
22 (\$300.00). For any Government of Guam holiday, the fee shall be Six Hundred Dollars
23 (\$600.00), if the request is approved. Payment shall be made on the first business day

1 immediately after the inspection, and if such payment is not made, the Department may re-
2 suspend the Sanitary Permit immediately without any advanced notice and assess all other
3 applicable fees. If the re-inspection results in the non-reinstatement of the Sanitary Permit
4 (i.e., failed inspection) and the establishment fails to make the requirement payment, the
5 Department shall not conduct another re-inspection until such time all outstanding fees
6 have been paid by the establishment.

7 (j) Request for a follow-up sanitation inspection, prior to the date noted in the
8 inspection report, may be granted by the Department if resources permit. The fee for early follow-
9 up sanitation inspection shall be One Hundred Dollars (\$100.00), which shall be paid in advance
10 prior to the inspection.

11 (k) An application to renew a Sanitary Permit shall be received by the Department prior
12 to the date of that permit's expiration date, and any application received after the expiration date
13 shall be assessed a penalty fee of Twenty-Five Dollars (\$25.00), in addition to all other applicable
14 fees.

15 (l) Any health-regulated establishment that operated, regardless of the duration,
16 without a Sanitary Permit shall pay the required Sanitary Permit fee for its annual permit,
17 Temporary Food Service Establishment permit, or the Special Village Event permit, retroactively,
18 for that time period, inclusive of the Twenty Dollars (\$20.00) late application submission fee, if
19 applicable.

20 (m) A Temporary Food Service Establishment, or a sponsor of an event with such
21 establishment, that requests, and is granted, a variance pursuant to the Guam Food Code, which
22 causes the Department to increase its inspection frequency or duration so to closely monitor the

1 establishment in ensuring that the approved modification or waiver does not create any health
2 hazard or nuisance shall pay a fee of Three Hundred Dollars (\$300.00).

3 (n) All fees collected pursuant to these rules and regulations shall be non-refundable.

4 (o) The fee schedule established pursuant to these rules and regulations shall become
5 effective immediately upon enactment.

6 ~~(a) — The Sanitary Permit fee for the following health-regulated establishments shall be~~
7 ~~Two Hundred Ninety Dollars (\$290) if the establishment has 1 to 10 employees and Five Dollars~~
8 ~~(\$5.00) for each additional employee above ten (10) thereafter; for establishments with less than~~
9 ~~ten (10) employees, the fee shall be One Hundred Fifty Dollars (\$150.00) until January 1, 2012;~~
10 ~~for establishments with less than ten (10) employees, the fee shall be Two Hundred Twenty Dollars~~
11 ~~(\$220.00) from January 2, 2012 until January 2, 2014;~~

12 ~~(1) Eating and Drinking Establishments, excluding vending machines and~~
13 ~~temporary food service establishments;~~

14 ~~(2) Food Establishments;~~

15 ~~(3) Institutional Facilities;~~

16 ~~(4) Hotels;~~

17 ~~(5) Cosmetic Establishments;~~

18 ~~(6) Public Laundry and dry cleaning establishments;~~

19 ~~(7) Public Swimming Pools;~~

20 ~~(8) Mortuaries;~~

21 ~~(9) Edible Garbage Feeding Establishments;~~

22 ~~(10) Commercial animal establishments; and~~

~~(11) Any other establishment required to obtain a Sanitary Permit from the Department not explicitly mentioned in these rules and regulations.~~

~~(b) The Sanitary Permit fee for Temporary Food Service Establishments shall be:~~

~~(1) One Hundred Dollars (\$100.00) for those operating for less than six (6) months, but more than three (3) days; and~~

~~(2) Fifty Dollars (\$50.00) for those operation for three (3) days; and~~

~~(3) Twenty Five Dollars (\$25.00) for Special Village Events officially sponsored by a village Municipal Planning Council, provided, however, that the vendor shall be limited to three (3) events per calendar year per permit issued.~~

~~(c) The Sanitary Permit fee for vending machines shall be:~~

~~(1) Two Hundred Ninety Dollars (\$290) per vending machine for each of the first style or model of vending machine; and~~

~~(2) Five Dollars (\$5.00) for each additional vending machine.~~

~~(d) The Sanitary Permit fee for chemical toilet operator shall be Five Hundred Dollars (\$500.00) regardless of the number chemical toilets possessed by the operator.~~

~~(e) Issuance of a duplicate Sanitary Permit shall be Ten Dollars (\$10.00).~~

~~(f) Amendments to an existing Sanitary Permit shall be Ten Dollars (\$10.00).~~

~~(g) An applicant for a Sanitary Permit may request for the permit to be expedited and processed within 24 hours the request is submitted. The Department may grant such request provided the applicant has met all the requirements of the Department to obtain a Sanitary Permit, including the requirement for the Pre Operational Inspection. The Department shall assess a fee of Seventy Five Dollars (\$75.00) for expedited processing in addition to the regular processing fee. Applications for a Sanitary Permit for Temporary Food Service Establishments which are~~

1 ~~submitted one day or less prior to the event will automatically be assessed an expedited processing~~
2 ~~fee.~~

3 ~~(h) The cost of the structural inspection, also known as a pre-operation inspection, is~~
4 ~~included in the initial payment for the Sanitary Permit. However, a fee of Fifty Dollars (\$50.00)~~
5 ~~an hour shall be assessed for all subsequent inspections. With the exception of the first hour,~~
6 ~~fractional hours shall be rounded up to the nearest whole hour if more than one half (0.5) hour,~~
7 ~~and rounded down if less than one half (0.5) hour.~~

8 ~~(i) Request for an expedited structural inspection may be granted, as determined by~~
9 ~~the Director, if such inspection does not cause the disruption of any pre-existing inspections~~
10 ~~scheduled for other applicants. The fee for expedited Pre-Operational Inspection shall be One~~
11 ~~Hundred Fifty Dollars (\$150.00) in addition to all other required fees established in these rules and~~
12 ~~regulations.~~

13 ~~(j) Any establishment whose Sanitary Permit is suspended under the provisions of~~
14 ~~Title 10 GCA, Chapter 21, §21109, and who is granted reinstatement by the Department as set out~~
15 ~~in Title 10 GCA, Chapter 21, §21110, shall first pay a re-opening fee of One Hundred Dollars~~
16 ~~(\$100.00) before the Sanitary Permit is returned or re-issued.~~

17 ~~(k) The fee schedule established pursuant to this §4506 shall become effective~~
18 ~~immediately upon enactment for new applications, provided, however, it shall become effective~~
19 ~~for the renewal of all Sanitary Permits issued prior to the enactment of these rules on June 1, 2012.~~

20 **§4506.1 Advance Notification of Fee Schedule.** The Director shall ensure that advance,
21 ~~written~~ notification is provided to all Sanitary Permit licensees relative to the cost for permit
22 ~~renewal upon prior to the expiration of the their current Sanitary Permit. The information shall be~~

1 ~~immediately provided as a permit renewal notification. The notification may be in a form of a~~
2 ~~press release to the local news media.~~

3 **§4507. Administrative Penalty.**

4 (a) Any establishment, ~~which~~ whose ~~had its~~ Sanitary Permit is suspended under the
5 provision of Title 10 GCA, Chapter 21, §21109, is granted reinstatement by the Department as set
6 out in Title 10 GCA, Chapter 21, §21110, shall first pay a re-opening fee of Three Hundred Dollars
7 (\$300.00) ~~One Hundred Dollars (\$100.00)~~, if it has ten or less employees, or Five Hundred Dollars
8 (\$500.00), if it has eleven or more employees, before the Sanitary Permit is returned or re-issued
9 by the Department.

10 (b) The Department, at its discretion, shall assess monetary fine in accordance with the
11 following:

12 (1) Operating an establishment without a valid Sanitary Permit shall be a fine of no
13 more than Two Thousand Five Hundred Dollars (\$2,500.00) but no less than Three
14 Hundred Fifty Dollars (\$350.00)

15 (2) Transferring a Sanitary Permit to another person or to another location, or
16 posting on or using the permit in any way at any other premises other than for which it was
17 issued shall be a fine of no more than Two Thousand Five Hundred Dollars (\$2,500.00),
18 but no less than Three Hundred Fifty Dollars (\$350.00).

19 (3) Prohibiting the Department from accessing and inspecting its permitted health-
20 regulated establishment shall be a fine of no more than Two Thousand Five Hundred
21 Dollars (\$2,500.00), but no less than Three Hundred Fifty Dollars (\$350.00).

22 (4) Prohibiting the Department from examining and copying its records that are
23 required to be kept and maintained by the health-regulated establishment shall be a fine of

1 no more than One Thousand Dollars (\$1,000.00), but no less than Two Hundred Dollars
2 (\$200.00).

3 (5) Removing, defacing, destroying, or concealing an inspection report, letter
4 grade, or closure notice shall be a fine of no more than One Thousand Dollars (\$1,000.00),
5 but no less than Two Hundred Fifty Dollars (\$250.00).

6 (6) Knowingly authorizing a person to work who has a communicable disease that
7 can potentially be transmitted to the public in the course of that person's employment shall
8 be a fine of no more than Five Thousand Dollars (\$5,000.00), but no less than Five Hundred
9 Dollars (\$500.00).

10 (7) Having a repeat violation of the same critical requirement, with the assigned six
11 (6) demerit points, within a one-year period (365 days) shall be a fine of no more than One
12 Thousand Dollars (\$1,000.00), but no less than One Hundred Dollars (\$100.00) per
13 violation.

14 (8) Operating an eating and drinking establishment or food establishment without
15 a manager who possesses a Certificate of Management Certification shall be a fine of no
16 more than One Thousand Dollars (\$1,000.00), but no less than Two Hundred Dollars
17 (\$200.00).

18 (9) Importing a consumer item regulated by Title 10 Guam Code Annotated,
19 Chapter 32 (Hazardous Substances Act) and Chapter 40 (Guam Food, Drug and Cosmetic
20 Act) that is misbranded, adulterated, or otherwise prohibited by law shall be a fine of no
21 more than Twenty-Five Thousand Dollars (\$25,000.00), but no less than Five Hundred
22 Dollars (\$500.00).

1 (c) Assessment of monetary penalty may occur concurrently with other administrative,
2 civil, and/or criminal penalty authorized by law.

3 (d) Before imposing an administrative penalty against a person or a health-regulated
4 establishment, the Director shall issue a notice of intent to impose the penalty and provide the
5 individual or business an opportunity to request a hearing on the proposed penalty. The request
6 must be made within fifteen (15) business days of the date the notice of intent is served upon the
7 person or health-regulated establishment. Serving of the notice of intent to the person in charge
8 of the health-regulated establishment, or by certified mail to the last known mailing address of the
9 health-regulated establishment, shall be acceptable means of notification.

10 (e) The administrative penalty hearing shall be held in accordance with the
11 Administrative Adjudication Law (Title 5 GCA, Chapter 9).

12 (f) Any person or health-regulated establishment may seek review of any administrative
13 penalty imposed before the Superior Court of Guam. Such review shall be upon the record
14 established before the Director and not de novo. The Superior Court may sustain, modify, or
15 vacate any administrative penalty it reviews.

16 (g) If any person or health-regulated establishment fails to comply with an administrative
17 penalty order after it has become final:

18 (1) The Director may suspend the Sanitary Permit of the health-regulated
19 establishment until such time that the payment is made in full, but not before a written
20 notice is issued to the establishment notifying it of the action by serving of such notice to
21 the person in charge of the health-regulated establishment, or by certified mail to the last
22 known mailing address of the health-regulated establishment, at least seven (7) calendar
23 days before the suspension takes effect; or

1 (2) The Director may forward the matter to the Attorney General of Guam to bring
2 a civil action to enforce the order, or to recover the amount ordered or assessed, in
3 accordance to law.

4 (3) The Director may pursue both §4507(g)(1) and §4507(g)(2), if he/she so
5 desires.

6 **§4508. Suspension or Revocation of Sanitary Permit.**

7 (a) The Director may suspend or revoke any Sanitary Permit under the provisions of Title
8 10 GCA, Chapter 21, §§21107(2)(d) and 21109, or upon any violation by a health-regulated
9 establishment or by any of its employees for any environmental health violation under Title 10 of
10 the Guam Code Annotated, Chapters 20 through 33 and 35 through 40, or any rules and regulations
11 promulgated concerning Sanitary Permits.

12 (b) A health-regulated establishment with a suspended Sanitary Permit, as one of its
13 conditions in having its Sanitary Permit reinstated, shall be required the following:

14 (1) The staff and management receive applicable training and/or consultation
15 from the Department; and

16 (2) Submits a corrective action plan and/or other applicable, related
17 documentation to the Department.

18 The date, time, and venue for the training or consultation shall be coordinated between the
19 Department and the health-regulated establishment.

20 **§4509. Hearing.** (a) Any health-regulated establishment whose Sanitary Permit is to be
21 suspended or revoked *shall* be notified by the Director in writing of the Department's intention
22 and the reasons therefore.

1 (b) Any health-regulated establishment that receives a notice of violation with intent to
2 suspend or revoke as described in Subsection (a) of this §4508 and that wishes to contest *shall*
3 request a hearing with the Director in writing *no later than* fifteen (15) calendar days after receipt
4 of the notice, and *shall* state the grounds for objecting to the intended suspension or revocation.
5 The Administrative Adjudication Law's hearing procedure applies.

6 (c) Upon completion of a hearing, the Director *shall* make a written determination
7 concerning the violation and whether a suspension or revocation is to be imposed.

8 **§4510. Suspension without Hearing.** (a) In accordance ~~to~~ with Title 10 GCA, Chapter
9 21, §§21107(d) and 21109(a) and (b), a Sanitary Permit may be suspended without prior hearing:

- 10 (1) when the demerit score of the establishment is more than forty (40);
11 (2) at the discretion of the Director for violating any provisions of Title 10
12 GCA, Chapters 20 through 40; and
13 (3) for twice violating the same requirement deemed critical under the
14 applicable rules and regulations of the Department within any six-month period, in which
15 case, it *shall not* exceed five (5) days.

16 (b) A suspension without prior hearing may remain in effect until the violation is
17 corrected by the establishment, or resolved after a hearing in accordance with the Administrative
18 Adjudication Law. The Director *shall* have the discretion to decide whether the suspension shall
19 be continued pending a hearing.

20 **§4511. Effective Date.** These rules and regulations *shall* become effective immediately
21 upon enactment.

1 **§4512. Severability.** *If* any provision or application of any provision of these rules and
2 regulations are held invalid, such invalidity shall *not* affect the other provisions or applications of
3 these rules and regulations.

PROPOSED

SANITARY PERMIT RULES AND REGULATIONS

ECONOMIC IMPACT STATEMENT

Title 5 Guam Code Annotated, Chapter 9, Article 3

**DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIVISION OF ENVIRONMENTAL HEALTH
123 Chalan Kareta
Mangilao, Guam 96913-6304
(671) 735-7221**

09.19.19

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**Title 5 Guam Code Annotated, Chapter 9, Article 3
ECONOMIC IMPACT STATEMENT
For the Implementation of the Proposed
SANITARY PERMIT RULES AND REGULATIONS**

SUMMARY

The Division of Environmental Health (DEH) of the Department of Public Health and Social Services (DPHSS) is proposing to amend the existing *"Sanitary Permit Rules and Regulations."* The proposed amendments seek to revise the existing fee schedule for the issuance of Sanitary Permit and include provisions for the assessment of monetary penalty to individuals and businesses that repeatedly or blatantly violate environmental health laws and regulations.

Section 21101 of Title 10 GCA, Chapter 21 (Sanitation) prohibits the operation of any health-regulated establishment (HRE) without a valid Sanitary Permit. HRE are facilities, such as restaurants, childcare centers, dormitories, public swimming pools, beauty salons, and dry-cleaners, which are governed by Title 10 GCA, Chapters 23, 24, 25, 26, 27, 28, 29, and 30. These laws safeguard the public's health from environmental health hazards through the application and enforcement of various sanitation requirements. Sanitary Permits are issued by DEH and fees collected are deposited into the Environmental Health Fund (EHF). The EHF was established by legislation and monies generated are to be expended solely in support of DEH operations. Title 10 GCA, Chapter 21 mandates DEH to inspect all HREs every quarter, which equates to nearly 12,000 inspections a year of about 3,000 HREs that are permitted yearly. However, the Division has been averaging less than 1,500 inspections a year because of an insufficient number of inspectors.

The proposed fee increase will be to the level that will enable the Division to (1) timely conduct pre-operational inspections for the issuance of Sanitary Permit; (2) meet its statutory obligation of inspecting every health-regulated establishment at least once every quarter; and (3) provide proper supervision of staff to ensure uniformity of inspections through a manageable span of control. Generated revenue that is deposited in the EHF will be expended for the recruitment of additional inspectors and supervisors to conduct pre-operational inspections and compliance inspections.

To aid in the economic impact assessment of the proposed regulations, DEH analyzed its own data and reviewed existing data and figures from the U.S. Centers for Disease Control and Prevention (CDC) and other reputable sources. Direct economic impacts are presented here, with some indirect monetary impact. Direct costs include medical expenses incurred to treat or alleviate illnesses, while indirect costs are loss of earnings by individuals who took time off from work due to illness, or by parents or guardians who have to take care of the sick child. The analysis represents DEH's best estimate of these economic impacts. Other possible impacts such as long-term health consequences, pain and suffering of sick consumers, time lost from work or school, and possible lawsuits are not quantified in this analysis but are equally important.

The total direct economic impact to the applicable businesses in the implementation of the *existing* rules and regulations for the issuance of Sanitary Permit was \$879,266 in FY 2018. If the average of the last five years were calculated (FY 2014 – FY 2018), the direct economic impact was \$898,568. In the *proposed* rules and regulations, there will be a direct financial impact of approximately \$1,067,200 to the approximately 2,900 permanent health-regulated establishments in the first year of enactment, followed by \$1,357,200, \$1,647,200, \$1,937,200, and \$2,227,200 in the subsequent four years. The costs to equip the inspectors (i.e., vehicles, inspection tools, etc.) and to process and issue the Sanitary Permits were not included in the revised fee schedule to minimize the dramatic increase.

The increase of fees for the issuance of Sanitary Permit, and the resultant additional staff, should have beneficial impact to the economy and the population of Guam from the anticipated reduction, or prevention, in the number of foodborne illnesses and other diseases that can be transmitted from any of the nearly 3,000 health-regulated facilities on the island, as there will be a greater number of inspections to enforce and promote compliance. The cost benefits to the public should outweigh the costs that the industry will experience from the adoption of the proposed fee increase. The economic burden of foodborne diseases alone in the U.S. annually has been estimated to be \$77.7 billion resulting from the 48 million foodborne illnesses occurring every year in America. This equates to \$1,618.75 per case. If the annual estimate is applied to Guam using the island's 2010 census, Guam's share of the economic cost for foodborne illnesses would be approximately \$257.96 million a year. If diseases, injuries, disabilities, or deaths that occur from non-food establishments (i.e., childcare centers, schools, swimming pools) were included, the economic burden would surely be higher.

I. Purpose and Need

The Division of Environmental Health (DEH) of the Department of Public Health and Social Services was established by P.L. 15-96, which was later codified as Division 2, Part 1 (Environmental Health) of Title 10 GCA. DEH serves to implement applicable environmental health mandates of Title 10 GCA to protect the public health from hazards associated with poor or inadequate sanitation. An overview of DEH's mission, mandates, and programs is presented in **Annex 1**.

Section 21101 of Title 10 GCA, Chapter 21 (Sanitation) prohibits the operation of any health-regulated establishments without a valid Sanitary Permit. These health-regulated establishments (HRE) are Eating and Drinking Establishment (Title 10 GCA, Chapter 23), Food Establishment (Title 10 GCA, Chapter 24), Institutional Facility (Title 10 GCA, Chapter 25), Hotel and Temporary Workforce Housing (Title 10 GCA, Chapter 26 and Chapter 26A), Cosmetic Establishment (Title 10 GCA, Chapter 27), Laundry and/or Dry Cleaner (Title 10 GCA, Chapter 28), Public Swimming Pool (Title 10 GCA, Chapter 29), Mortuary (Title 10 GCA, Chapter 30), and Tattoo Shops (Title 10 GCA, Chapter 20). The regulatory control and its enforcement of these mandates are performed by the Division of Environmental Health (DEH) of the Department of Public Health and Social Services (DPHSS). In addition, Section 21104 of Chapter 21 directs DPHSS to inspect every health-regulated establishment at least once every three months, and as often as necessary. Categories and subcategories of every HRE are presented in **Annex 2**.

Section 20105 of Title 10 GCA, Chapter 20 (General Provisions) authorizes DPHSS to “*adopt and promulgate such rules and regulations...in accordance with the Administrative Adjudication Act*” to carry out environmental health provisions of Title 10 GCA. As a result, DPHSS has adopted numerous regulations for various environmental health programs, including the regulations for Sanitary Permit. The current Sanitary Permit Rules and Regulations, which were adopted in 2011, had established the fee schedule for the issuance of Sanitary Permit to the island’s health-regulated establishments. Revenues generated from the issuance of Sanitary Permits are deposited into the Environmental Health Fund (EHF) pursuant to §20121 of the same Chapter, and monies from the fund are to be expended solely in support of DEH operation.

Section 20118 of Title 10 GCA, Chapter 20, authorizes DPHSS to issue monetary fines to violators of environmental health laws and its rules and regulations. The same section further authorizes the Department to promulgate rules and regulations in establishing such fines. All monetary fines are to be deposited into the General Fund.

Nearly all field activities, including pre-operational inspections and compliance inspections, and the management of environmental health programs, are performed by Environmental Public Health Officers (EPHO) of DEH. Upon recruitment, EPHOs undergo intensive and extensive classroom and field training so that they may be familiar with all environmental health programs of the Division, especially the sanitation inspections of food facilities and other HREs. Within a year of qualifying, all EPHOs are compelled to obtain the following credentials and license so to ensure they possess understanding of major environmental health principles and practices: Certified Professional-Food Safety, Category 2 Pesticide Applicator, Certified Pool and Spa Operator/Inspector, and/or Registered Environmental Health Specialist. Aside from pre-operational and compliance inspections, EPHOs have other collateral duties and responsibilities, which include surveillance and control of vectors and regulation of consumer commodities. On any given day, as determined by priority, there may be between one to eight EPHOs available to conduct compliance inspections of HREs.

The proposed fee increase will improve the Division’s ability to (1) timely conduct pre-operational inspections for the issuance of Sanitary Permit; (2) meet its statutory obligation of inspecting every health-regulated establishment at least once every quarter; and (3) provide proper supervision of staff to ensure uniformity of inspections through a manageable span of control. Through the adoption of the proposal, DEH seeks to recruit additional inspectors and supervisors and effectuate the plan by utilizing the additional revenue that will be generated into the EHF from the revised fee schedule. The fee increase is to occur in annual increments until the proposed amount of \$768.00 is reached within five years of enacting the proposed rules and regulations. In addition, DEH proposes to establish other fees for services it provides to health-regulated establishments and to institute monetary fines for certain violations. The implementation of monetary penalty is pursued by the Division to deter sanitation violations, especially in food facilities, to prevent or minimize disease outbreaks from potentially occurring through the actions or inaction of HREs by penalizing them for repeat and/or blatant violations of environmental health laws and regulations.

Prior to the establishment of the EHF in 2000, DEH obtained its funding primarily from the General Fund (GF) for its operation. As a result of the EHF, the Division has been able to recruit

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personnel, procure more equipment, and contract additional services in the implementation of the Division's many environmental health programs. After 2008, DEH became more reliant on EHF funding for operation as appropriations from the GF began to decrease (Annex 3). In FY 2018, nearly 65% of the total appropriation to DEH originated from EHF, which is a severe contrast to FY 2005 when GF provided 72% of the total funding to the Division. Current EHF revenue is insufficient to enable DEH to comply with all of its mandates, especially the quarterly inspection of all permitted HREs. For any expansion of its existing operation to occur, such as completing more compliance inspections, GF appropriation to DEH must increase and/or EHF revenue enhanced; the proposed rules and regulations are addressing the latter.

From Fiscal Year 2014 to Fiscal Year 2018, DEH issued an average of over 3,000 Sanitary Permits annually. In FY 2018, 3,246 permits were issued (Annex 4). If each permit issued was categorized as a permanent establishment, which operated for a period of one full year, DEH was obligated to conduct nearly 13,000 compliance inspections every year. In the last 15 years, DEH had an average of 3.0 full-time employees to conduct such compliance inspections (Annex 5), which equated to:

- Ratio of inspectors to establishments: 1:1042
- Required number of inspections per inspector per year: 4,168
- Required number of inspections per inspector per day: 16.8

These are unrealistic and unattainable figures; DEH was able to complete an average of only 1,357 compliance inspections per year during the same period with available staff. The challenge of conducting the required number of inspections continues to this date.

Because of the insufficient number of personnel to conduct compliance inspections, DEH has focused its resources into education and prioritizing programs and activities based on health risk to the public. Thus, establishments which cater to highly-susceptible populations, such as the young (childcare facilities), elderly (senior meals), and the sick (hospitals) are scheduled to be inspected more often than others; these establishments are followed in priority by full-service restaurants because of their complex preparations and the preparation of potentially hazardous foods. Food facilities alone account for nearly 80% of all permitted establishments regulated by DEH. By prioritizing, efforts are directed toward activities that have the most impact in protecting the public, and because DEH implements risk-based inspections, its regulatory actions are proportionate to the level of risk. Accordingly, critical requirements are evaluated more thoroughly than non-critical requirements, and the frequency of inspections reflect the risks an establishment poses to the public.

The consequence of focusing primarily on high-priority HREs, and employing risk-based inspections, has been that less prioritized establishments have not been inspected routinely, or have been neglected for long periods of time, which threatens the health of the entire population. Many HREs have gone without an inspection by DEH for several years, if at all. As of May 2018, nearly 44% of all food-related establishments had not been inspected in 5 or more years; institutional facilities fared a little worse with 46% (Annex 6). The worst was public swimming pools, as almost 76% of these establishments had not been inspected for at least 5 years. In FY 2018 alone, Sanitary Permits of 40 food facilities (Eating & Drinking Establishments and Food Establishments) were suspended because of excessive violations and/or pest infestations (Annex

7); nearly all were deemed non-priority HREs since these establishments did not cater to highly-susceptible populations. Instead, they were inspected, and subsequently suspended, because of complaints from the public. Hence, had DEH not been informed of these establishments' unsanitary conditions and practices from concerned citizens, it is very likely that the Division would not have discovered these violations until years later. Of these closures, the time period between date of suspension and when they were previously inspected ranged from 11 years to less than 1 month, with the average of nearly 4 years between inspections. The Sanitary Permit suspensions of these 40 HREs highlights the need for routine inspections of all HREs, regardless of the risk category. For some categories, critical violations and/or pest infestation were commonly cited (Annex 8).

The following national data provide additional reasons for the need to adopt and implement the proposed regulations:

- According to the U.S. Centers for Disease Control and Prevention (CDC), it is estimated that 48 million Americans (1 in 6) get sick from foodborne diseases with 128,000 hospitalizations and 3,000 deaths every year.¹ The economic burden from foodborne illnesses in the U.S. is estimated to be \$15 Billion to \$77 Billion annually.^{2,3}
- CDC reports that about 22,000 pool-related infections were caused by *Cryptosporidium* in 2018 and the total medical and work loss costs for this type of infection is approximately \$2,800 per person.⁴ While cryptosporidiosis has not been reported on Guam, possibly due to lack of testing for this parasite on island, many diarrheal complaints are seen on the island. The potential for infectivity from the disease is high as several studies have confirmed that it has worldwide incidence. A 2018 Consumer Product Safety Commission report showed that two-thirds of non-fatal drownings among children ages one to four years occur in pools.⁵
- Asthma is the leading chronic illness among children and adolescents in the U.S., and it is the number one cause of school absences associated with chronic illness.⁶ Six point two million (6.2 million) children under 18 years of age have been diagnosed with asthma in the U.S. (2017 data). There is a direct correlation between indoor environmental quality and occupant health, attendance, academic performance, and general cognitive ability. One of the most commonly cited violations at schools is inadequate ventilation.

Another challenge DEH encounters is establishments that knowingly and intentionally violate environmental health laws and regulations, which threatens the health and safety of the public and the integrity of the inspection results, such as:

- Businesses operating without a Sanitary Permit, and thus, not meeting the physical and operational requirements to protect consumers;
- Establishments removing or concealing the inspection report and/or letter grade to prevent the public from knowing its inspection result; and
- Distributors and retailers repeatedly importing misbranded and/or unapproved consumer commodities into the island.

To deter and penalize such violators without necessarily pursuing criminal charges, DEH seeks, through the proposed regulations, a monetary penalty that is to be assessed and adjudicated

administratively. Section 20120 of Title 10 GCA, Chapter 20 mandates all fines that are collected be deposited into the General Fund.

The ultimate goal in adopting the proposed rules and regulations for Sanitary Permit is to reduce disease transmission, or minimize its potential to occur, through effective regulatory controls and enforcement so to protect the health of the population, for goods and services received from island HREs. In the last few years, Guam has been very fortunate that there has been no large disease outbreak associated with HREs, but there continues to be sporadic reported cases and anecdotal stories of illnesses originating from HREs. The adoption of the proposal will allow DEH to be proactive in its attempt to prevent outbreaks from happening. A single outbreak can result in the illness of hundreds, such as the outbreak that sickened over 300 students in 2011, which was the largest foodborne illness occurrence that DEH had ever responded to in the last thirty years. The implicated HRE was the school cafeteria, and although the establishment was categorized as high priority because it served highly susceptible population, DEH had been able to inspect this cafeteria only once a year.

It is important to note that even with the dramatic increase, the revised fee schedule does not take into account the costs that will be sustained by DPHSS for training and equipping the employees. Accordingly, anticipated expenditures from procurement of vehicles and field instruments were not calculated into the proposed fees. Also, no assurances can be made that the fee increase will result in the recruitment of the required number of inspectors to conduct quarterly inspections since the calculated salaries, and thus the proposed fee, are based on entry-level wages. Promotional recruitment, and recruitment of positions that necessitate work experience, such as higher-level positions, will likely result in salaries greater than what was estimated in the proposed fee.

II. Financial Impact: *Current Rules and Regulations*

Existing Rules and Regulations Relative to the Issuance of Sanitary Permit assess a base fee of \$290.00 for every application submitted to obtain a Sanitary Permit for establishments with 10 or fewer employees. For every additional employee after the initial ten, a fee of \$5.00 is further assessed. A Sanitary Permit for a temporary food service establishment is \$100.00 if operating for less than six months but more than three days; for those operating for three days or less, the fee for issuance of a Sanitary Permit is \$50.00. A Sanitary Permit for a vending machine is \$290.00 per each style or model and \$5.00 for each additional machine. A flat fee of \$500.00 is assessed for chemical toilet operators regardless of the number of chemical toilets in their inventory.

In FY 2018, regulated island businesses that required a Sanitary Permit collectively incurred \$879,266 in direct cost from the receipt of 3,247 permits issued by DEH. Because nearly 11% of all permits were temporary and operated for less than 4 days, about \$17,850 (357 x \$50.00) of the total cost was sustained by operators of Temporary Food Service Establishments, while the majority of the cost (\$861,416) was derived from the issuance of permanent Sanitary Permits. If the average of the last five years were calculated (FY 2014 – FY 2018), the direct economic impact for the implementation of the existing regulations was \$898,568.

Because existing regulations do not have any provision for monetary penalty, it is not currently being assessed. Subsequently, there is no financial impact from monetary penalty to health-regulated establishments at this time.

III. Financial Impact: *Proposed Rules and Regulations*

The proposed regulations will increase the base fee for Sanitary Permit to \$768.00, which is an increase of \$478.00 (165%) from the current fee of \$290.00. The \$768.00 proposed fee is calculated as follows:

- Number of permanent health-regulated establishments (5-year average)2,900
- Recruitment of 31 inspectors and 6 supervisors to conduct and supervise, respectively, compliance inspections of all permanent health-regulated establishments once every quarter..... \$2,227,480
- Cost per applicant ($\$2,227,480 \div 2,900$)= \$768.00

For Temporary Food Service Establishments (TFSE), the proposed regulations will increase the Sanitary Permit fee by 0% to 300%, depending on the duration of its operation. Utilizing available data, it is anticipated that about 365 TFSEs would at a minimum be assessed \$50.00 for a Sanitary Permit. Because the duration of each TFSE is unknown, it cannot be determined how many would be required to pay \$155.00 (TFSE-W), \$125.00 (TFSE-7), \$200.00 (TFSE-X), or \$300.00 (TFSE-180) based on the proposed fee schedule for TFSEs. If the average (\$166.00) of the proposed five fees for TFSEs was applied to the 365 anticipated TFSEs, the total direct financial impact would be \$60,590:

- Average fee for TFSE ($\$50 + \$155 + \$125 + \$200 + \$300$)/5.....\$166.00
- Total, direct financial impact to 365 TFSEs ($365 \times \$166.00$) \$60,590

To minimize the financial impact to the regulated establishments, the cost to equip the inspectors (i.e., vehicles, field instruments, etc.) was not added to the proposed fee increase. Had this been included, the direct financial impact for the first year would have been an additional \$1 million dollars to affected businesses. The cost that will be incurred by the Department for the processing and the issuance of Sanitary Permits was also excluded from the revised fee schedule. These costs will need to be absorbed by other means (i.e., different funding source) by the department.

The proposed fee will occur in gradual, annual increments to allow affected businesses to adjust to the substantial increase, which will also allow DPHSS the time to recruit the inspectors and properly train them. Therefore, immediately upon the enactment of the regulations, the base fee will increase to \$368.00, then every year thereafter on the anniversary of the regulations' adoption, the fee will increase by \$100.00 until the final \$768.00 fee is achieved:

- Upon enactment: \$368.00
- 1 year after enactment: \$468.00
- 2 years after enactment: \$568.00
- 3 years after enactment: \$668.00
- 4 years after enactment: \$768.00

Collectively, there will be a direct financial impact of approximately \$1,067,200 to the approximate 2,900 permanent, health-regulated establishments in the first year of the proposed fee's enactment, followed by \$1,357,200, \$1,647,200, \$1,937,200, and \$2,227,200 in the subsequent four years.

The fee increase should enable the Department of Public Health and Social Services to recoup much of the cost for the enforcement of the Sanitary Permit. The increase in fee will result in more inspectors to accomplish more inspections, and thus, minimizing or preventing disease transmittance from occurring at, and from, health regulated establishments. This is particularly relevant of food related establishments, which comprise nearly 80% of all permitted businesses. The University of Guam estimated that the annual impact of foodborne illness on island is approximately 39,000 incidences, 3 deaths, and 167 hospitalizations, with an economic cost of \$5.1 to \$42.6 million dollars⁷. With food inspections given greater priority over other types of inspections by DPHSS, it is anticipated that the incidences of foodborne illnesses and associated costs will be reduced as a result of the proposed regulations' enactment.

The additional compliance inspections from increased staffing will also include non-food associated facilities, such as hotels, cosmetics establishments, public swimming pools, and other regulated establishments, which historically have received fewer inspections and been given lower priority over food-related establishments.

The financial impact of assessing monetary penalties would only be applicable to those health-regulated establishments that blatantly violate environmental health laws and regulations, such as operating a business without a Sanitary Permit or concealing or removing the inspection grade placard, and those establishments that repeat the same critical violation within a one-year (365 days) period. Thus, the potential financial impact to the establishments would vary year to year. From observations of DEH inspectors, along with available inspection reports, the following encounters occur annually, and the anticipated financial impact to affected businesses if monetary penalties are applied (Table 1):

Table 1. Project financial impact per year for monetary penalties.

| Violation | Number of Occurrences | Proposed Minimum Monetary Penalty per Violation | Potential Financial Impact |
|--|-----------------------|---|----------------------------|
| Operating without a Sanitary Permit | 15* | \$350 | \$5,250 |
| Transferring Sanitary Permit to another | 1** | \$350 | \$350 |
| Denying access for inspection | 1** | \$350 | \$350 |
| Refusing to provide required documents | 0** | \$200 | 0 |
| Removing or concealing placard or report | 1 | \$250 | \$250 |
| Manager without required certification | 20* | \$200 | \$4,000 |
| Importation of unapproved commodity | 27* | \$500 | \$1,350 |
| Repeat violation of critical requirement | 34** | \$100 | \$3,400 |
| Employee with communicable disease | 0** | \$500 | 0 |
| Total | | | \$14,950 |

*Approximate

**Not observed in the last two fiscal years

*Number of detainments in FY 2018

**FY 2018 inspection data

Utilizing the figures and calculations in Table 1, it is estimated that nearly \$15,000 could be assessed annually in fines from HREs violating laws and regulations governing the operation of health-regulated establishments.

IV. Potential Increase or Decrease to Cost of Living or Price of Good or Service

The direct cost to affected businesses will be an additional \$78.00 in the first year of the regulations' implementation, or \$6.50 a month (\$0.20/day). Table 2 presents the increasing, annual economic impact the proposed \$768.00 fee will have on each business when compared to the current \$290.00 fee in the acquisition of a Sanitary Permit.

Table 2. Minimum financial impact per year per establishment.

| DATE | PROPOSED ANNUAL FEE TO EACH HRE | ANNUAL FINANCIAL IMPACT | MONTHLY FINANCIAL IMPACT | DAILY FINANCIAL IMPACT |
|----------------------|---------------------------------------|-------------------------------|--------------------------------|------------------------------|
| 1 st Year | \$386 | \$78 | \$6.50 | \$0.20 |
| 2 nd Year | \$468 | \$178 | \$14.83 | \$0.49 |
| 3 rd Year | \$568 | \$278 | \$23.17 | \$0.76 |
| 4 th Year | \$668 | \$378 | \$31.50 | \$1.04 |
| 5 th Year | \$768 | \$478 | \$39.83 | \$1.31 |

It is doubtful the fee increase will be passed down to customers when the financial impact amounts to less than an average of \$1.50 a day, but if it is, it will likely be pennies a month per customer. It is also unlikely that the implementation of monetary penalties, which will affect only a small percentage of the HREs, will affect the cost of living or price of goods/service.

V. Direct or Indirect Impact of Employment

For the same reason provided above in the projected cost of living increase, the direct and indirect impact to employment should be nominal, if at all. Significant adverse impact to employment may occur from increased inspections and enforcement by DEH when more unlawfully operating regulated businesses are discovered (i.e., no Sanitary Permit), which would force the closure of such businesses and the subsequent permanent or temporary unemployment of its workers.

There will be an expected employment of additional 37 EPHOs in DEH as the fee increase will raise the revenue of EHF that will fund these employees.

VI. Increase or Decrease in Cost of Business

The cost of business will increase for all affected establishments; however, it's doubtful the impact would be enough to force the business to pass down the cost to the consumers or reduce their staff number.

VII. Adverse or Beneficial Economic Impact

The increase of fees for the issuance of Sanitary Permit, and the resultant additional staff, should have beneficial impact to the economy and the population of Guam from the anticipated reduction or prevention in the number of foodborne illness and other diseases transmitted (or can be transmitted) in the nearly 3,000 regulated facilities on the island, as there will be greater number of inspections to ensure compliance. Currently, there is limited data and studies to effectively quantify the true dollar amount potentially saved on the costs of diseases on Guam.

More inspections should mean improved compliance by the regulated establishments, and thus consequently reducing the incidents of diseases originating from these facilities, thereby, reducing the economic burden these diseases have on the island and its people. The cost benefits to the public should outweigh the costs that the industry will experience from the adoption of the proposed fee increase. The economic burden of foodborne diseases alone in the U.S. annually has been estimated to be \$77.7 billion resulting from the 48 million foodborne illnesses occurring every year in America. This equates to \$1,618.75 per case. If the annual estimate is applied to Guam using the island's 2010 census, Guam's share of the economic cost for foodborne illnesses would be approximately \$257.96 million a year. If diseases, injuries, disabilities, or deaths that occur from other non-food establishments were included, the economic burden would surely be higher.

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Hon. Leevin Taitano Camacho
Attorney General of Guam

August 25, 2020

Mr. Arthur San Agustin
Acting Director
Department of Public Health and Social Services
590 S. Marine Corps Drive
Tamuning, Guam 96913

**Subject: Approval of Proposed Amendments to Rules and Regulations Governing
the Issuance of Sanitary Permits (Ref: DPHSS 20-0045)**

Dear Acting Director San Agustin:

The Office of the Attorney General has completed its review of the Department of Public Health and Social Services ("DPHSS") Division of Environmental Health ("DEH")'s proposed Amendments to Rules and Regulations Governing the Issuance of Sanitary Permits received in this office on January 16, 2020.

Pursuant to 5 GCA § 9303 of the Administrative Adjudication Law ("AAL"), I am approving the proposed rules as to form, constitutionality, compliance with the applicable requirements of the AAL, and compliance with your agency's statutory authority to promulgate rules.

Please be reminded that the AAL's current rule-making procedures require the Department to file the proposed Rules, together with the written approval of *I Maga'haga* as to policy and approval of the Attorney General as to compliance with the law, with the Speaker of *I Liheslatura* in a format and manner specified in 5 GCA 9303(a)(4). Section 9303(c) further provides that no rule shall become effective until after ninety (90) calendar days have elapsed from the date of filing with the Speaker of *I Liheslatura* during which time and within seventy-five (75) calendar days from the date of filing of the rules with the Speaker, the legislative committee with oversight of the subject matter or the Committee of the Whole shall have conducted one or more public hearings on the proposed rules. After the public hearing and within the 90-day time period, *I Liheslatura* may approve, disapprove, or amend the proposed rules by the passage of a bill into law. In the event *I Liheslatura* declines to formally approve, disapprove, or amend the proposed rules

Re: Approval of Proposed Amendments to Rules and
Regulations Governing the Issuance of Sanitary Permits
Ref: DPHSS 20-0045
Page 2 of 2

by the passage of a bill into law, the Speaker may certify and the Legislative Secretary may attest to the default approval of compliant rules.

If you have any questions, please contact Deputy Attorney General of the Solicitor Division, Karl P. Espaldon, at (671) 475-3324 ext. 3115/3660.

Sincerely,

A handwritten signature in black ink, appearing to read 'Leevin Taitano Camacho', written over a horizontal line.

LEEVIN TAITANO CAMACHO
Attorney General

Enclosure

cc: Chief Environmental Health Officer, DPHSS



Supreme Court of Guam COMPILER OF LAWS

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F. PHILIP CARBULLIDO
Chief Justice

GERALDINE AMPARO CEPEDA
Compiler of Laws

GUIDANCE FOR FORMATTING RULES AND REGULATIONS (GAR)

The Office of the Compiler of Laws is statutorily mandated to “[u]ndertake the publication of the continuing Administrative Rules and Regulations” of Guam. 1 GCA § 1602(c). The authority for the rule-making procedures of government of Guam agencies, departments, and other entities are set forth in Title 5, Guam Code Annotated, Chapter 9, Article 3, entitled “Rule-making Procedures.” As part of this process, the rules are statutorily required to be “in a form approved by the Compiler of Laws.” 5 GCA § 9303(a).

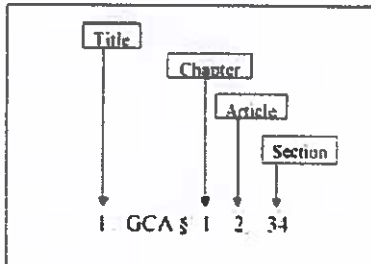
To assist government of Guam agencies, departments, and other entities, with the process of publishing submissions for including in the Guam Administrative Rules & Regulations (GAR), the Office of the Compiler of Laws has prepared this document to give guidance in the drafting process. It is strongly encouraged that those responsible for drafting rules and regulations review the recommendations and utilize the standard format herein, which was approved by the Guam Code Advisory Commission on June 21, 2005. Compliance with the recommended format will be de facto indication that the submission is in a format approved by the Compiler of Laws.

Recommendation 1

Please compose GAR sections according to the diagram below. It is helpful to know that the GAR is divided into the following subdivisions in descending order:

Title (mandatory)
Division (if necessary)
Part (if necessary)
Chapter (mandatory)
Article (if necessary)
Section (mandatory)
Subsection (if necessary)

Note that Title, Chapter and Section designations are required for any codification scheme. Division, Part and Article designations are sometimes not used in particular codification schemes. We recommend that whenever possible, Article designations be used. The following diagram shows an example of the general codification scheme for the GCA, which similarly applies to the GAR:



Recommendation 2

Please draft GAR sections according the example below and identify subsections in the following format.

§ 1101. Name or Title of Section.

In the section title, the first letter of each major word is capitalized. Do not capitalize minor words such as conjunctions and articles (e.g. and, but, or, the, a, etc.). The text of the section should be written as shown in this example.

(a) First subsection. The first subsection (if any) is designated with small letters in parentheses.

(1) Second subsection. The second subsection (if any) is designated by Arabic numerals in parentheses.

(A) Third subsection. The third subsection (if any) is designated by large capital letters in parentheses.

(i) Fourth subsection. The fourth subsection (if any) is designated by small Roman numerals in parentheses.

(aa) Fifth subsection. If necessary, a fifth subsection is designated by double lower case letters in parentheses and the cycle repeats as follows.

(1) Sixth subsection.

(AA) Seventh subsection.

(i) Eighth subsection.

Recommendation 3

Please use Microsoft Word for creating new legislative documents. The Compiler's Office now uses Microsoft Word exclusively for processing the GAR. Legal publishers such as Lexis and West require transmittal of Word files. Use of MS Word will minimize glitches and errors caused by conversions of files created with other word processing software such as WordPerfect.

Recommendation 4

Please use Times New Roman font in documents. Times New Roman seems to be used universally and is a true-type font necessary for embedding in documents to be published. We use this font exclusively in all GAR documents.

Recommendation 5

When assigning a code section number to a new statutory addition and you are unsure of whether the desired code section number is vacant and available, please call our office.

Thank you for considering these recommendations. Please note that the suggestions herein are not necessarily hard and fast rules. There may be occasions requiring deviation from any standard formatting scheme. If you have any questions or comments, please do not hesitate to call my office.



GERALDINE A. CEPEDA

MINUTES OF PUBLIC HEARING
Proposed Rules and Regulations
Governing the Issuance of Sanitary Permits
December 03, 2019 (9:00 a.m. – 12:00 p.m.)
Guam Environmental Public Health Laboratory
Dededo, Guam

T. Nadeau: *Hafa Adai. It is now 9:00 a.m., December 03, 2019. My name is Tom Nadeau; I am the Chief Environmental Public Health Officer with the Division of Environmental Health of the Department of Public Health and Social Services. On the behalf of the Director of this Department, Ms. Linda Unpingco DeNorcey, we welcome you all to this public hearing where we will be accepting and hearing comments to the proposed Rules and Regulations Governing the Issuance of Sanitary Permits. With me today is Ms. Katherine Del Mundo, Acting Environmental Public Health Officer Supervisor, also with the Division of Environmental Health.*

The Division of Environmental Health (DEH) of the Department of Public Health and Social Services (DPHSS) is proposing to amend the existing "Sanitary Permit Rules and Regulations." The proposed amendments seek to improve the language for clarity, insert language consistent with applicable statute and regulations, revise the existing fee schedule for the issuance of Sanitary Permit, and include provisions for the assessment of monetary penalty to individuals and businesses that repeatedly or blatantly violate environmental health laws and regulations.

Section 20105 of Title 10 GCA, Chapter 20 (General Provisions) authorizes DPHSS to "adopt and promulgate such rules and regulations...in accordance with the Administrative Adjudication Act" to carry out environmental health provisions of Title 10 GCA. As a result, DPHSS has adopted numerous regulations for various environmental health programs, including the regulations for Sanitary Permit. The current Sanitary Permit Rules and Regulations, which were adopted in 2011, had established the fee schedule for the issuance of Sanitary Permit to the island's health-regulated establishments. Revenues generated from the issuance of Sanitary Permits are deposited into the Environmental Health Fund (EHF) pursuant to §20121 of the same Chapter, and monies from the fund are to be expended solely in support of DEH operation.

Section 20118 of Title 10 GCA, Chapter 20, authorizes DPHSS to issue monetary fines to violators of environmental health laws and its rules and regulations. The same section further authorizes the Department to promulgate rules and regulations in establishing such fines. All monetary fines are to be deposited into the General Fund.

The promulgation of rules and regulations is governed by the Administrative Adjudication Law (Title 5, Chapter 9, Guam Code Annotated), and Section 9301 of that law requires that at least 10 days before the public hearing is held, a notice must appear in a newspaper of general circulation in Guam announcing the date, time, and place of the public hearing. The Department did comply with that requirement by publishing the announcement in The Guam Daily Post on November 15, 2019 and December 02, 2019. Copies of the proposed rules and regulations were also made available at the DEH office and on the Department website as further required by law.

As part of Administrative Adjudication Law procedures, an Economic Impact Statement was prepared. DEH estimates that the total direct economic impact to the applicable businesses in the implementation of the existing rules and regulations for the issuance of Sanitary Permit was \$879,266 in FY 2018. If the average of the last five years were calculated (FY 2014 – FY 2018), the direct economic impact was \$898,568. In the proposed rules and regulations, there will be a direct financial impact of approximately \$1,067,200 to the approximately 2,900 permanent health-regulated establishments in the first year of enactment, followed by \$1,357,200, \$1,647,200, \$1,937,200, and \$2,227,200 in the subsequent four years. The costs to equip the inspectors (i.e., vehicles, inspection

tools, etc.) and to process and issue the Sanitary Permits were not included in the revised fee schedule to minimize the dramatic increase.

The increase of fees for the issuance of Sanitary Permit, and the resultant additional staff, should have beneficial impact to the economy and the population of Guam from the anticipated reduction, or prevention, in the number of foodborne illnesses and other diseases that can be transmitted from any of the nearly 3,000 health-regulated facilities on the island, as there will be a greater number of inspections to enforce and promote compliance. The cost benefits to the public should outweigh the costs that the industry will experience from the adoption of the proposed fee increase. The economic burden of foodborne diseases alone in the U.S. annually has been estimated to be \$77.7 billion resulting from the 48 million foodborne illnesses occurring every year in America. This equates to \$1,618.75 per case. If the annual estimate is applied to Guam using the island's 2010 census, Guam's share of the economic cost for foodborne illnesses would be approximately \$257.96 million a year. If diseases, injuries, disabilities, or deaths that occur from non-food establishments (i.e., childcare centers, schools, swimming pools) were included, the economic burden would surely be higher.

Before accepting any testimonies, we would like to note the following errors in the proposed regulations. On Page 9, Lines 1, 5, 9, and 13 of \$4506, the written dollar amounts should read: "Three Hundred Sixty-Eight Dollars", "Four Hundred Sixty-Eight Dollars", "Five Hundred Sixty Eight-Dollars", and "Six Hundred Sixty Eight Dollars", respectively.

The proposed rules will be in effect immediately upon adoption. We will now formally accept any written or oral testimonies on the proposed rules and regulations. Dangkolo Na Si Yu'os Ma'ase

Currently, there is no one present at the Hearing so we will take a recess, and it is now 9:07 a.m.

- A RECESS IS TAKEN FROM 9:07 AM TO 12:00 PM -

T. Nadeau: *Okay, so we're back. It is now 12 o'clock noon. We do not have anyone to testify for the Regulations and this will - I guess we'll close the Public Hearing at noon, exactly now. Thank you.*



OFFICE OF LEGAL COUNSEL

Ufisinan I Maga'hågan Guåhan
Office of the Governor of Guam

LOURDES A. LEON GUERRERO
Governor of Guam

JOSHUA F. TENORIO
Lieutenant Governor of Guam

Transmitted via Central Files

July 12, 2021

MR. ARTHUR U. SAN AGUSTIN, MHR

Director

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES

155 Hesler Place

Hagatna, Guam 96910

Re: Sanitary Permits (CF#2021-13952)

Hafa Adai Mr. San Agustin:

The following documents are transmitted with the signature of *I Maga'hågan Guåhan*:

**Department of Public Health and Social Services: Amendments to the Rules
and Regulations Governing Issuance of Sanitary Permits**

Any questions or concerns can be sent directly to the Legal Counsels via email (sophia.diaz@guam.gov or leslie.travis@guam.gov) or call (671) 473-1118.

Senseramente,

SOPHIA SANTOS DIAZ

Legal Counsel

Enclosure(s): Amendment(s); Letter

cc via email: *Maga'hågan Guåhan*
Sigundo Maga'låhen Guåhan

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN
OFFICE OF THE GOVERNOR OF GUAM

July 07, 2021

MR. ARTHUR SAN AGUSTIN, MHR

Director

Department of Public Health and Social Services
155 Hesler Place
Hagatna, Guam 96910

RE: Amendments to the Rules and Regulations Governing Issuance of Sanitary Permits

Dear Director San Agustin,

I have reviewed the proposed amendments to the Rules and Regulations Governing the Issuance of Sanitary Permits ("Rules and Regulations"), which were submitted to my office on June 23, 2021. I understand that the Department of Public Health and Social Services ("DPHSS") put significant work into these amendments, which are intended to assist with enforcement by imposing fines on sanitary permit holders who repeatedly violate applicable rules and regulations.

I appreciate that DPHSS, which has a unique understanding of the difficulties that have faced our island during the current public health emergency caused by the COVID-19 global pandemic, saw fit to adjust the implementation date for the proposed fines. This delayed implementation will ensure an opportunity for both economic recovery and education for all those who are governed by these Rules and Regulations.

Pursuant to 5 G.C.A. § 9303(a)(4), I hereby approve the Rules and Regulations as to policy.

Senseremente,

A handwritten signature in black ink, appearing to read "L. Leon Guerrero".

LOURDES A. LEON GUERRERO
Maga'hāgan Guāhan
Governor of Guam

Enclosure: Amendment(s); Letter

cc via email: *Sigundo Maga'ldhen Guāhan*



LOURDES A. LEON GUERRERO
GOVERNOR, MAGA'HAGA

JOSHUA F. TENORIO
LT. GOVERNOR, SIGUNDO MAGA'LANI

GOVERNMENT OF GUAM

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT

JUN 17 2021



ARTHUR U. SAN AGUSTIN, MHR
DIRECTOR

LAURENT SF DUEÑAS, MPH, BSN
DEPUTY DIRECTOR

TERRY G. AGUON
DEPUTY DIRECTOR

MEMORANDUM

TO: Governor of Guam

FROM: Director, Department of Public Health and Social Services

SUBJECT: Proposed Amendments to the "Rules and Regulations Governing the Issuance of Sanitary Permits"

Pursuant to §9303, Division 1, Chapter 9 of Title 5 G.C.A., the Department of Public Health and Social Services (DPHSS) is submitting the attached, proposed *Rules and Regulations Governing the Issuance of Sanitary Permits* (the "Regulations") for your review and approval. This proposal had been ready for your endorsement since last year; however, as a result of the pandemic, this department withheld its transmittal. The proposal seeks to insert a monetary penalty for regulated businesses that blatantly and repeatedly violate sanitation requirements and revise the fee schedule for the issuance of Sanitary Permits, which will allow the recruitment of more inspectors for the Division of Environmental Health (DEH) via increased revenue into the Environmental Health Fund.

Prior to the public hearing for the proposal, the Regulations were posted on the DPHSS website and its copies were made available at DEH. The notices for the public hearing were placed in the Guam Daily Post on November 15, 2019 and December 2, 2019. The hearing was held on December 3, 2019 and the minutes of proceedings were taken. Although no written or oral testimonies were received from the public, DEH did provide a presentation on the proposal to the members of the Guam Hotel and Restaurant Association before the public hearing, on November 11, 2019.

All procedures provided in the Administrative Adjudication Law (Title 5 G.C.A., Chapter 9, Article 3) were followed. The required review and approval were obtained from the Office of the Attorney General and the format required of the Guam Compiler of Law was followed. Attached are all the supporting documents necessary for the onward transmittal to the Guam Legislature for hopeful adoption:

- *Proposed Rules and Regulations Governing the Issuance of Sanitary Permits* and its economic impact statement;
- Copies of the public hearing notices;
- Approval memorandum from the Office of the Attorney General;
- Letter regarding the format from the Office of the Compiler of Law;
- Minutes and audio recording of the 12/03/19 public hearing; and

Department of Public Health & Social Services
155 Hesler Place, Hagatna, Guam 96910
www.dphss.guam.gov

Elaine Tajalle

2021-13952
ROUTED AT CENTRAL FILES
JUN 23 '21 AMB:08

- Draft transmittal letter to Speaker Therese M. Terlaje of the 36th Guam Legislature.

In the attached economic impact statement, DEH had determined that the benefits outweigh the cost to implement the Regulations. Nonetheless, DPHSS recognizes the adverse effect COVID-19 pandemic is currently having on our economy; thus, DPHSS is recommending in the transmittal letter to the Guam Legislature that the revised fee schedule become effective one year after the Regulations are adopted or a year after you declare an end to the current public health emergency, whichever is later. However, the remaining provisions of the Regulations should be effective immediately upon its adoption.

For any questions in this matter, please contact Mr. Tom Nadeau, Chief Environmental Public Health Officer of the Division of Environmental Health, at 922-2543, or via his email at masatomo.nadeau@dphss.guam.gov.


ARTHUR U. SAN AGUSTIN, MHR

Attachments

OFFICE OF THE GOVERNOR
GOVERNOR'S CHAMBER



DATE: 7-7-21
TIME: 3:21 p
RECEIVED BY: DB
672021-1202



GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPATTAMENTON SALUT PUBBLEKO YAN SETBISION SUSIAT



LOURDES A. LEON GUERRERO
GOVERNOR, MAGA HAGA

JOSHUA F. TENORIO
LT. GOVERNOR, SIGUNDO MAGA LAHI

ARTHUR U. SAN AGUSTIN, MHR
DIRECTOR

LAURENT SF DUEÑAS, MPH, BSN
DEPUTY DIRECTOR

TERRY G. AGUON
DEPUTY DIRECTOR

AUG 05 2021

Honorable Therese M. Terlaje
Speaker, Thirty-Sixth Guam Legislature
163 Chalan Santo Papa
Hagatna, Guam 96910

Via: Honorable Amanda L. Shelton
Secretary of the Legislature

Doc Type:

36GL-21-0958
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

08-10-2021

Time:

Received:

Dear Speaker Terlaje:

This is a transmittal to *I Liheslaturan Guahan* of the proposed *Rules and Regulations Governing the Issuance of Sanitary Permits* (the "Rules and Regulations") pursuant to the Administrative Adjudication Law.

The Division of Environmental Health (DEH) of the Department of Public Health and Social Services (DPHSS) held a public hearing on December 3, 2019 to receive public comments on proposed Rules and Regulations. The proposed rules and regulations were posted on the website of the Guam DPHSS (www.dphss.guam.gov) on December 3, 2019. The announcements for the public hearing were also published in the Guam Daily Post on November 15, 2019 and December 2, 2019 and five (5) copies of the proposal and the Economic Impact Statement (EIS) were also on file at the DEH.

The public hearing was held on December 3, 2019 from 9:00 AM – 11:00 PM at the Guam Environmental Public Health Laboratory in Dededo. No one from the public was in attendance at the hearing and no oral or written testimonies were received at the time or 10 days thereafter. All procedures provided in the Administrative Adjudication Law (Title 5 GCA Chapter 9, Article 3) were followed in notifying and conducting the public hearing.

The proposed draft of these rules and regulations was submitted for review to the Office of the Attorney General on June 28, 2020. Approval as to form of the proposed rules and regulation was received by DPHSS on August 25, 2020 (copy enclosed).

A copy of the letter posted on the webpage of the Compiler of Laws which states, "Compliance with the recommended format will be de facto indication that the submission is in a format approved by the Compiler of Laws" is enclosed. The proposed rules and regulations are in compliance with the recommended format.

COMMITTEE ON RULES

RECEIVED:

August 10, 2021

1:32 P.M.

[Signature]

Department of Public Health & Social Services
155 Hesler Place, Hagatna, GU 96910
www.dphss.guam.gov

Doc. No. 36GL-21-0958.*

REC'D 8/10/21
C. Cruz / E. Claras
Office of Senator
Amanda Shelton

We have enclosed the following materials for your reference:

- A hardcopy of the public hearing notice that was printed in the Guam Daily Post on November 15, 2019 and December 2, 2019;
- A hardcopy of the draft proposed *Rules and Regulations Governing the Issuance of Sanitary Permits*, as well as an electronic copy;
- A hardcopy of the memo of approval from the Office of the Attorney General;
- A hardcopy of the letter regarding the format from the Office of the Compiler of Law;
- A hardcopy of the minutes of the December 3, 2019 public hearing;
- Recording of the public hearing on December 3, 2019; and
- A hardcopy of the memo of approval from the Governor's Office.

Because of the adverse economic impact of COVID-19 pandemic, we are proposing that the revised fee schedule in the proposal be effective 365 days after the end of the Governor's public health emergency declaration or after these Rules and Regulations adoption, whichever is later. However, DPHSS still seeks the remaining provisions be effective immediately upon adoption.

Should you have any questions regarding this matter, please contact Mr. Thomas Nadeau, Chief Environmental Public Health Officer of the Division of Environmental Health, Department of Public Health and Social Services, at 922-2547 or masatomo.nadeau@dphss.guam.gov.

Senseramente,



ARTHUR U. SAN AGUSTIN, MHR
Director
Department of Public Health and Social Services

Enclosures



OFFICE OF THE PRESIDENT
Mary A.Y. Okada, Ed.D.

PUBLIC ANNOUNCEMENT

This Advertisement is paid with Government of Guam General Funds by
Guam Community College

The Guam Community College is soliciting proposals from qualified firms or individuals interested in providing legal services

Request for Proposal (RFP) packages may be obtained at the Guam Community College's Materials Management Office in Mangilao, GCC Student Services & Administration Building Room 2105, 1st floor, Guam from Monday through Friday, excluding Government holidays, between 8:00 a.m. and 5:00 p.m. The RFP package may also be requested electronically via email: materialsmanagement@guamcc.edu. Deadline for submission of all proposals to the GCC Materials Management Office is no later than 5:00 p.m. Chamorro Standard Time (Guam Time), Tuesday, December 3, 2019. All proposals must be submitted to the attention of Mary A.Y. Okada, Ed.D., Guam Community College President.

Guam Community College reserves the right to reject any or all proposals, to not award proposals, to waive minor informalities or irregularities or award the legal services in whole or in part.

All questions regarding the proposal should be made in writing and directed to Guam Community College President at: materialsmanagement@guamcc.edu or facsimile at (671) 734-5238. Except to the above person named, direct or indirect contact with GCC's Management or Staff Board members or any person participating in the selection process is prohibited.

/s/ MARY A.Y. OKADA, Ed.D.
President

GCC is an equal opportunity employer and does not discriminate on the basis of race, sex, age, or ethnicity in its employment practices.



PORT OF GUAM
ATUNDAI - PLETTON GUAMMAN
Jose D. Lujan Guerrero Commercial Port
10.26 Cabras Highway, Suite 201, P.O. Box 146915
Telephone: (671) 477-5930/51 Facsimile: (671) 477-2689/4443
Website: www.portofguam.gu



Lorenzo A. Lujan Guerrero
Governor of Guam
Joseph F. Yonabe
Lieutenant Governor

The Port Authority of Guam Board of Directors will hold its Regular Board meeting on Tuesday, November 19, 2019 at 3:00 p.m. at the Board of Directors' Conference Room, Port Authority of Guam, Cabras Island, Piti. Business to be transacted include: Legal Matters pursuant to §8111(c) as well as other regular agenda items. Individuals with disabilities who may need special accommodations may contact Mr. Simeon Delos Santos, ADA Coordinator at 477-5931/4, ext. 430.

GUAM HOUSING AND URBAN RENEWAL AUTHORITY

Board of Commissioners Meeting & Executive Session
12:00 P.M., Friday, November 22, 2019

GHURA Main Office
1st Floor Conference Room
117 Bien Venida Avenue, Sinajana

For special accommodation, contact Ms. Kathy Taitano Tel No. 475-1322 or TTY #472-3701



GOVERNMENT OF GUAM

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPATTAMENTON SALUT PUBLIKO YAN SETESION SUSIAT
123 Chalan Kareta Mangilao, Guam 96913-6304

NOTICE OF PUBLIC HEARING

PURSUANT TO § 9301, DIVISION 1, CHAPTER 9 TITLE 5 GCA, ALL AGENCIES OF THE GOVERNMENT OF GUAM ARE REQUIRED TO PUBLISH A NOTICE OF PUBLIC HEARING ON THE ADOPTION, PROMULGATION, REPEAL, RECISSION OR AMENDMENT OF RULES. THE DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES WILL BE ACCEPTING PUBLIC COMMENTS ON THE PROMULGATION OF REVISED RULES AND REGULATIONS GOVERNING THE ISSUANCE OF SANITARY PERMIT.

DATE: Thursday, December 3, 2019
TIME: 9:00 A.M. TO 11:00 P.M.
PLACE: Guam Environmental Public Health Laboratory, Dededo

Copies of the proposed rules and regulations are available for inspection at the Division of Environmental Health (DEH) on the 2nd floor of the Department of Public Health and Social Services in Mangilao, and on the DPHSS webpage at dphss.guam.gov. Please call DEH at 735 7221 for questions and assistance.

LINDA UNPINGCO DENORCEY, MPH, Director

HEDCO Local Development Corporation

Statement of Financial Condition
September 30, 2019

| | |
|---------------------------|------------------------|
| Assets | |
| Cash and Cash Equivalents | \$ 4,072,680.45 |
| Net Fixed Assets | 196,194.14 |
| Other Assets | 55.00 |
| Total Assets | \$ 4,268,929.59 |
| Liabilities | |
| Fund Balance | \$ 256,292.94 |
| Total Net Worth | 4,012,636.65 |
| Total Net Worth | \$ 4,268,929.59 |

Statement of Revenue, Expenditures and Changes in Fund Balance
September 30, 2019

| | |
|---|----------------------|
| Revenues | \$ 1,230,552.37 |
| Expenses | 1,126,979.80 |
| Excess of Revenues over Expenses | \$ 103,572.57 |

GUAM

AUTHORITY

Better Water, Better Lives!
Glenn S. Nelson Public Service Building
628 Route 15, Mangilao, Guam 96913
Tel: (671) 300-6126/27 Fax: (671) 613-3753

THIS AD IS PAID FOR BY GWA (PUBLIC LAW 26-12)

INVITATION FOR BID

The GUAM WATERWORKS AUTHORITY will receive sealed bids for **Variable Frequency Drive System**, GWA IFB NO. 2020-01. Bids will be accepted until 10:00 a.m. Chamorro Standard Time December 04, 2019 at the GWA Procurement Office, 1st floor located at the Glenn S. Nelson Public Service Building in Mangilao at which time and place all bids will be publicly opened and read aloud. All bids must be accompanied by a Bid Performance Bond in the amount of 15 percent (15%) of the total bid price. Bid security may be bid performance bond, Surety Bond, certified check or cashiers check made payable to Guam Waterworks Authority. A non-refundable amount of \$15,000 is required for the purchase price of every set of bidding documents which are available at the GWA Procurement Office. Bidders can download a bid package at www.guamwaterworks.org without charge, although bidders are strongly encouraged to contact or visit GWA Procurement Office to register to ensure that updated information, notices of bid amendments are distributed to you.

GWA reserves the right to revise or reject any or all proposals and to waive any minor imperfection in the bid proposal in the interest of the Guam Waterworks Authority.

/s/ ANGEL C. BORDALO PE
General Manager

SUPREME COURT OF GUAM



Notice of Bar Examination

The Guam Board of Law Examiners is accepting applications for the
February 2020 Guam Bar Examination

Bar Applications are available at the Supreme Court website at www.guamsupremecourt.com or at the Supreme Court of Guam Clerk's Office, Suite 300 Guam Judicial Center Hagåtña.

Bar Examination Dates
February 26 & February 27, 2020

Applicants must be registered by

Early Filing Deadline
December 2, 2019, 4:00 p.m.

\$800.00 application fee

Late Filing Deadline
January 2, 2020, 4:00 p.m.

\$800.00 application fee plus \$250.00 late fee

For more information, you may contact

Hannah Guerrero Arroyo Esq.
BOARD OF LAW EXAMINERS
Supreme Court of Guam
Suite 300 Guam Judicial Center
123 West O'Brien Drive Hagåtña, Guam 96913-3174
Office hours: 8:00 a.m. - 4:00 p.m.
Telephone: (671) 475-3120
Facsimile: (671) 475-3143
Email: bare@guamsupremecourt.com

GUAM DAILY POST • MONDAY, DECEMBER 2, 2014

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GOVERNMENT OF GUÅHAN
DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES
DIVISION OF ENVIRONMENTAL HEALTH

**RULES AND REGULATIONS GOVERNING THE
ISSUANCE OF SANITARY PERMITS**

Title 26 Guam Administrative Rules and Regulations

Chapter 4

Article 5

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1 **§4501. Purpose.** The purpose of these rules and regulations is to govern the issuance,
2 fees, and administrative penalty for Sanitary Permits.

3 **§4502. Authority.** Section 20105 of Chapter 20 and Section 21102 of Chapter 21, Title
4 10 Guam Code Annotated authorizes the Director of the Department of Public Health and Social
5 Services to promulgate rules and regulations necessary to carry out the provisions of the law
6 governing the sanitary operations of health-regulated establishments. Section 20118 of Chapter
7 20 of Title 10 Guam Code Annotated authorizes the Department to promulgate rules and
8 regulations for administrative penalties.

9 **§4503. Title.** These rules and regulations shall also be known and cited as the *Sanitary*
10 *Permit Rules and Regulations.*

11 **§4504. Definitions.** As used in these rules and regulations:

12 ~~(a) — *Chemical Toilet* shall mean a building or structure housing one (1) or more water-~~
13 ~~tight containers of liquid chemical disinfectants intended to receive and hold human~~
14 ~~excrement.~~

15 (a) *Cosmetic Establishment* shall mean any premises or portion thereof, wherein any
16 of the following is practiced for compensation:

- 17 (1) Shaving, clipping, trimming, or cutting human hair;
18 (2) Singeing, shampooing, arranging, adorning, dressing, curling, waving,
19 permanent waving, tinting, applying tonic to or dyeing human hair;
20 (3) Giving facial, scalp, neck or body massages or treatments with oils, creams,
21 lotions, or other preparations either by hand or mechanical appliances;
22 (4) Applying cosmetic preparations, antiseptics, powders, oils, clays, lotions, or
23 other preparations to scalp, face, neck, or hands; or

1 (5) Manicuring or pedicuring.

2 (b) *Department* shall mean the Department of Public Health and Social Services of the
3 government of Guam.

4 (c) *Director* shall mean the Director of the Department of Public Health and Social
5 Services, or his designated representative.

6 (d) *Dry Cleaning Establishment* shall mean any place, building, structure, room,
7 premises, or portions thereof, used in the business of dry cleaning and dyeing of wearing apparel,
8 household linens and other articles, including coin-operated dry-cleaning establishments.

9 (e) *Eating and Drinking Establishment* shall mean any food service establishment,
10 mobile food service establishment, or vending machine.

11 (f) *Edible Garbage Feeding Establishment* shall mean ~~swill or leavings of food or any~~
12 ~~abandoned, spoiled, condemned meat, fish, fowl, vegetable matter, or offal from slaughtered~~
13 ~~animals, liquid or solid, which is free of toxic, or deleterious substances, and is deemed by the~~
14 ~~Director as being suitable for use solely as animal feed.~~ a farm, ranch, facility, premises, site, or
15 any place approved by the Director for operation to process edible garbage for the purpose of
16 livestock feeding.

17 (g) *Employee* shall mean any individual, including the owner, operator, manager, or
18 other person performing any function in a health-regulated establishment, whether for
19 compensation or otherwise.

20 (h) *Food Establishment* shall mean and includes every establishment or place which is
21 used or occupied as a bakery, confectionary, cannery, dairy, creamery, packing house, grocery,
22 supermarket, meat or poultry market, fruit or vegetable market, delicatessen, beverage plant,
23 slaughterhouse, poultry processing plant, fish processing plant, frozen food processing plant,

1 public market, food warehouse, or for the production, processing, manufacture, preparation for
2 sale, canning, bottling, packing, packaging, storage, sale, or distribution of food.

3 (i) *Health-Regulated Establishment* shall mean any (1) eating and drinking
4 establishment; (2) food establishment; (3) institutional facility; (4) hotel; (5) cosmetic
5 establishment; (6) laundry and dry-cleaning establishment; (7) public swimming pool; (8)
6 mortuary; (9) edible garbage feeding establishment; ~~(10) chemical toilet~~; and (10) any other
7 establishment required to possess a Sanitary Permit issued by the Department.

8 (j) *Hotel* shall mean any structure or any portion of any structure, including any
9 lodging house, rooming house, dormitory (including a dormitory housing for contract employees),
10 health spa, bachelor hotel, studio hotel, motel, private club, containing four (4) or more guest
11 rooms and which is occupied or is intended or designed for occupancy, by four (4) or more guests,
12 whether rent is paid in money, goods, labor, or otherwise, or whether with or without meals. It
13 does not include any penal institutions, hospital, clinic, nursing home, school, laboratory, or child
14 care facility.

15 (k) *Institutional Facility* shall mean any structure or any portion of any structure
16 operating as a child care facility, penal institution, school, hospital, clinic, nursing home, or
17 laboratory as defined in Title 10 GCA, Chapter 25.

18 (l) *Mortuary* shall mean any place used for such activities as are incident, convenient,
19 or related to the preparation and arrangements for the funeral, transportation, burial, cremation, or
20 other disposition of dead human bodies.

21 (m) *Public Laundry and Dry-Cleaning Establishment* shall mean any place, building,
22 structure, room, establishment, premises or portions thereof, used in the business of making,
23 sorting, washing, drying, starching, ironing, or wearing apparel, household linens and other

1 articles, including any establishment providing laundering equipment for use by customers for a
2 fee, and known by various terms such as laundromat, wash-o-mat, or launderette.

3 (n) *Public Swimming Pool* shall mean any artificial structure, basin, chamber, or tank
4 constructed of impervious material used or intended to be used for swimming, diving, wading, or
5 recreational bathing (but *does not* include conventional bath-tubs where the primary purpose is the
6 cleaning of the body or individual therapeutic tubs) and that is available for public use, whether
7 for a fee or free of charge; or owned or used by any business, partnership, corporation or person
8 for the use of their customers, clients, guests or employees, including, but not limited to, a
9 commercial pool, a community pool or a pool at a hotel, motel, resort, auto park, trailer park,
10 apartment house, or other multiple rental unit, private club, public club, public or private school,
11 gymnasium or health establishment.

12 (o) *Sanitary Permit* shall mean the official document issued by the Department of
13 Public Health and Social Services authorizing a health-regulated establishment to operate its
14 business.

15 (p) *Temporary Food Service Establishment (also known as TFSE)* shall mean any
16 eating and drinking establishment which operates at a fixed location for a period of ~~time not~~
17 ~~exceeding six (6) months~~ 1 to 180 days in conjunction with a carnival, fair, circus, exhibition, or
18 other transitory gathering not of a permanent structure, which are further described and identified
19 below based on its duration of operation:

20 (1) TFSE-1 which shall be those operating for 1 day only;

21 (2) TFSE-W which shall be those operating for 1 day, every week, for a year;

22 (3) TFSE-7 which shall be those operating for up to 7 days, but not less than two
23 consecutive days;

(4) TFSE-180 which shall be those operating for up to 180 consecutive days; and

(5) TFSE-X which shall be those operating in various combination of days not defined elsewhere; provided, it does not exceed 180 days.

(q) *Special Village Event* shall mean a carnival, fair, circus, exhibition, or other transitory gathering sponsored by the village Municipal Planning Council, *not to exceed* seven (7) consecutive days.

§4505. Sanitary Permit Applications for New and Renewal.

(a) All applications, and supporting documents, for a Sanitary Permit shall be in a form, format, and medium prescribed by the Director.

(b) A non-refundable deposit of ~~Twenty~~ Thirty Dollars (~~\$20.00~~\$30.00) shall be made to the 'Treasurer of Guam' at the time the application for Sanitary Permit is submitted to the Department. Upon completion and processing of the application, the deposit amount shall be deducted from the appropriate fee listed in §4506. In the event the calculated, prorated fee for the Sanitary Permit is less than the non-refundable deposit then the applicant shall pay the prorated fee as the deposit.

(c) Any application that remains inactive for sixty (60) consecutive days because of the inaction by the applicant (i.e., pending submission of required supporting documents), shall be considered permanently inactive, removed from the file for processing, and then destroyed, and the non-refundable ~~Twenty Dollars (\$20.00)~~ deposit shall be automatically forfeited.

(d) An applicant who wishes to re-apply after his or her application has become permanently inactive under the provision of §4505(c) shall be considered a new applicant and shall re-submit the application and supporting documents and pay all required fees, including the ~~Twenty Dollars (\$20.00)~~ non-refundable deposit fee.

1 (e) Failure to renew a Sanitary Permit within sixty (60) days of the due date shall void
2 the Sanitary Permit. A valid Sanitary Permit may not be reinstated until a new application is filed
3 and approved by the Department and payment is received, along with any other fees and monetary
4 penalty.

5 (f) A health-regulated establishment that fails to renew its Sanitary Permit for two
6 consecutive renewal periods shall be considered inactive, and any application received thereafter
7 for that establishment shall be treated as a new application and meet all the requirements as a new
8 applicant.

9 (g) The expiration date of a Sanitary Permit issued for a Temporary Food Service
10 Establishment shall be the final date of the temporary event.

11 (h) Any Temporary Food Service Establishment or Special Village Event that meets
12 criteria, as determined by the Department, based on the event's anticipated number of people
13 attending, including highly susceptible populations; expected number of vendors; and types of
14 food to be served or offered for sale must provide at least one designated, reserved parking space
15 near the event and a sheltered booth to be utilized by the Department for the duration of the event
16 by the organizer. The designated parking space shall be no further than the nearest parking made
17 available to the event organizer and/or the public, whichever is closer, and the booth shall have, at
18 a minimum, a table for writing that is no less than 24 sq. ft. in size, two chairs, and an overhead
19 protection from the elements, such as a canopy or other covering.

20 **§4506. Fees.** Fees for the issuance of a Sanitary Permit *shall* be as follows:

21 (a) Excluding TFSE, the Sanitary Permit fee for all health-regulated establishments
22 shall be the following, which shall be pro-rated based on the annual renewal date of the permit:

1 (1) Three Hundred Sixty-Eight Dollars (\$368.00), effective immediately upon
2 the adoption of these rules and regulations, if the establishment has 1 to 10 employees. For
3 health-regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be
4 assessed for each additional employee above 10.

5 (2) Four Hundred Sixty-Eight Dollars (\$468.00) on the second anniversary of
6 these rules and regulations adoption, if the establishment has 1 to 10 employees. For
7 health-regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be
8 assessed for each additional employee above 10.

9 (3) Five Hundred Sixty-Eight Dollars (\$568.00) on the third anniversary of these
10 rules and regulations adoption, if the establishment has 1 to 10 employees. For health-
11 regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be assessed
12 for each additional employee above 10.

13 (4) Six Hundred Sixty-Eight Dollars (\$668.00) on the fourth anniversary of these
14 rules and regulations adoption, if the establishment has 1 to 10 employees. For health-
15 regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be assessed
16 for each additional employee above 10.

17 (5) Seven Hundred Sixty-Eight Dollars (\$768.00) on the fifth anniversary of
18 these rules and regulations adoption, and thereafter, if the establishment has 1 to 10
19 employees. For health-regulated establishments with 11 or more employees, Five Dollars
20 (\$5.00) shall be assessed for each additional employee above 10.

21 (b) The Sanitary Permit fee for Temporary Food Service Establishments shall be:

22 (1) Fifty Dollars (\$50.00) for TFSE-1;

23 (2) One Hundred Fifty-Five Dollars (\$155.00) for TFSE-W;

- 1 (3) One Hundred Twenty-Five Dollars (\$125.00) for TFSE-7;
2 (4) Two Hundred Dollars (\$200.00) for TFSE-180;
3 (5) Three Hundred Dollars (\$300.00) for TFSE-X; and
4 (6) Twenty-Five Dollars (\$25.00) for Special Village Events officially sponsored
5 by a village Municipal Planning Council, provided, however, that the vendor shall be
6 limited to three (3) events per calendar year per permit issued.
7 (c) The Sanitary Permit fee for vending machines shall be:
8 (1) Five Hundred Dollars (\$500.00) per vending machine for each of the first
9 style or model of vending machine; and
10 (2) Ten Dollars (\$5.00-\$10.00) for each additional vending machine.
11 ~~(d) The Sanitary Permit fee for chemical toilet operator shall be Five Hundred Dollars~~
12 ~~(\$500.00) regardless of the number chemical toilets possessed by the operator.~~
13 (d) Issuance of a duplicate Sanitary Permit shall be Ten Dollars (\$10.00).
14 (e) Amendments to an existing Sanitary Permit shall be Ten Dollars (\$10.00).
15 (f) An applicant for a Sanitary Permit may request for the permit to be expedited and
16 processed within 24 hours the request is submitted. The Department may grant such request
17 provided the applicant has met all the requirements of the Department to obtain a Sanitary Permit,
18 including the requirement for the Pre-Operational Inspection. The Department shall assess a fee
19 One Hundred Dollars (\$100.00) for expedited processing in addition to the regular processing fee.
20 Applications for a Sanitary Permit for Temporary Food Service Establishments which are
21 submitted one day or less prior to the event will automatically be assessed an expedited processing
22 fee of Fifty Dollars (\$50.00), in addition to the regular processing fee.

1 (g) The cost of the Pre-Operational Inspection is included in the initial payment for the
2 Sanitary Permit. However, a fee of Fifty Dollars (\$50.00) an hour shall be assessed for all
3 subsequent inspections. With the exception of the first hour, fractional hours shall be rounded up
4 to the nearest whole hour if more than one half (0.5) hour, and rounded down if less than one half
5 (0.5) hour.

6 (h) Request for an expedited Pre-Operational Inspection may be granted, as determined
7 by the Director, if such inspection does not cause the disruption of any pre-existing inspections
8 scheduled for other applicants. The fee for expedited Pre-Operational Inspection shall be Two
9 Hundred Dollars (\$200.00) in addition to all other required fees established in these rules and
10 regulations if performed during normal Government of Guam business hours (8:00 am – 5:00 pm;
11 Monday through Friday). Expedited Pre-Operational Inspection conducted outside normal
12 business hours, including weekends, shall be Five Hundred Dollars (\$500.00).

13 (i) Any establishment that has its Sanitary Permit suspended under the provision of
14 Title 10 GCA, Chapter 21, §21109:

15 (1) That requests and obtains a re-inspection from the Department that results
16 in the finding that it had not corrected all of its violations shall be assessed a fee of One
17 Hundred Twenty-Five Dollars (\$125.00), which must be paid by the establishment prior to
18 any subsequent re-inspection by the Department.

19 (2) That requests to be re-inspected outside normal Government of Guam
20 business hours (8:00 a.m. to 5:00 p.m.; Monday through Friday) may submit a request to
21 the Department, and if approved, shall be assessed a flat fee of Three Hundred Dollars
22 (\$300.00). For any Government of Guam holiday, the fee shall be Six Hundred Dollars
23 (\$600.00), if the request is approved. Payment shall be made on the first business day

1 immediately after the inspection, and if such payment is not made, the Department may re-
2 suspend the Sanitary Permit immediately without any advanced notice and assess all other
3 applicable fees. If the re-inspection results in the non-reinstatement of the Sanitary Permit
4 (i.e., failed inspection) and the establishment fails to make the requirement payment, the
5 Department shall not conduct another re-inspection until such time all outstanding fees
6 have been paid by the establishment.

7 (j) Request for a follow-up sanitation inspection, prior to the date noted in the
8 inspection report, may be granted by the Department if resources permit. The fee for early follow-
9 up sanitation inspection shall be One Hundred Dollars (\$100.00), which shall be paid in advance
10 prior to the inspection.

11 (k) An application to renew a Sanitary Permit shall be received by the Department prior
12 to the date of that permit's expiration date, and any application received after the expiration date
13 shall be assessed a penalty fee of Twenty-Five Dollars (\$25.00), in addition to all other applicable
14 fees.

15 (l) Any health-regulated establishment that operated, regardless of the duration,
16 without a Sanitary Permit shall pay the required Sanitary Permit fee for its annual permit,
17 Temporary Food Service Establishment permit, or the Special Village Event permit, retroactively,
18 for that time period, inclusive of the Twenty Dollars (\$20.00) late application submission fee, if
19 applicable.

20 (m) A Temporary Food Service Establishment, or a sponsor of an event with such
21 establishment, that requests, and is granted, a variance pursuant to the Guam Food Code, which
22 causes the Department to increase its inspection frequency or duration so to closely monitor the

1 establishment in ensuring that the approved modification or waiver does not create any health
2 hazard or nuisance shall pay a fee of Three Hundred Dollars (\$300.00).

3 (n) All fees collected pursuant to these rules and regulations shall be non-refundable.

4 (o) The fee schedule established pursuant to these rules and regulations shall become
5 effective immediately upon enactment.

6 (a) ~~The Sanitary Permit fee for the following health-regulated establishments shall be~~
7 ~~Two Hundred Ninety Dollars (\$290) if the establishment has 1 to 10 employees and Five Dollars~~
8 ~~(\$5.00) for each additional employee above ten (10) thereafter; for establishments with less than~~
9 ~~ten (10) employees, the fee shall be One Hundred Fifty Dollars (\$150.00) until January 1, 2012;~~
10 ~~for establishments with less than ten (10) employees, the fee shall be Two Hundred Twenty Dollars~~
11 ~~(\$220.00) from January 2, 2012 until January 2, 2014:~~

12 ~~(1) Eating and Drinking Establishments, excluding vending machines and~~
13 ~~temporary food service establishments;~~

14 ~~(2) Food Establishments;~~

15 ~~(3) Institutional Facilities;~~

16 ~~(4) Hotels;~~

17 ~~(5) Cosmetic Establishments;~~

18 ~~(6) Public Laundry and dry cleaning establishments;~~

19 ~~(7) Public Swimming Pools;~~

20 ~~(8) Mortuaries;~~

21 ~~(9) Edible Garbage Feeding Establishments;~~

22 ~~(10) Commercial animal establishments; and~~

~~(11) Any other establishment required to obtain a Sanitary Permit from the Department not explicitly mentioned in these rules and regulations.~~

~~(b) The Sanitary Permit fee for Temporary Food Service Establishments shall be:~~

~~(1) One Hundred Dollars (\$100.00) for those operating for less than six (6) months, but more than three (3) days; and~~

~~(2) Fifty Dollars (\$50.00) for those operation for three (3) days; and~~

~~(3) Twenty Five Dollars (\$25.00) for Special Village Events officially sponsored by a village Municipal Planning Council, provided, however, that the vendor shall be limited to three (3) events per calendar year per permit issued.~~

~~(c) The Sanitary Permit fee for vending machines shall be:~~

~~(1) Two Hundred Ninety Dollars (\$290) per vending machine for each of the first style or model of vending machine; and~~

~~(2) Five Dollars (\$5.00) for each additional vending machine.~~

~~(d) The Sanitary Permit fee for chemical toilet operator shall be Five Hundred Dollars (\$500.00) regardless of the number chemical toilets possessed by the operator.~~

~~(e) Issuance of a duplicate Sanitary Permit shall be Ten Dollars (\$10.00).~~

~~(f) Amendments to an existing Sanitary Permit shall be Ten Dollars (\$10.00).~~

~~(g) An applicant for a Sanitary Permit may request for the permit to be expedited and processed within 24 hours the request is submitted. The Department may grant such request provided the applicant has met all the requirements of the Department to obtain a Sanitary Permit, including the requirement for the Pre Operational Inspection. The Department shall assess a fee of Seventy Five Dollars (\$75.00) for expedited processing in addition to the regular processing fee. Applications for a Sanitary Permit for Temporary Food Service Establishments which are~~

1 submitted one day or less prior to the event will automatically be assessed an expedited processing
2 fee.

3 (h) ~~The cost of the structural inspection, also known as a pre operation inspection, is~~
4 ~~included in the initial payment for the Sanitary Permit. However, a fee of Fifty Dollars (\$50.00)~~
5 ~~an hour shall be assessed for all subsequent inspections. With the exception of the first hour,~~
6 ~~fractional hours shall be rounded up to the nearest whole hour if more than one half (0.5) hour,~~
7 ~~and rounded down if less than one half (0.5) hour.~~

8 (i) ~~Request for an expedited structural inspection may be granted, as determined by~~
9 ~~the Director, if such inspection does not cause the disruption of any pre-existing inspections~~
10 ~~scheduled for other applicants. The fee for expedited Pre Operational Inspection shall be One~~
11 ~~Hundred Fifty Dollars (\$150.00) in addition to all other required fees established in these rules and~~
12 ~~regulations.~~

13 (j) ~~Any establishment whose Sanitary Permit is suspended under the provisions of~~
14 ~~Title 10 GCA, Chapter 21, §21109, and who is granted reinstatement by the Department as set out~~
15 ~~in Title 10 GCA, Chapter 21, §21110, shall first pay a re-opening fee of One Hundred Dollars~~
16 ~~(\$100.00) before the Sanitary Permit is returned or re-issued.~~

17 (k) ~~The fee schedule established pursuant to this §4506 shall become effective~~
18 ~~immediately upon enactment for new applications, provided, however, it shall become effective~~
19 ~~for the renewal of all Sanitary Permits issued prior to the enactment of these rules on June 1, 2012.~~

20 **§4506.1 Advance Notification of Fee Schedule.** The Director shall ensure that advance,
21 ~~written~~ notification is provided to all Sanitary Permit licensees relative to the cost for permit
22 renewal upon prior to the expiration of the ~~their current~~ Sanitary Permit. ~~The information shall be~~

1 ~~immediately provided as a permit renewal notification.~~ The notification may be in a form of a
2 press release to the local news media.

3 **§4507. Administrative Penalty.**

4 (a) Any establishment, ~~which~~ whose ~~had its~~ Sanitary Permit is suspended under the
5 provision of Title 10 GCA, Chapter 21, §21109, is granted reinstatement by the Department as set
6 out in Title 10 GCA, Chapter 21, §21110, shall first pay a re-opening fee of Three Hundred Dollars
7 (\$300.00) ~~One Hundred Dollars (\$100.00), if it has ten or less employees, or Five Hundred Dollars~~
8 (\$500.00), if it has eleven or more employees, before the Sanitary Permit is returned or re-issued
9 by the Department.

10 (b) The Department, at its discretion, shall assess monetary fine in accordance with the
11 following:

12 (1) Operating an establishment without a valid Sanitary Permit shall be a fine of no
13 more than Two Thousand Five Hundred Dollars (\$2,500.00) but no less than Three
14 Hundred Fifty Dollars (\$350.00)

15 (2) Transferring a Sanitary Permit to another person or to another location, or
16 posting on or using the permit in any way at any other premises other than for which it was
17 issued shall be a fine of no more than Two Thousand Five Hundred Dollars (\$2,500.00),
18 but no less than Three Hundred Fifty Dollars (\$350.00).

19 (3) Prohibiting the Department from accessing and inspecting its permitted health-
20 regulated establishment shall be a fine of no more than Two Thousand Five Hundred
21 Dollars (\$2,500.00), but no less than Three Hundred Fifty Dollars (\$350.00).

22 (4) Prohibiting the Department from examining and copying its records that are
23 required to be kept and maintained by the health-regulated establishment shall be a fine of

1 no more than One Thousand Dollars (\$1,000.00), but no less than Two Hundred Dollars
2 (\$200.00).

3 (5) Removing, defacing, destroying, or concealing an inspection report, letter
4 grade, or closure notice shall be a fine of no more than One Thousand Dollars (\$1,000.00),
5 but no less than Two Hundred Fifty Dollars (\$250.00).

6 (6) Knowingly authorizing a person to work who has a communicable disease that
7 can potentially be transmitted to the public in the course of that person's employment shall
8 be a fine of no more than Five Thousand Dollars (\$5,000.00), but no less than Five Hundred
9 Dollars (\$500.00).

10 (7) Having a repeat violation of the same critical requirement, with the assigned six
11 (6) demerit points, within a one-year period (365 days) shall be a fine of no more than One
12 Thousand Dollars (\$1,000.00), but no less than One Hundred Dollars (\$100.00) per
13 violation.

14 (8) Operating an eating and drinking establishment or food establishment without
15 a manager who possesses a Certificate of Management Certification shall be a fine of no
16 more than One Thousand Dollars (\$1,000.00), but no less than Two Hundred Dollars
17 (\$200.00).

18 (9) Importing a consumer item regulated by Title 10 Guam Code Annotated,
19 Chapter 32 (Hazardous Substances Act) and Chapter 40 (Guam Food, Drug and Cosmetic
20 Act) that is misbranded, adulterated, or otherwise prohibited by law shall be a fine of no
21 more than Twenty-Five Thousand Dollars (\$25,000.00), but no less than Five Hundred
22 Dollars (\$500.00).

1 (c) Assessment of monetary penalty may occur concurrently with other administrative,
2 civil, and/or criminal penalty authorized by law.

3 (d) Before imposing an administrative penalty against a person or a health-regulated
4 establishment, the Director shall issue a notice of intent to impose the penalty and provide the
5 individual or business an opportunity to request a hearing on the proposed penalty. The request
6 must be made within fifteen (15) business days of the date the notice of intent is served upon the
7 person or health-regulated establishment. Serving of the notice of intent to the person in charge
8 of the health-regulated establishment, or by certified mail to the last known mailing address of the
9 health-regulated establishment, shall be acceptable means of notification.

10 (e) The administrative penalty hearing shall be held in accordance with the
11 Administrative Adjudication Law (Title 5 GCA, Chapter 9).

12 (f) Any person or health-regulated establishment may seek review of any administrative
13 penalty imposed before the Superior Court of Guam. Such review shall be upon the record
14 established before the Director and not de novo. The Superior Court may sustain, modify, or
15 vacate any administrative penalty it reviews.

16 (g) If any person or health-regulated establishment fails to comply with an administrative
17 penalty order after it has become final:

18 (1) The Director may suspend the Sanitary Permit of the health-regulated
19 establishment until such time that the payment is made in full, but not before a written
20 notice is issued to the establishment notifying it of the action by serving of such notice to
21 the person in charge of the health-regulated establishment, or by certified mail to the last
22 known mailing address of the health-regulated establishment, at least seven (7) calendar
23 days before the suspension takes effect; or

1 (2) The Director may forward the matter to the Attorney General of Guam to bring
2 a civil action to enforce the order, or to recover the amount ordered or assessed, in
3 accordance to law.

4 (3) The Director may pursue both §4507(g)(1) and §4507(g)(2), if he/she so
5 desires.

6 **§4508. Suspension or Revocation of Sanitary Permit.**

7 (a) The Director may suspend or revoke any Sanitary Permit under the provisions of Title
8 10 GCA, Chapter 21, §§21107(2)(d) and 21109, or upon any violation by a health-regulated
9 establishment or by any of its employees for any environmental health violation under Title 10 of
10 the Guam Code Annotated, Chapters 20 through 33 and 35 through 40, or any rules and regulations
11 promulgated concerning Sanitary Permits.

12 (b) A health-regulated establishment with a suspended Sanitary Permit, as one of its
13 conditions in having its Sanitary Permit reinstated, shall be required the following:

14 (1) The staff and management receive applicable training and/or consultation
15 from the Department; and

16 (2) Submits a corrective action plan and/or other applicable, related
17 documentation to the Department.

18 The date, time, and venue for the training or consultation shall be coordinated between the
19 Department and the health-regulated establishment.

20 **§4509. Hearing.** (a) Any health-regulated establishment whose Sanitary Permit is to be
21 suspended or revoked *shall* be notified by the Director in writing of the Department's intention
22 and the reasons therefore.

1 (b) Any health-regulated establishment that receives a notice of violation with intent to
2 suspend or revoke as described in Subsection (a) of this §4508 and that wishes to contest *shall*
3 request a hearing with the Director in writing *no later than* fifteen (15) calendar days after receipt
4 of the notice, and *shall* state the grounds for objecting to the intended suspension or revocation.
5 The Administrative Adjudication Law's hearing procedure applies.

6 (c) Upon completion of a hearing, the Director *shall* make a written determination
7 concerning the violation and whether a suspension or revocation is to be imposed.

8 **§45010. Suspension without Hearing.** (a) In accordance ~~to~~ with Title 10 GCA, Chapter
9 21, §§21107(d) and 21109(a) and (b), a Sanitary Permit may be suspended without prior hearing:

- 10 (1) when the demerit score of the establishment is more than forty (40);
11 (2) at the discretion of the Director for violating any provisions of Title 10
12 GCA, Chapters 20 through 40; and
13 (3) for twice violating the same requirement deemed critical under the
14 applicable rules and regulations of the Department within any six-month period, in which
15 case, it *shall not* exceed five (5) days.

16 (b) A suspension without prior hearing may remain in effect until the violation is
17 corrected by the establishment, or resolved after a hearing in accordance with the Administrative
18 Adjudication Law. The Director *shall* have the discretion to decide whether the suspension shall
19 be continued pending a hearing.

20 **§4511. Effective Date.** These rules and regulations *shall* become effective immediately
21 upon enactment.

1 **§4512. Severability.** *If* any provision or application of any provision of these rules and
2 regulations are held invalid, such invalidity shall *not* affect the other provisions or applications of
3 these rules and regulations.

PROPOSED

SANITARY PERMIT RULES AND REGULATIONS

ECONOMIC IMPACT STATEMENT

Title 5 Guam Code Annotated, Chapter 9, Article 3

**DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIVISION OF ENVIRONMENTAL HEALTH
123 Chalan Kareta
Mangilao, Guam 96913-6304
(671) 735-7221**

09.19.19

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Title 5 Guam Code Annotated, Chapter 9, Article 3
ECONOMIC IMPACT STATEMENT
For the Implementation of the Proposed
SANITARY PERMIT RULES AND REGULATIONS

SUMMARY

The Division of Environmental Health (DEH) of the Department of Public Health and Social Services (DPHSS) is proposing to amend the existing "*Sanitary Permit Rules and Regulations*." The proposed amendments seek to revise the existing fee schedule for the issuance of Sanitary Permit and include provisions for the assessment of monetary penalty to individuals and businesses that repeatedly or blatantly violate environmental health laws and regulations.

Section 21101 of Title 10 GCA, Chapter 21 (Sanitation) prohibits the operation of any health-regulated establishment (HRE) without a valid Sanitary Permit. HRE are facilities, such as restaurants, childcare centers, dormitories, public swimming pools, beauty salons, and dry-cleaners, which are governed by Title 10 GCA, Chapters 23, 24, 25, 26, 27, 28, 29, and 30. These laws safeguard the public's health from environmental health hazards through the application and enforcement of various sanitation requirements. Sanitary Permits are issued by DEH and fees collected are deposited into the Environmental Health Fund (EHF). The EHF was established by legislation and monies generated are to be expended solely in support of DEH operations. Title 10 GCA, Chapter 21 mandates DEH to inspect all HREs every quarter, which equates to nearly 12,000 inspections a year of about 3,000 HREs that are permitted yearly. However, the Division has been averaging less than 1,500 inspections a year because of an insufficient number of inspectors.

The proposed fee increase will be to the level that will enable the Division to (1) timely conduct pre-operational inspections for the issuance of Sanitary Permit; (2) meet its statutory obligation of inspecting every health-regulated establishment at least once every quarter; and (3) provide proper supervision of staff to ensure uniformity of inspections through a manageable span of control. Generated revenue that is deposited in the EHF will be expended for the recruitment of additional inspectors and supervisors to conduct pre-operational inspections and compliance inspections.

To aid in the economic impact assessment of the proposed regulations, DEH analyzed its own data and reviewed existing data and figures from the U.S. Centers for Disease Control and Prevention (CDC) and other reputable sources. Direct economic impacts are presented here, with some indirect monetary impact. Direct costs include medical expenses incurred to treat or alleviate illnesses, while indirect costs are loss of earnings by individuals who took time off from work due to illness, or by parents or guardians who have to take care of the sick child. The analysis represents DEH's best estimate of these economic impacts. Other possible impacts such as long-term health consequences, pain and suffering of sick consumers, time lost from work or school, and possible lawsuits are not quantified in this analysis but are equally important.

The total direct economic impact to the applicable businesses in the implementation of the *existing* rules and regulations for the issuance of Sanitary Permit was \$879,266 in FY 2018. If the average of the last five years were calculated (FY 2014 – FY 2018), the direct economic impact was \$898,568. In the *proposed* rules and regulations, there will be a direct financial impact of approximately \$1,067,200 to the approximately 2,900 permanent health-regulated establishments in the first year of enactment, followed by \$1,357,200, \$1,647,200, \$1,937,200, and \$2,227,200 in the subsequent four years. The costs to equip the inspectors (i.e., vehicles, inspection tools, etc.) and to process and issue the Sanitary Permits were not included in the revised fee schedule to minimize the dramatic increase.

The increase of fees for the issuance of Sanitary Permit, and the resultant additional staff, should have beneficial impact to the economy and the population of Guam from the anticipated reduction, or prevention, in the number of foodborne illnesses and other diseases that can be transmitted from any of the nearly 3,000 health-regulated facilities on the island, as there will be a greater number of inspections to enforce and promote compliance. The cost benefits to the public should outweigh the costs that the industry will experience from the adoption of the proposed fee increase. The economic burden of foodborne diseases alone in the U.S. annually has been estimated to be \$77.7 billion resulting from the 48 million foodborne illnesses occurring every year in America. This equates to \$1,618.75 per case. If the annual estimate is applied to Guam using the island's 2010 census, Guam's share of the economic cost for foodborne illnesses would be approximately \$257.96 million a year. If diseases, injuries, disabilities, or deaths that occur from non-food establishments (i.e., childcare centers, schools, swimming pools) were included, the economic burden would surely be higher.

I. Purpose and Need

The Division of Environmental Health (DEH) of the Department of Public Health and Social Services was established by P.L. 15-96, which was later codified as Division 2, Part 1 (Environmental Health) of Title 10 GCA. DEH serves to implement applicable environmental health mandates of Title 10 GCA to protect the public health from hazards associated with poor or inadequate sanitation. An overview of DEH's mission, mandates, and programs is presented in **Annex 1**.

Section 21101 of Title 10 GCA, Chapter 21 (Sanitation) prohibits the operation of any health-regulated establishments without a valid Sanitary Permit. These health-regulated establishments (HRE) are Eating and Drinking Establishment (Title 10 GCA, Chapter 23), Food Establishment (Title 10 GCA, Chapter 24), Institutional Facility (Title 10 GCA, Chapter 25), Hotel and Temporary Workforce Housing (Title 10 GCA, Chapter 26 and Chapter 26A), Cosmetic Establishment (Title 10 GCA, Chapter 27), Laundry and/or Dry Cleaner (Title 10 GCA, Chapter 28), Public Swimming Pool (Title 10 GCA, Chapter 29), Mortuary (Title 10 GCA, Chapter 30), and Tattoo Shops (Title 10 GCA, Chapter 20). The regulatory control and its enforcement of these mandates are performed by the Division of Environmental Health (DEH) of the Department of Public Health and Social Services (DPHSS). In addition, Section 21104 of Chapter 21 directs DPHSS to inspect every health-regulated establishment at least once every three months, and as often as necessary. Categories and subcategories of every HRE are presented in **Annex 2**.

Section 20105 of Title 10 GCA, Chapter 20 (General Provisions) authorizes DPHSS to *“adopt and promulgate such rules and regulations...in accordance with the Administrative Adjudication Act”* to carry out environmental health provisions of Title 10 GCA. As a result, DPHSS has adopted numerous regulations for various environmental health programs, including the regulations for Sanitary Permit. The current Sanitary Permit Rules and Regulations, which were adopted in 2011, had established the fee schedule for the issuance of Sanitary Permit to the island’s health-regulated establishments. Revenues generated from the issuance of Sanitary Permits are deposited into the Environmental Health Fund (EHF) pursuant to §20121 of the same Chapter, and monies from the fund are to be expended solely in support of DEH operation.

Section 20118 of Title 10 GCA, Chapter 20, authorizes DPHSS to issue monetary fines to violators of environmental health laws and its rules and regulations. The same section further authorizes the Department to promulgate rules and regulations in establishing such fines. All monetary fines are to be deposited into the General Fund.

Nearly all field activities, including pre-operational inspections and compliance inspections, and the management of environmental health programs, are performed by Environmental Public Health Officers (EPHO) of DEH. Upon recruitment, EPHOs undergo intensive and extensive classroom and field training so that they may be familiar with all environmental health programs of the Division, especially the sanitation inspections of food facilities and other HREs. Within a year of qualifying, all EPHOs are compelled to obtain the following credentials and license so to ensure they possess understanding of major environmental health principles and practices: Certified Professional-Food Safety, Category 2 Pesticide Applicator, Certified Pool and Spa Operator/Inspector, and/or Registered Environmental Health Specialist. Aside from pre-operational and compliance inspections, EPHOs have other collateral duties and responsibilities, which include surveillance and control of vectors and regulation of consumer commodities. On any given day, as determined by priority, there may be between one to eight EPHOs available to conduct compliance inspections of HREs.

The proposed fee increase will improve the Division’s ability to (1) timely conduct pre-operational inspections for the issuance of Sanitary Permit; (2) meet its statutory obligation of inspecting every health-regulated establishment at least once every quarter; and (3) provide proper supervision of staff to ensure uniformity of inspections through a manageable span of control. Through the adoption of the proposal, DEH seeks to recruit additional inspectors and supervisors and effectuate the plan by utilizing the additional revenue that will be generated into the EHF from the revised fee schedule. The fee increase is to occur in annual increments until the proposed amount of \$768.00 is reached within five years of enacting the proposed rules and regulations. In addition, DEH proposes to establish other fees for services it provides to health-regulated establishments and to institute monetary fines for certain violations. The implementation of monetary penalty is pursued by the Division to deter sanitation violations, especially in food facilities, to prevent or minimize disease outbreaks from potentially occurring through the actions or inaction of HREs by penalizing them for repeat and/or blatant violations of environmental health laws and regulations.

Prior to the establishment of the EHF in 2000, DEH obtained its funding primarily from the General Fund (GF) for its operation. As a result of the EHF, the Division has been able to recruit

personnel, procure more equipment, and contract additional services in the implementation of the Division's many environmental health programs. After 2008, DEH became more reliant on EHF funding for operation as appropriations from the GF began to decrease (**Annex 3**). In FY 2018, nearly 65% of the total appropriation to DEH originated from EHF, which is a severe contrast to FY 2005 when GF provided 72% of the total funding to the Division. Current EHF revenue is insufficient to enable DEH to comply with all of its mandates, especially the quarterly inspection of all permitted HREs. For any expansion of its existing operation to occur, such as completing more compliance inspections, GF appropriation to DEH must increase and/or EHF revenue enhanced; the proposed rules and regulations are addressing the latter.

From Fiscal Year 2014 to Fiscal Year 2018, DEH issued an average of over 3,000 Sanitary Permits annually. In FY 2018, 3,246 permits were issued (**Annex 4**). If each permit issued was categorized as a permanent establishment, which operated for a period of one full year, DEH was obligated to conduct nearly 13,000 compliance inspections every year. In the last 15 years, DEH had an average of 3.0 full-time employees to conduct such compliance inspections (**Annex 5**), which equated to:

- Ratio of inspectors to establishments: 1:1042
- Required number of inspections per inspector per year: 4,168
- Required number of inspections per inspector per day: 16.8

These are unrealistic and unattainable figures; DEH was able to complete an average of only 1,357 compliance inspections per year during the same period with available staff. The challenge of conducting the required number of inspections continues to this date.

Because of the insufficient number of personnel to conduct compliance inspections, DEH has focused its resources into education and prioritizing programs and activities based on health risk to the public. Thus, establishments which cater to highly-susceptible populations, such as the young (childcare facilities), elderly (senior meals), and the sick (hospitals) are scheduled to be inspected more often than others; these establishments are followed in priority by full-service restaurants because of their complex preparations and the preparation of potentially hazardous foods. Food facilities alone account for nearly 80% of all permitted establishments regulated by DEH. By prioritizing, efforts are directed toward activities that have the most impact in protecting the public, and because DEH implements risk-based inspections, its regulatory actions are proportionate to the level of risk. Accordingly, critical requirements are evaluated more thoroughly than non-critical requirements, and the frequency of inspections reflect the risks an establishment poses to the public.

The consequence of focusing primarily on high-priority HREs, and employing risk-based inspections, has been that less prioritized establishments have not been inspected routinely, or have been neglected for long periods of time, which threatens the health of the entire population. Many HREs have gone without an inspection by DEH for several years, if at all. As of May 2018, nearly 44% of all food-related establishments had not been inspected in 5 or more years; institutional facilities fared a little worse with 46% (**Annex 6**). The worst was public swimming pools, as almost 76% of these establishments had not been inspected for at least 5 years. In FY 2018 alone, Sanitary Permits of 40 food facilities (Eating & Drinking Establishments and Food Establishments) were suspended because of excessive violations and/or pest infestations (**Annex**

7); nearly all were deemed non-priority HREs since these establishments did not cater to highly-susceptible populations. Instead, they were inspected, and subsequently suspended, because of complaints from the public. Hence, had DEH not been informed of these establishments' unsanitary conditions and practices from concerned citizens, it is very likely that the Division would not have discovered these violations until years later. Of these closures, the time period between date of suspension and when they were previously inspected ranged from 11 years to less than 1 month, with the average of nearly 4 years between inspections. The Sanitary Permit suspensions of these 40 HREs highlights the need for routine inspections of all HREs, regardless of the risk category. For some categories, critical violations and/or pest infestation were commonly cited (Annex 8).

The following national data provide additional reasons for the need to adopt and implement the proposed regulations:

- According to the U.S. Centers for Disease Control and Prevention (CDC), it is estimated that 48 million Americans (1 in 6) get sick from foodborne diseases with 128,000 hospitalizations and 3,000 deaths every year.¹ The economic burden from foodborne illnesses in the U.S. is estimated to be \$15 Billion to \$77 Billion annually.^{2,3}
- CDC reports that about 22,000 pool-related infections were caused by *Cryptosporidium* in 2018 and the total medical and work loss costs for this type of infection is approximately \$2,800 per person.⁴ While cryptosporidiosis has not been reported on Guam, possibly due to lack of testing for this parasite on island, many diarrheal complaints are seen on the island. The potential for infectivity from the disease is high as several studies have confirmed that it has worldwide incidence. A 2018 Consumer Product Safety Commission report showed that two-thirds of non-fatal drownings among children ages one to four years occur in pools.⁵
- Asthma is the leading chronic illness among children and adolescents in the U.S., and it is the number one cause of school absences associated with chronic illness.⁶ Six point two million (6.2 million) children under 18 years of age have been diagnosed with asthma in the U.S. (2017 data). There is a direct correlation between indoor environmental quality and occupant health, attendance, academic performance, and general cognitive ability. One of the most commonly cited violations at schools is inadequate ventilation.

Another challenge DEH encounters is establishments that knowingly and intentionally violate environmental health laws and regulations, which threatens the health and safety of the public and the integrity of the inspection results, such as:

- Businesses operating without a Sanitary Permit, and thus, not meeting the physical and operational requirements to protect consumers;
- Establishments removing or concealing the inspection report and/or letter grade to prevent the public from knowing its inspection result; and
- Distributors and retailers repeatedly importing misbranded and/or unapproved consumer commodities into the island.

To deter and penalize such violators without necessarily pursuing criminal charges, DEH seeks, through the proposed regulations, a monetary penalty that is to be assessed and adjudicated

administratively. Section 20120 of Title 10 GCA, Chapter 20 mandates all fines that are collected be deposited into the General Fund.

The ultimate goal in adopting the proposed rules and regulations for Sanitary Permit is to reduce disease transmission, or minimize its potential to occur, through effective regulatory controls and enforcement so to protect the health of the population, for goods and services received from island HREs. In the last few years, Guam has been very fortunate that there has been no large disease outbreak associated with HREs, but there continues to be sporadic reported cases and anecdotal stories of illnesses originating from HREs. The adoption of the proposal will allow DEH to be proactive in its attempt to prevent outbreaks from happening. A single outbreak can result in the illness of hundreds, such as the outbreak that sickened over 300 students in 2011, which was the largest foodborne illness occurrence that DEH had ever responded to in the last thirty years. The implicated HRE was the school cafeteria, and although the establishment was categorized as high priority because it served highly susceptible population, DEH had been able to inspect this cafeteria only once a year.

It is important to note that even with the dramatic increase, the revised fee schedule does not take into account the costs that will be sustained by DPHSS for training and equipping the employees. Accordingly, anticipated expenditures from procurement of vehicles and field instruments were not calculated into the proposed fees. Also, no assurances can be made that the fee increase will result in the recruitment of the required number of inspectors to conduct quarterly inspections since the calculated salaries, and thus the proposed fee, are based on entry-level wages. Promotional recruitment, and recruitment of positions that necessitate work experience, such as higher-level positions, will likely result in salaries greater than what was estimated in the proposed fee.

II. Financial Impact: *Current Rules and Regulations*

Existing Rules and Regulations Relative to the Issuance of Sanitary Permit assess a base fee of \$290.00 for every application submitted to obtain a Sanitary Permit for establishments with 10 or fewer employees. For every additional employee after the initial ten, a fee of \$5.00 is further assessed. A Sanitary Permit for a temporary food service establishment is \$100.00 if operating for less than six months but more than three days; for those operating for three days or less, the fee for issuance of a Sanitary Permit is \$50.00. A Sanitary Permit for a vending machine is \$290.00 per each style or model and \$5.00 for each additional machine. A flat fee of \$500.00 is assessed for chemical toilet operators regardless of the number of chemical toilets in their inventory.

In FY 2018, regulated island businesses that required a Sanitary Permit collectively incurred \$879,266 in direct cost from the receipt of 3,247 permits issued by DEH. Because nearly 11% of all permits were temporary and operated for less than 4 days, about \$17,850 (357 x \$50.00) of the total cost was sustained by operators of Temporary Food Service Establishments, while the majority of the cost (\$861,416) was derived from the issuance of permanent Sanitary Permits. If the average of the last five years were calculated (FY 2014 – FY 2018), the direct economic impact for the implementation of the existing regulations was \$898,568.

Because existing regulations do not have any provision for monetary penalty, it is not currently being assessed. Subsequently, there is no financial impact from monetary penalty to health-regulated establishments at this time.

III. Financial Impact: *Proposed Rules and Regulations*

The proposed regulations will increase the base fee for Sanitary Permit to \$768.00, which is an increase of \$478.00 (165%) from the current fee of \$290.00. The \$768.00 proposed fee is calculated as follows:

- Number of permanent health-regulated establishments (5-year average)2,900
- Recruitment of 31 inspectors and 6 supervisors to conduct and supervise, respectively, compliance inspections of all permanent health-regulated establishments once every quarter..... \$2,227,480
- Cost per applicant ($\$2,227,480 \div 2,900$)≈ \$768.00

For Temporary Food Service Establishments (TFSE), the proposed regulations will increase the Sanitary Permit fee by 0% to 300%, depending on the duration of its operation. Utilizing available data, it is anticipated that about 365 TFSEs would at a minimum be assessed \$50.00 for a Sanitary Permit. Because the duration of each TFSE is unknown, it cannot be determined how many would be required to pay \$155.00 (TFSE-W), \$125.00 (TFSE-7), \$200.00 (TFSE-X), or \$300.00 (TFSE-180) based on the proposed fee schedule for TFSEs. If the average (\$166.00) of the proposed five fees for TFSEs was applied to the 365 anticipated TFSEs, the total direct financial impact would be \$60,590:

- Average fee for TFSE ($\$50 + \$155 + \$125 + \$200 + \$300$)/5.....\$166.00
- Total, direct financial impact to 365 TFSEs ($365 \times \$166.00$) \$60,590

To minimize the financial impact to the regulated establishments, the cost to equip the inspectors (i.e., vehicles, field instruments, etc.) was not added to the proposed fee increase. Had this been included, the direct financial impact for the first year would have been an additional \$1 million dollars to affected businesses. The cost that will be incurred by the Department for the processing and the issuance of Sanitary Permits was also excluded from the revised fee schedule. These costs will need to be absorbed by other means (i.e., different funding source) by the department.

The proposed fee will occur in gradual, annual increments to allow affected businesses to adjust to the substantial increase, which will also allow DPHSS the time to recruit the inspectors and properly train them. Therefore, immediately upon the enactment of the regulations, the base fee will increase to \$368.00, then every year thereafter on the anniversary of the regulations' adoption, the fee will increase by \$100.00 until the final \$768.00 fee is achieved:

- Upon enactment: \$368.00
- 1 year after enactment: \$468.00
- 2 years after enactment: \$568.00
- 3 years after enactment: \$668.00
- 4 years after enactment: \$768.00

Collectively, there will be a direct financial impact of approximately \$1,067,200 to the approximate 2,900 permanent, health-regulated establishments in the first year of the proposed fee's enactment, followed by \$1,357,200, \$1,647,200, \$1,937,200, and \$2,227,200 in the subsequent four years.

The fee increase should enable the Department of Public Health and Social Services to recoup much of the cost for the enforcement of the Sanitary Permit. The increase in fee will result in more inspectors to accomplish more inspections, and thus, minimizing or preventing disease transmittance from occurring at, and from, health regulated establishments. This is particularly relevant of food related establishments, which comprise nearly 80% of all permitted businesses. The University of Guam estimated that the annual impact of foodborne illness on island is approximately 39,000 incidences, 3 deaths, and 167 hospitalizations, with an economic cost of \$5.1 to \$42.6 million dollars⁷. With food inspections given greater priority over other types of inspections by DPHSS, it is anticipated that the incidences of foodborne illnesses and associated costs will be reduced as a result of the proposed regulations' enactment.

The additional compliance inspections from increased staffing will also include non-food associated facilities, such as hotels, cosmetics establishments, public swimming pools, and other regulated establishments, which historically have received fewer inspections and been given lower priority over food-related establishments.

The financial impact of assessing monetary penalties would only be applicable to those health-regulated establishments that blatantly violate environmental health laws and regulations, such as operating a business without a Sanitary Permit or concealing or removing the inspection grade placard, and those establishments that repeat the same critical violation within a one-year (365 days) period. Thus, the potential financial impact to the establishments would vary year to year. From observations of DEH inspectors, along with available inspection reports, the following encounters occur annually, and the anticipated financial impact to affected businesses if monetary penalties are applied (Table 1):

Table 1. Project financial impact per year for monetary penalties.

| Violation | Number of Occurrences | Proposed Minimum Monetary Penalty per Violation | Potential Financial Impact |
|--|-----------------------|---|----------------------------|
| Operating without a Sanitary Permit | 15* | \$350 | \$5,250 |
| Transferring Sanitary Permit to another | 1** | \$350 | \$350 |
| Denying access for inspection | 1** | \$350 | \$350 |
| Refusing to provide required documents | 0** | \$200 | 0 |
| Removing or concealing placard or report | 1 | \$250 | \$250 |
| Manager without required certification | 20* | \$200 | \$4,000 |
| Importation of unapproved commodity | 27* | \$500 | \$1,350 |
| Repeat violation of critical requirement | 34** | \$100 | \$3,400 |
| Employee with communicable disease | 0** | \$500 | 0 |
| Total | | | \$14,950 |

*Approximate

**Not observed in the last two fiscal years

*Number of detainments in FY 2018

**FY 2018 inspection data

Utilizing the figures and calculations in Table 1, it is estimated that nearly \$15,000 could be assessed annually in fines from HREs violating laws and regulations governing the operation of health-regulated establishments.

IV. Potential Increase or Decrease to Cost of Living or Price of Good or Service

The direct cost to affected businesses will be an additional \$78.00 in the first year of the regulations' implementation, or \$6.50 a month (\$0.20/day). Table 2 presents the increasing, annual economic impact the proposed \$768.00 fee will have on each business when compared to the current \$290.00 fee in the acquisition of a Sanitary Permit.

Table 2. Minimum financial impact per year per establishment.

| DATE | PROPOSED ANNUAL FEE TO EACH HRE | ANNUAL FINANCIAL IMPACT | MONTHLY FINANCIAL IMPACT | DAILY FINANCIAL IMPACT |
|----------------------|---------------------------------------|-------------------------------|--------------------------------|------------------------------|
| 1 st Year | \$386 | \$78 | \$6.50 | \$0.20 |
| 2 nd Year | \$468 | \$178 | \$14.83 | \$0.49 |
| 3 rd Year | \$568 | \$278 | \$23.17 | \$0.76 |
| 4 th Year | \$668 | \$378 | \$31.50 | \$1.04 |
| 5 th Year | \$768 | \$478 | \$39.83 | \$1.31 |

It is doubtful the fee increase will be passed down to customers when the financial impact amounts to less than an average of \$1.50 a day, but if it is, it will likely be pennies a month per customer. It is also unlikely that the implementation of monetary penalties, which will affect only a small percentage of the HREs, will affect the cost of living or price of goods/service.

V. Direct or Indirect Impact of Employment

For the same reason provided above in the projected cost of living increase, the direct and indirect impact to employment should be nominal, if at all. Significant adverse impact to employment may occur from increased inspections and enforcement by DEH when more unlawfully operating regulated businesses are discovered (i.e., no Sanitary Permit), which would force the closure of such businesses and the subsequent permanent or temporary unemployment of its workers.

There will be an expected employment of additional 37 EPHOs in DEH as the fee increase will raise the revenue of EHF that will fund these employees.

VI. Increase or Decrease in Cost of Business

The cost of business will increase for all affected establishments; however, it's doubtful the impact would be enough to force the business to pass down the cost to the consumers or reduce their staff number.

VII. Adverse or Beneficial Economic Impact

The increase of fees for the issuance of Sanitary Permit, and the resultant additional staff, should have beneficial impact to the economy and the population of Guam from the anticipated reduction or prevention in the number of foodborne illness and other diseases transmitted (or can be transmitted) in the nearly 3,000 regulated facilities on the island, as there will be greater number of inspections to ensure compliance. Currently, there is limited data and studies to effectively quantify the true dollar amount potentially saved on the costs of diseases on Guam.

More inspections should mean improved compliance by the regulated establishments, and thus consequently reducing the incidents of diseases originating from these facilities, thereby, reducing the economic burden these diseases have on the island and its people. The cost benefits to the public should outweigh the costs that the industry will experience from the adoption of the proposed fee increase. The economic burden of foodborne diseases alone in the U.S. annually has been estimated to be \$77.7 billion resulting from the 48 million foodborne illnesses occurring every year in America. This equates to \$1,618.75 per case. If the annual estimate is applied to Guam using the island's 2010 census, Guam's share of the economic cost for foodborne illnesses would be approximately \$257.96 million a year. If diseases, injuries, disabilities, or deaths that occur from other non-food establishments were included, the economic burden would surely be higher.

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Hon. Leevin Taitano Camacho
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August 25, 2020

Mr. Arthur San Agustin
Acting Director
Department of Public Health and Social Services
590 S. Marine Corps Drive
Tamuning, Guam 96913

**Subject: Approval of Proposed Amendments to Rules and Regulations Governing
the Issuance of Sanitary Permits (Ref: DPHSS 20-0045)**

Dear Acting Director San Agustin:

The Office of the Attorney General has completed its review of the Department of Public Health and Social Services ("DPHSS") Division of Environmental Health ("DEH")'s proposed Amendments to Rules and Regulations Governing the Issuance of Sanitary Permits received in this office on January 16, 2020.

Pursuant to 5 GCA § 9303 of the Administrative Adjudication Law ("AAL"), I am approving the proposed rules as to form, constitutionality, compliance with the applicable requirements of the AAL, and compliance with your agency's statutory authority to promulgate rules.

Please be reminded that the AAL's current rule-making procedures require the Department to file the proposed Rules, together with the written approval of *I Maga'haga* as to policy and approval of the Attorney General as to compliance with the law, with the Speaker of *I Liheslatura* in a format and manner specified in 5 GCA 9303(a)(4). Section 9303(c) further provides that no rule shall become effective until after ninety (90) calendar days have elapsed from the date of filing with the Speaker of *I Liheslatura* during which time and within seventy-five (75) calendar days from the date of filing of the rules with the Speaker, the legislative committee with oversight of the subject matter or the Committee of the Whole shall have conducted one or more public hearings on the proposed rules. After the public hearing and within the 90-day time period, *I Liheslatura* may approve, disapprove, or amend the proposed rules by the passage of a bill into law. In the event *I Liheslatura* declines to formally approve, disapprove, or amend the proposed rules

Re: Approval of Proposed Amendments to Rules and
Regulations Governing the Issuance of Sanitary Permits
Ref: DPHSS 20-0045
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by the passage of a bill into law, the Speaker may certify and the Legislative Secretary may attest to the default approval of compliant rules.

If you have any questions, please contact Deputy Attorney General of the Solicitor Division, Karl P. Espaldon, at (671) 475-3324 ext. 3115/3660.

Sincerely,



LEEVIN TAITANO CAMACHO
Attorney General

Enclosure

cc: Chief Environmental Health Officer, DPHSS



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F. PHILIP CARBULLIDO
Chief Justice

GERALDINE AMPARO CEPEDA
Compiler of Laws

GUIDANCE FOR FORMATTING RULES AND REGULATIONS (GAR)

The Office of the Compiler of Laws is statutorily mandated to "[u]ndertake the publication of the continuing Administrative Rules and Regulations" of Guam. 1 GCA § 1602(c). The authority for the rule-making procedures of government of Guam agencies, departments, and other entities are set forth in Title 5, Guam Code Annotated, Chapter 9, Article 3, entitled "Rule-making Procedures." As part of this process, the rules are statutorily required to be "in a form approved by the Compiler of Laws." 5 GCA § 9303(a).

To assist government of Guam agencies, departments, and other entities, with the process of publishing submissions for including in the Guam Administrative Rules & Regulations (GAR), the Office of the Compiler of Laws has prepared this document to give guidance in the drafting process. It is strongly encouraged that those responsible for drafting rules and regulations review the recommendations and utilize the standard format herein, which was approved by the Guam Code Advisory Commission on June 21, 2005. Compliance with the recommended format will be de facto indication that the submission is in a format approved by the Compiler of Laws.

Recommendation 1

Please compose GAR sections according to the diagram below. It is helpful to know that the GAR is divided into the following subdivisions in descending order:

Title (mandatory)

Division (if necessary)

Part (if necessary)

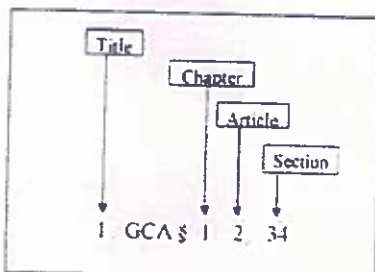
Chapter (mandatory)

Article (if necessary)

Section (mandatory)

Subsection (if necessary)

Note that Title, Chapter and Section designations are required for any codification scheme. Division, Part and Article designations are sometimes not used in particular codification schemes. We recommend that whenever possible, Article designations be used. The following diagram shows an example of the general codification scheme for the GCA, which similarly applies to the GAR:



Recommendation 2

Please draft GAR sections according the example below and identify subsections in the following format.

§ 1101. Name or Title of Section.

In the section title, the first letter of each major word is capitalized. Do not capitalize minor words such as conjunctions and articles (e.g. and, but, or, the, a, etc.). The text of the section should be written as shown in this example.

(a) First subsection. The first subsection (if any) is designated with small letters in parentheses.

(1) Second subsection. The second subsection (if any) is designated by Arabic numerals in parentheses.

(A) Third subsection. The third subsection (if any) is designated by large capital letters in parentheses.

(i) Fourth subsection. The fourth subsection (if any) is designated by small Roman numerals in parentheses.

(aa) Fifth subsection. If necessary, a fifth subsection is designated by double lower case letters in parentheses and the cycle repeats as follows.

(1) Sixth subsection.

(AA) Seventh subsection.

(i) Eighth subsection.

Recommendation 3

Please use Microsoft Word for creating new legislative documents. The Compiler's Office now uses Microsoft Word exclusively for processing the GAR. Legal publishers such as Lexis and West require transmittal of Word files. Use of MS Word will minimize glitches and errors caused by conversions of files created with other word processing software such as WordPerfect.

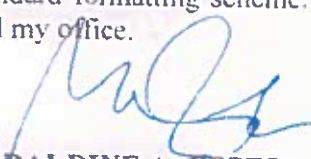
Recommendation 4

Please use Times New Roman font in documents. Times New Roman seems to be used universally and is a true-type font necessary for embedding in documents to be published. We use this font exclusively in all GAR documents.

Recommendation 5

When assigning a code section number to a new statutory addition and you are unsure of whether the desired code section number is vacant and available, please call our office.

Thank you for considering these recommendations. Please note that the suggestions herein are not necessarily hard and fast rules. There may be occasions requiring deviation from any standard formatting scheme. If you have any questions or comments, please do not hesitate to call my office.



GERALDINE A. CEPEDA

MINUTES OF PUBLIC HEARING
Proposed Rules and Regulations
Governing the Issuance of Sanitary Permits
December 03, 2019 (9:00 a.m. – 12:00 p.m.)
Guam Environmental Public Health Laboratory
Dededo, Guam

T. Nadeau: *Hafa Adai. It is now 9:00 a.m., December 03, 2019. My name is Tom Nadeau; I am the Chief Environmental Public Health Officer with the Division of Environmental Health of the Department of Public Health and Social Services. On the behalf of the Director of this Department, Ms. Linda Unpingco DeNorcey, we welcome you all to this public hearing where we will be accepting and hearing comments to the proposed Rules and Regulations Governing the Issuance of Sanitary Permits. With me today is Ms. Katherine Del Mundo, Acting Environmental Public Health Officer Supervisor, also with the Division of Environmental Health.*

The Division of Environmental Health (DEH) of the Department of Public Health and Social Services (DPHSS) is proposing to amend the existing "Sanitary Permit Rules and Regulations." The proposed amendments seek to improve the language for clarity, insert language consistent with applicable statute and regulations, revise the existing fee schedule for the issuance of Sanitary Permit, and include provisions for the assessment of monetary penalty to individuals and businesses that repeatedly or blatantly violate environmental health laws and regulations.

Section 20105 of Title 10 GCA, Chapter 20 (General Provisions) authorizes DPHSS to "adopt and promulgate such rules and regulations...in accordance with the Administrative Adjudication Act" to carry out environmental health provisions of Title 10 GCA. As a result, DPHSS has adopted numerous regulations for various environmental health programs, including the regulations for Sanitary Permit. The current Sanitary Permit Rules and Regulations, which were adopted in 2011, had established the fee schedule for the issuance of Sanitary Permit to the island's health-regulated establishments. Revenues generated from the issuance of Sanitary Permits are deposited into the Environmental Health Fund (EHF) pursuant to §20121 of the same Chapter, and monies from the fund are to be expended solely in support of DEH operation.

Section 20118 of Title 10 GCA, Chapter 20, authorizes DPHSS to issue monetary fines to violators of environmental health laws and its rules and regulations. The same section further authorizes the Department to promulgate rules and regulations in establishing such fines. All monetary fines are to be deposited into the General Fund.

The promulgation of rules and regulations is governed by the Administrative Adjudication Law (Title 5, Chapter 9, Guam Code Annotated), and Section 9301 of that law requires that at least 10 days before the public hearing is held, a notice must appear in a newspaper of general circulation in Guam announcing the date, time, and place of the public hearing. The Department did comply with that requirement by publishing the announcement in The Guam Daily Post on November 15, 2019 and December 02, 2019. Copies of the proposed rules and regulations were also made available at the DEH office and on the Department website as further required by law.

As part of Administrative Adjudication Law procedures, an Economic Impact Statement was prepared. DEH estimates that the total direct economic impact to the applicable businesses in the implementation of the existing rules and regulations for the issuance of Sanitary Permit was \$879,266 in FY 2018. If the average of the last five years were calculated (FY 2014 – FY 2018), the direct economic impact was \$898,568. In the proposed rules and regulations, there will be a direct financial impact of approximately \$1,067,200 to the approximately 2,900 permanent health-regulated establishments in the first year of enactment, followed by \$1,357,200, \$1,647,200, \$1,937,200, and \$2,227,200 in the subsequent four years. The costs to equip the inspectors (i.e., vehicles, inspection

tools, etc.) and to process and issue the Sanitary Permits were not included in the revised fee schedule to minimize the dramatic increase.

The increase of fees for the issuance of Sanitary Permit, and the resultant additional staff, should have beneficial impact to the economy and the population of Guam from the anticipated reduction, or prevention, in the number of foodborne illnesses and other diseases that can be transmitted from any of the nearly 3,000 health-regulated facilities on the island, as there will be a greater number of inspections to enforce and promote compliance. The cost benefits to the public should outweigh the costs that the industry will experience from the adoption of the proposed fee increase. The economic burden of foodborne diseases alone in the U.S. annually has been estimated to be \$77.7 billion resulting from the 48 million foodborne illnesses occurring every year in America. This equates to \$1,618.75 per case. If the annual estimate is applied to Guam using the island's 2010 census, Guam's share of the economic cost for foodborne illnesses would be approximately \$257.96 million a year. If diseases, injuries, disabilities, or deaths that occur from non-food establishments (i.e., childcare centers, schools, swimming pools) were included, the economic burden would surely be higher.

Before accepting any testimonies, we would like to note the following errors in the proposed regulations. On Page 9, Lines 1, 5, 9, and 13 of §4506, the written dollar amounts should read: "Three Hundred Sixty-Eight Dollars", "Four Hundred Sixty-Eight Dollars", "Five Hundred Sixty Eight Dollars", and "Six Hundred Sixty Eight Dollars", respectively.

The proposed rules will be in effect immediately upon adoption. We will now formally accept any written or oral testimonies on the proposed rules and regulations. Dangkolo Na Si Yu'os Ma'ase

Currently, there is no one present at the Hearing, so we will take a recess, and it is now 9:07 a.m.

- A RECESS IS TAKEN FROM 9:07 AM TO 12:00 PM -

T. Nadeau: Okay, so we're back. It is now 12 o'clock noon. We do not have anyone to testify for the Regulations and this will - I guess we'll close the Public Hearing at noon, exactly now. Thank you.



OFFICE OF LEGAL COUNSEL

Ufisinan I Maga'hågan Guåhan
Office of the Governor of Guam

LOURDES A. LEON GUERRERO
Governor of Guam

JOSHUA F. TENORIO
Lieutenant Governor of Guam

Transmitted via Central Files

July 12, 2021

MR. ARTHUR U. SAN AGUSTIN, MHR

Director

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES

155 Hesler Place

Hagatna, Guam 96910

Re: Sanitary Permits (CF#2021-13952)

Hafa Adai Mr. San Agustin:

The following documents are transmitted with the signature of *I Maga'hågan Guåhan*:

**Department of Public Health and Social Services: Amendments to the Rules
and Regulations Governing Issuance of Sanitary Permits**

Any questions or concerns can be sent directly to the Legal Counsels via email (sophia.diaz@guam.gov or leslie.travis@guam.gov) or call (671) 473-1118.

Senseramente,

SOPHIA SANTOS DIAZ

Legal Counsel

Enclosure(s): Amendment(s); Letter

cc via email: *Maga'hågan Guåhan*
Sigundo Maga'låhen Guåhan

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN
OFFICE OF THE GOVERNOR OF GUAM

July 07, 2021

MR. ARTHUR SAN AGUSTIN, MHR

Director

Department of Public Health and Social Services
155 Hesler Place
Hagatna, Guam 96910

RE: Amendments to the Rules and Regulations Governing Issuance of Sanitary Permits

Dear Director San Agustin,

I have reviewed the proposed amendments to the Rules and Regulations Governing the Issuance of Sanitary Permits ("Rules and Regulations"), which were submitted to my office on June 23, 2021. I understand that the Department of Public Health and Social Services ("DPHSS") put significant work into these amendments, which are intended to assist with enforcement by imposing fines on sanitary permit holders who repeatedly violate applicable rules and regulations.

I appreciate that DPHSS, which has a unique understanding of the difficulties that have faced our island during the current public health emergency caused by the COVID-19 global pandemic, saw fit to adjust the implementation date for the proposed fines. This delayed implementation will ensure an opportunity for both economic recovery and education for all those who are governed by these Rules and Regulations.

Pursuant to 5 G.C.A. § 9303(a)(4), I hereby approve the Rules and Regulations as to policy.

Senseremente,

A handwritten signature in black ink, appearing to read "Lourdes A. Leon Guerrero".

LOURDES A. LEON GUERRERO
Maga'hāgan Guāhan
Governor of Guam

Enclosure: Amendment(s); Letter

cc via email: *Sigundo Maga'lāhen Guāhan*



LOURDES A. LEON GUERRERO
GOVERNOR, MAGA'HAGA'

JOSHUA F. TENORIO
LT. GOVERNOR, SIGUNDO MAGA'LAM

GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT

JUN 17 2021



ARTHUR U. SAN AGUSTIN, MHR
DIRECTOR

LAURENT SF DUENAS, MPH, BSN
DEPUTY DIRECTOR

TERRY G. AGUON
DEPUTY DIRECTOR

MEMORANDUM

TO: Governor of Guam

FROM: Director, Department of Public Health and Social Services

SUBJECT: Proposed Amendments to the "Rules and Regulations Governing the Issuance of Sanitary Permits"

Pursuant to §9303, Division 1, Chapter 9 of Title 5 G.C.A., the Department of Public Health and Social Services (DPHSS) is submitting the attached, proposed *Rules and Regulations Governing the Issuance of Sanitary Permits* (the "Regulations") for your review and approval. This proposal had been ready for your endorsement since last year; however, as a result of the pandemic, this department withheld its transmittal. The proposal seeks to insert a monetary penalty for regulated businesses that blatantly and repeatedly violate sanitation requirements and revise the fee schedule for the issuance of Sanitary Permits, which will allow the recruitment of more inspectors for the Division of Environmental Health (DEH) via increased revenue into the Environmental Health Fund.

Prior to the public hearing for the proposal, the Regulations were posted on the DPHSS website and its copies were made available at DEH. The notices for the public hearing were placed in the Guam Daily Post on November 15, 2019 and December 2, 2019. The hearing was held on December 3, 2019 and the minutes of proceedings were taken. Although no written or oral testimonies were received from the public, DEH did provide a presentation on the proposal to the members of the Guam Hotel and Restaurant Association before the public hearing, on November 11, 2019.

All procedures provided in the Administrative Adjudication Law (Title 5 G.C.A., Chapter 9, Article 3) were followed. The required review and approval were obtained from the Office of the Attorney General and the format required of the Guam Compiler of Law was followed. Attached are all the supporting documents necessary for the onward transmittal to the Guam Legislature for hopeful adoption:

- *Proposed Rules and Regulations Governing the Issuance of Sanitary Permits* and its economic impact statement;
- Copies of the public hearing notices;
- Approval memorandum from the Office of the Attorney General;
- Letter regarding the format from the Office of the Compiler of Law;
- Minutes and audio recording of the 12/03/19 public hearing; and

Department of Public Health & Social Services
155 Hester Place, Hagatna, Guam 96910
www.dphss.guam.gov

Elaine Tajalle

2021-13952
RCVD AT CENTRAL FILES
JUN 23 '21 4:08:08

- Draft transmittal letter to Speaker Therese M. Terlaje of the 36th Guam Legislature.

In the attached economic impact statement, DEH had determined that the benefits outweigh the cost to implement the Regulations. Nonetheless, DPHSS recognizes the adverse effect COVID-19 pandemic is currently having on our economy; thus, DPHSS is recommending in the transmittal letter to the Guam Legislature that the revised fee schedule become effective one year after the Regulations are adopted or a year after you declare an end to the current public health emergency, whichever is later. However, the remaining provisions of the Regulations should be effective immediately upon its adoption.

For any questions in this matter, please contact Mr. Tom Nadeau, Chief Environmental Public Health Officer of the Division of Environmental Health, at 922-2543, or via his email at masatomo.nadeau@dphss.guam.gov.


ARTHUR U. SAN AGUSTIN, MHR

Attachments

OFFICE OF THE GOVERNOR
GOVERNOR'S CHAMBER



DATE: 7-7-21

TIME: 3:21 p

RECEIVED BY: DB

GC2021-1202



LOURDES A. LEON GUERRERO
GOVERNOR, MAGA'NACA

JOSHUA F. TENORIO
LT. GOVERNOR, SIGUNDO MAGA'LÁHI

GOVERNMENT OF GUAM

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT



ARTHUR U. SAN AGUSTIN, MHR
DIRECTOR

LAURENT SF DUEÑAS, MPH, BSN
DEPUTY DIRECTOR

TERRY G. AGUON
DEPUTY DIRECTOR

October 18, 2021

**TESTIMONY IN SUPPORT OF THE PROPOSED RULES AND REGULATIONS
GOVERNING THE ISSUANCE OF SANITARY PERMITS**

Hafa Adai Speaker Terlaje, and the members of the Committee on Health, Land, Justice and Culture. I am Arthur U. San Agustin, the Director of Department of Public Health and Social Services. We thank you all for the opportunity for the Department to give its testimony on Bill 209-36, which seeks the adoption of the proposed *Rules and Regulations Governing the Issuance of Sanitary Permits*. The Department wholeheartedly supports Bill 209-36.

Our written testimony and its accompanying slide presentation that were presented during the September 3, 2021 public hearing for supporting and justifying the need to adopt the proposed regulation are attached for your review. We will spare you all from having to listen to the same testimony, and witness the unpleasant inspection photos, all over again by simply summarizing our points:

- The proposed fee schedule will increase revenue into the Environmental Health Fund, which will then allow the Division of Environmental Health to recruit additional inspectors to conduct quarterly compliance inspections of the nearly 3,000 food facilities, cosmetic establishments, institutional facilities, public swimming pools, hotels, and dry-cleaners. The frequent inspections will equate to fewer violations, and thus, minimizing the potential of disease transmission and large outbreaks from originating from these health-regulated establishments.
- Sanitary Permits will be processed and issued timelier since pre-operational inspections can be scheduled and conducted sooner.
- The passage of Bill 209-36 will build public confidence in the sanitary conditions of the businesses where they go to eat, get their haircut, drop off their children, swim, and dry-clean their clothes.
- The proposed monetary penalty should deter businesses from (a) operating without a Sanitary Permit, (b) importing adulterated or mislabeled consumer commodities, and (c) committing other unlawful acts that violate our environmental health laws.

Furthermore, this Department thanks the Committee for recognizing and supporting the need to delay the implementation of the revised fee schedule until October 30, 2022 so to enable the industry to recover and to prepare. However, we do ask that specific language be inserted in Bill 209-36 stating that the current fee schedule will continue to apply until the implementation of the revised fee schedule.

Lastly, the Department is seeking the consideration of the Committee in possibly adding a provision to Bill 209-36 that will amend Section 20120 of Chapter 20 of Title 10 GCA so that monetary fines collected are deposited into the Environmental Health Fund. Currently, all fines are deposited into the General Fund.

Once again, we thank Speaker and Chairperson Terlaje and the members of the Committee on Health, Land, Justice and Culture for allowing us to present our summarized testimony as a supplement to the September 3, 2021 testimony with the supporting PowerPoint presentation in support of Bill 209-36.

Thank you and *Si Yu'us Ma'ase*.


ARTHUR U. SAN AGUSTIN, MHR
Director


M. THOMAS NADEAU
Chief Environmental Public Health Officer

Attachments



GOVERNMENT OF GUAM

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT



LOURDES A. LEON GUERRERO
GOVERNOR, MAGA'HAGA'

JOSHUA F. TENORIO
LT. GOVERNOR, SIGUNDO MAGA'LÄHI

SEP 03 2021

ARTHUR U. SAN AGUSTIN, MHR
DIRECTOR

LAURENT SFOUENAS, MPH, BSN
DEPUTY DIRECTOR

TERRY G. AGUON
DEPUTY DIRECTOR

**TESTIMONY IN SUPPORT OF THE PROPOSED RULES AND REGULATIONS
GOVERNING THE ISSUANCE OF SANITARY PERMITS**

Hafa Adai Speaker Terlaje, and the members of the Committee on Health, Land, Justice and Culture. I am Tom Nadeau, the Chief Environmental Public Health Officer with the Division of Environmental Health of the Department of Public Health and Social Services. Our Director, Mr. Arthur U. San Agustin, sends his regards and thanks you all for allowing the Department to give this testimony on the proposed *Rules and Regulations Governing the Issuance of Sanitary Permits*. The Director and I further thank you, and the Committee, for allowing me to present this testimony with the use of the accompanying PowerPoint Presentation (SLIDE 1). This presentation is similar to what I presented to the members of the Guam Hotel and Restaurant Association on November 11, 2019, prior to the public hearing on December 3, 2019 as part of the Administrative Adjudication Law process, but with some revisions and updates.

On behalf of Director San Agustin, let me state for the record that the Department of Public Health and Social Services supports the adoption of the proposed *Rules and Regulations Governing the Issuance of Sanitary Permits*, which I will refer in this testimony as the "Regulations."

I will start this presentation by sharing with you all some inspection photos that were taken over the years by the Division of Environmental Health, or DEH, as we are often called. (SLIDES 2 – 16).

SLIDE 17

What you just witnessed on the screen are examples of the violations the inspectors of DEH occasionally encounter during their compliance inspections or complaint investigations of health-regulated establishments, or HREs, such as eating and drinking establishments, institutional facilities, hotels, schools, swimming pools, cosmetic establishments, and other businesses.

To better understand the need for the adoption of these Regulations, it is important that this Committee, and the public, first know the operations and the challenges of the Division of Environmental Health.

SLIDE 18

DEH is one of five Divisions of the Department of Public Health and Social Services.

SLIDE 19

It is the mission of DEH "*to serve and protect the people of Guam from environmental hazards and drug diversion through education and the implementation of governing laws designed to PREVENT injuries, diseases, disabilities, and deaths.*" We emphasize the word "prevent" in this slide as a

reminder to all that prevention is a hallmark of all public health programs, and the functions of DEH are no different.

SLIDE 20

The major functions of DEH are:

1. The regulating of food, drugs, cosmetics, medical devices, and even retail hazardous substances, such as toys that pose a choking hazard, that are imported and sold in Guam.
2. They protect the public from diseases that are transmitted by mosquitoes, such as dengue fever, malaria, and Zika. If you'll remember, we had a dengue outbreak in late 2019. The first locally transmitted case of dengue in 75 years. DEH played a prominent role in the response to that public health emergency.
3. The Division issues Sanitary Permits to regulated businesses, Health Certificates to those employed at these businesses, and Controlled Substances Registration to healthcare professionals and institutions that distribute or dispense pharmaceutical controlled drugs. They even issue authorization to exhume dead bodies in cemeteries.
4. DEH also regulates radiologic devices, such as x-ray machines; pharmaceutical controlled drugs by investigating its misuse and abuse; and chemical toilets, like the porta-potties seen at large events and gatherings.

SLIDE 21

But above all, DEH is known primarily for the sanitation inspections they conduct of Eating and Drinking Establishments, Institutional Facilities, Cosmetic Establishments, Hotels and Motels, Public Swimming Pools, and Dry Cleaners and Laundromats.

SLIDE 22

Of the nearly 3,000 Sanitary Permits the Division issued, which reflect the number of businesses that were regulated in FY 2018, 79% were for food-related facilities, like restaurants, bars, stall stands, grocery stores, wholesalers, mobile food establishments, and retail water manufacturing facilities. The regulations of these HREs consume a significant portion of DEH's activities.

SLIDE 23

In the operation of DEH, the Division relies on a handful of funding sources. They are the General Fund, Environmental Health Fund, Sanitary Inspection Revolving Fund, Controlled Substances Diversion Fund, and a few federal grants.

SLIDE 24

Of the five funding sources, up to 80% are derived from the General Fund (GF) and the Environmental Health Fund (EHF). Thus, DEH has been greatly reliant on these two funds for funding personnel and operations. As you all may know, EHF derives its revenues from the issuance of Health Certificates and Sanitary Permits, which are then appropriated annually to DEH.

SLIDE 25

Prior to FY 2008, GF was either the primary funding source or the only funding source of DEH. But since FY 2008, DEH has become more and more reliant on EHF. As the graph on the screen illustrates, the appropriation from GF (presented here in the blue line) is no longer the main funding source of DEH, but instead, it has been replaced by EHF (which is shown in the green line)

from FY 2005 to FY 2018. More recently, GF has been substituted with the Healthy Futures Fund, but the appropriation amount from that fund has been similar to what the Division has been receiving from GF. As a result, DEH continues to rely on EHF to operate; therefore, in order to expand our services, an increase in the fee schedule for Sanitary Permits will be necessary to support this direction in protecting our community.

SLIDE 26

As we all know, funding affects personnel, which in turn affects the organization's ability, or inability, to meet its many mandates, which is true with DEH. As this slide shows, in FY 2019, the Division had 28 full-time and vacant funded positions, which represented a mere 6% of all funded positions of the Department for that year.

SLIDE 27

Yet, the number of programs in DEH are just as many as other divisions of DPHSS, if not more. As a result, many programs of DEH are inactive, or active only when necessary. Such reactionary approach to operating the Division is contradictory to the mission of DEH and counters public health's principle of prevention.

SLIDE 28

As of today, DEH has 10 Environmental Public Health Officers (called EPHOs) who are trained to conduct compliance inspections and respond to investigations. However, because 4 EPHOs are specifically assigned to manage one or more specialized programs of the Division that leaves 6 inspectors to inspect the nearly 3,000 health-regulated establishments (or HREs). Even then, only 2 to 3 EPHOs are generally available to conduct these inspections as they are also assigned to other activities.

SLIDE 29

As expected, the small number of inspectors have prevented DEH from complying with the law, which mandates the inspection of every 3,000 permitted establishments at least four times a year. That equates to 12,000 total inspections annually. The 12,000 inspections do not include follow-up inspections, which is almost always necessary. In fact, DEH has been averaging only about 1,200 inspections yearly, which is about 10% of all required inspections.

SLIDE 30

In response, the Division has been prioritizing its inspections based on the health-risk these HREs pose to the population by assessing the customers they serve, the type of services being provided, if any previous outbreaks have been linked to any of the establishments, and whether the business is a repeat or blatant offender of sanitation laws and regulations.

SLIDE 31

As the graph in this slide shows, majority of the inspection efforts have been directed to food facilities and institutional facilities, which we believe pose the most risk to the community.

SLIDE 32

In 2018, we examined our past inspection data and discovered that nearly 45% of all health-regulated establishments have not been inspected for 5 or more years. This was particularly

evident for public swimming pools. Note, we didn't use more recent data as the current pandemic, and the dengue fever of 2019, would not provide a good representation of our compliance inspections.

SLIDE 33

That same fiscal year of 2018, 40 establishments were suspended for various sanitation violations and 75% of them were inspected because of public complaints, and nearly all were food facilities. All 40 establishments, which had its Sanitary Permit suspended, were in the category deemed low-risk to the health and safety of the people. So, the biggest take away from this data is that all establishments, especially food establishments, need to be inspected frequently, regardless of its risk-category. To make that possible, greater funding is necessary to recruit more inspectors.

SLIDE 34

The biggest concern associated with poor sanitation in a health-regulated establishment is the potential for an outbreak to occur, and although disease outbreaks are not very common, when it does occur, it can affect hundreds. Guam has had its own share of outbreaks, as shown in this slide; the largest one in the past 30 years occurred in 2011 where 357 students and staff from 5 schools became ill from consuming contaminated breakfast. According to Dr. J. Yang of the University of Guam, the annual estimate of economic burden to Guam from foodborne illness, which includes non-outbreaks, is \$258 million dollars a year. The benefits from adopting the proposed regulations far exceeds the direct cost resulting from the fee increase, and will be less than the economic burden the island will sustain resulting from foodborne illnesses.

SLIDE 35

I thank you for your patience in allowing me to provide some background about the Division of Environmental Health and its challenges as it relates to health-regulated establishments. It's primarily because of these reasons I have just shared that the proposed regulations were developed and introduced for adoption. DPHSS is seeking to adopt the proposed Regulations to assess monetary penalties for repeat and blatant violators to deter and penalize such businesses, and to increase the Sanitary Permit fees so to enable the Division of Environmental Health to meet its mandate in the number of inspections that must be conducted to minimize the potential for disease outbreak from occurring in any of the estimated 3,000 health-regulated establishments.

SLIDE 36

The Department recognizes that fee increases of any kind during the current public health crisis may not be the ideal time, especially considering the adverse impact that it has had on our economy. However, through experience, we've learned that there is never a good time to seek a fee increase as there will always be opposition to it. This happened in 2016 when DPHSS attempted to adjust the fee schedule for issuing Sanitary Permits. That effort was abandoned due to the strong opposition it received from the business community. Nonetheless, it is the position of the Department that the Sanitary Permit fees should reflect the operational cost that DEH will incur in fulfilling its legal mandate for the purpose of regulating businesses, which is what the proposed Regulations will do.

The current base fee is \$290 per year and \$5.00 per employee after 10. In the proposal, the base fee will be raised to \$768 over a period of 5 years, as presented in this slide. This slide also shows the

annual, monthly, and daily cost increase. The increase in year 5 is \$39.83 per month or \$1.31 per day, in comparison to existing base fee of \$24.17 per month or \$0.79 per day. The public benefits of fewer diseases, and the costs associated from such illnesses, and improved sanitation, outweighs the financial impact to the industry.

SLIDE 37

If adopted, DPHSS anticipates:

- An increase of revenue into the Environmental Health Fund of \$2.2 million a year that will support the recruitment of approximately 37 inspectors to inspect every health-regulated establishment four times a year;
- Seeing a reduction in the number of repeat critical violations, and thus resulting in fewer businesses being closed;
- Fewer critical violations and increase in compliance inspections there will be a decrease in the potential for a disease outbreak to occur; thereby, preventing injuries, diseases, disabilities, and deaths to our people and its visitors; and
- Building of public confidence in the sanitary conditions of the businesses where they go to eat, get their haircut, drop off their children, swim, and dry-clean their clothes.

SLIDES 38

To address the concern for the timing of the proposal, the Department recommends that the implementation of the fee schedule be delayed for one year from its date of adoption, so to enable the economy to improve, but allow all other provisions of the proposal to be effective immediately upon adoption.

In closing, I will share with you, additional inspection photographs as a reminder that sanitation laws and regulations exist for a reason, and my staff at the Division of Environmental Health need your support in passing the proposed Regulations so they may better continue to protect you and your loved one's health and safety.

SLIDES 39-52

Thank you and *Si Yu'us Ma'ase*.


ARTHUR U. SAN AGUSTIN, MHR
Director


M. THOMAS NADEAU
Chief Environmental Public Health Officer

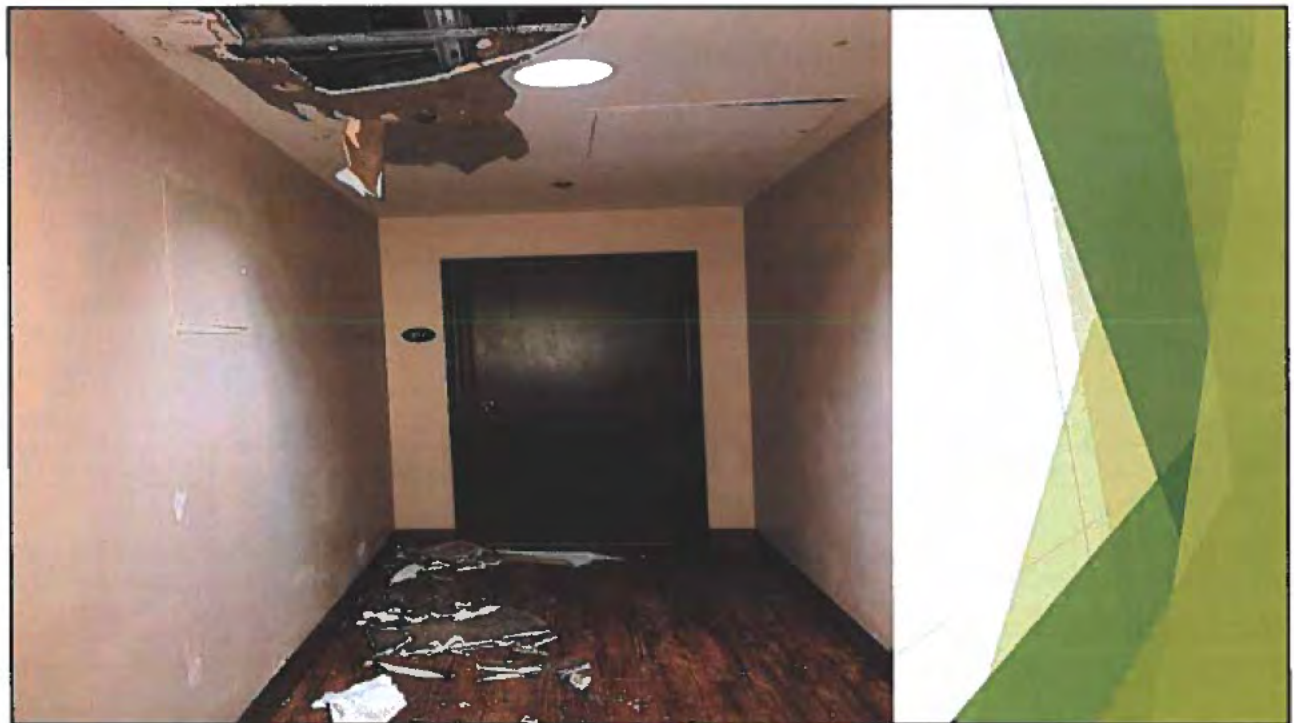
**Legislative Public Hearing on the
proposed
*RULES AND REGULATIONS
GOVERNING THE ISSUANCE OF
SANITARY PERMITS***

**Guam Congress Building
Committee on Health, Land, Justice, and Culture
September 3, 2021**

**DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES
ARTHUR U. SAN AGUSTIN, MHR
Director, DPHSS**











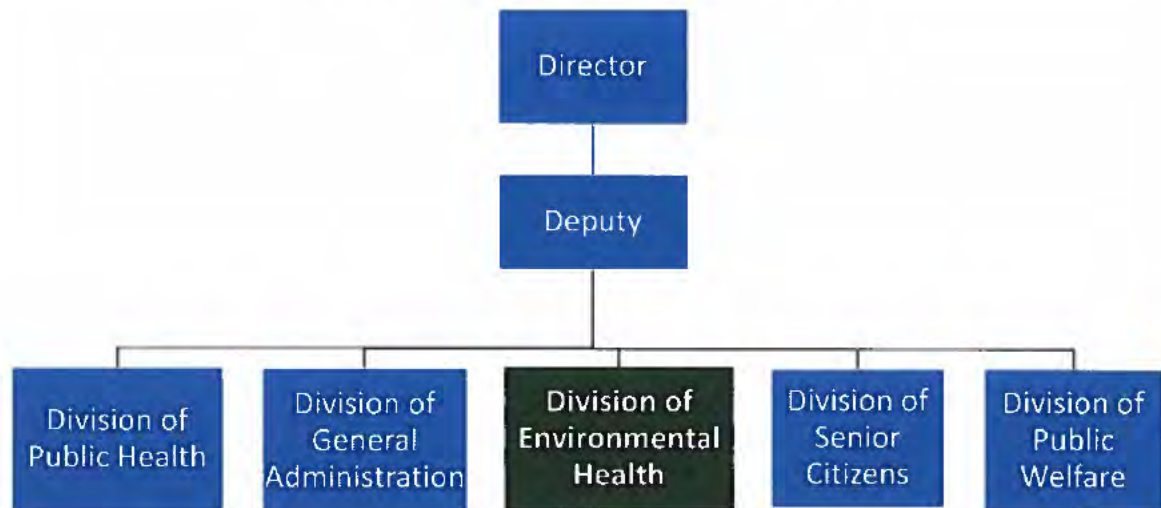






DIVISION OF ENVIRONMENTAL HEALTH (DEH)

DPHSS Organization



Division of Environmental Health MISSION

To serve and protect the people of Guam from environmental hazards and drug diversion through education and the implementation of governing laws designed to prevent injuries, diseases, disabilities, and deaths.

MAJOR DEH FUNCTIONS

- ▶ Regulate the importation, distribution, and sale of consumer commodities (food, drugs, cosmetics, devices)
- ▶ Protect the public from mosquito-borne diseases (Zika, malaria, dengue fever, chikungunya) and other vectors
- ▶ Issue Sanitary Permits, Health Certificates, Guam Controlled Substances Registrations, and Disinterment approvals
- ▶ Regulate: radiologic devices, pharmaceutical controlled drugs, and chemical toilets



MAJOR DEH FUNCTIONS (continued)

- ▶ Conduct sanitation inspections and investigations of health-regulated establishments (HREs)
 - ▶ Eating & Drinking Establishments
 - ▶ Restaurants, Bars, Wholesalers, Cafeterias, etc.
 - ▶ Institutional Facilities
 - ▶ Schools and Childcare facilities
 - ▶ Cosmetic Establishments
 - ▶ Beauty salons, Barber Shops, and Massage Establishments
 - ▶ Hotels/Motels
 - ▶ Hotels, Motels, Workers Barracks, etc.
 - ▶ Public Swimming Pools
 - ▶ Dry Cleaners and Laundromats



NUMBER OF SANITARY PERMITS ISSUED BY THE DIVISION OF ENVIRONMENTAL HEALTH (FY 2018)



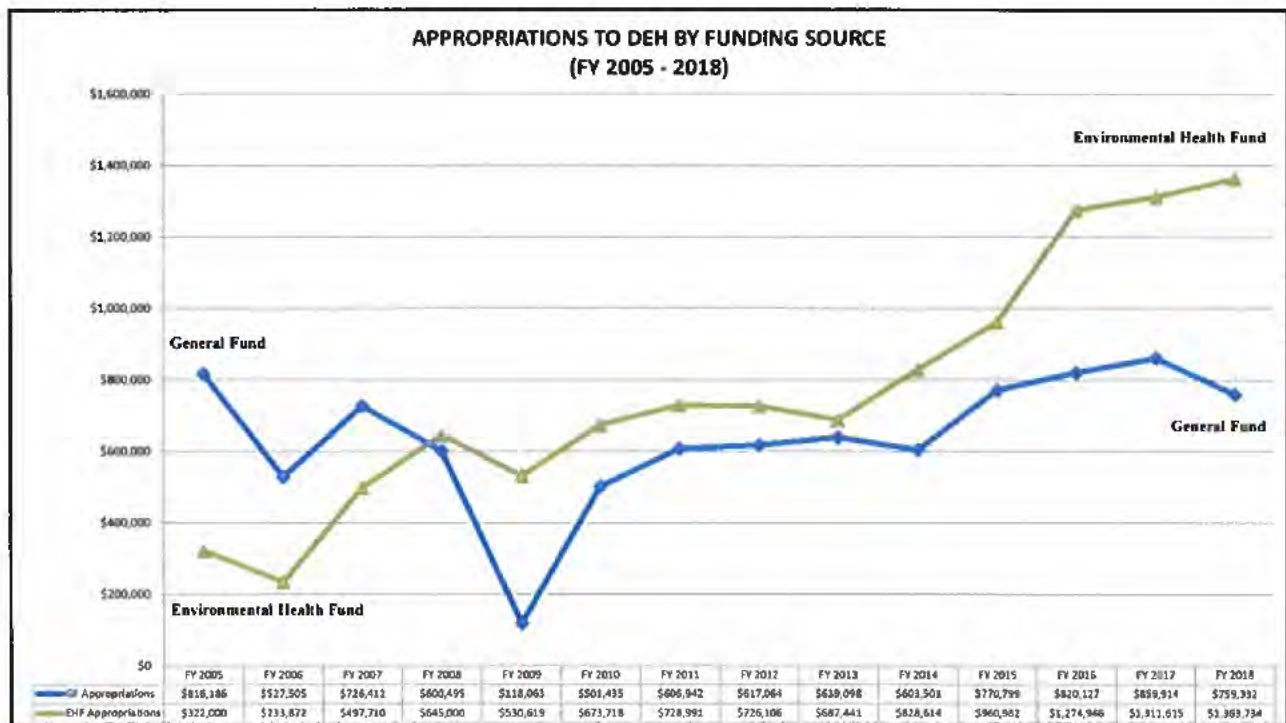
Total = 3,246

DEH FUNDING SOURCE

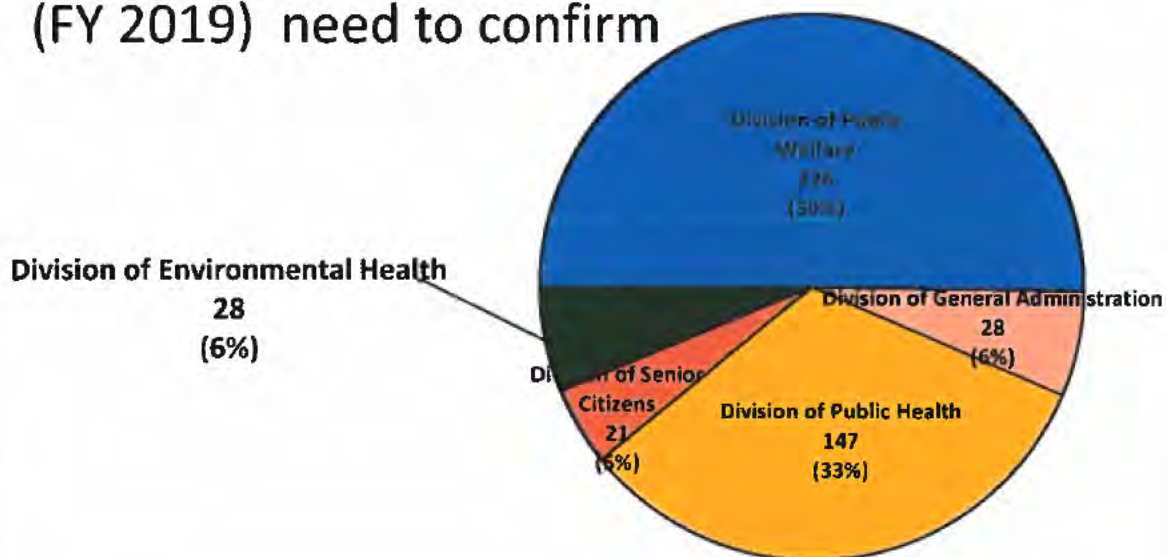
- ▶ General Fund (GF)
 - ▶ GovGuam revenue
- ▶ Environmental Health Fund (EHF)
 - ▶ Issuance of permits and certificates
- ▶ DPHSS Sanitary Inspection Revolving Fund (DSIRF)
 - ▶ Registration fee of H2b migrants
- ▶ Controlled Substances Diversion Fund (CSDF)
 - ▶ Use restricted to combat drug diversion
- ▶ Federal Grants
 - ▶ Competitive and generally non-renewable

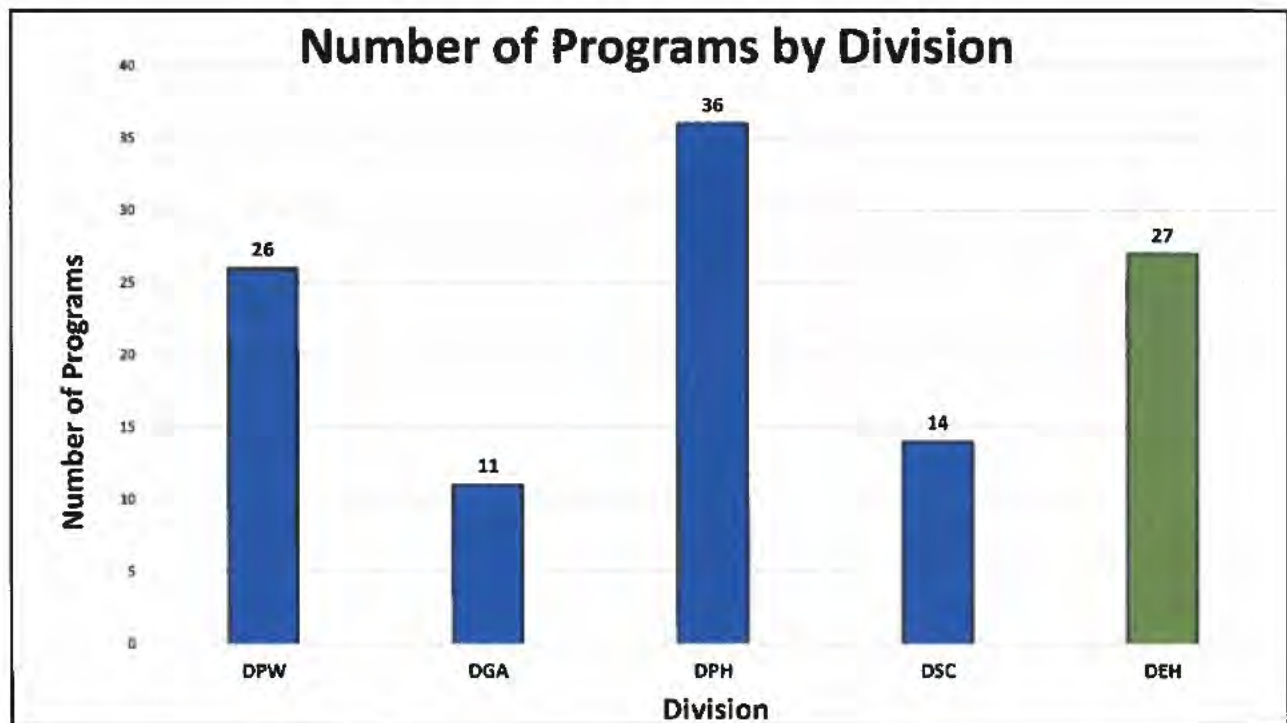
DEH FUNDING SOURCE

- ▶ **General Fund (GF)**
 - ▶ GovGuam revenue
- ▶ **Environmental Health Fund (EHF)**
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 - ▶ Registration fee of H migrants
- ▶ Controlled Substances Diversion Fund (CSDF)
 - ▶ Use restricted to combat drug diversion
- ▶ Federal Grants
 - ▶ Competitive and generally non-renewable



NUMBER OF STAFF BY DIVISION (FY 2019) need to confirm





DEH STAFFING

- ▶ 10 EPHOs trained to conduct inspections and investigations
 - ▶ 4 manage specialized programs
- ▶ 6 EPHOs available to conduct HRE inspections
 - ▶ All assist specialized programs and given other projects
- ▶ 2 - 3 EPHOs actually available to conduct inspections and investigations

INSPECTION MANDATE

- ▶ Law requires 4 inspections/yr. of every HRE
- ▶ 3,000 average number of HREs annually
- ▶ Must conduct 12,000 inspections every year
 - ▶ Excludes follow-up inspections
- ▶ 1,262 compliance inspections (yearly ave.)
 - ▶ 10% of required inspections

PRIORITIZE INSPECTIONS

- ▶ Highly susceptible population
- ▶ Full-service food service establishments
- ▶ Disease outbreak linked to HRE
- ▶ Repeat and blatant offenders

DISTRIBUTION OF SANITATION INSPECTIONS, FY2018



INSPECTION DATA

- ▶ HREs can go years without inspections
- ▶ Nearly 45% of all HREs have not been inspected in the last 5 or more years (as of May 2018):
 - ▶ 44% Food Facilities
 - ▶ 46% Institutional Facilities
 - ▶ 38% Cosmetic Establishments
 - ▶ 76% Public Swimming Pools
 - ▶ 38% Hotels
 - ▶ 39% Laundries and Dry-Cleaners
 - ▶ 13% Tattoo Shops

INSPECTION DATA (cont.)

- ▶ FY 2018: 40 HREs closed
 - ▶ 30 started from public complaint
 - ▶ Pest Infestation, Excessive Violations, Repeat Violations
 - ▶ Most were food establishments or manufacturers
 - ▶ Last inspected: Ave. of 4 years before suspension
 - ▶ All were “non-priority” establishments

HRE DISEASE OUTBREAKS

- ▶ Like dengue, HRE disease outbreak can overwhelm DEH
- ▶ 1998 - 41 people sicken with *Vibrio* after eating at restaurant
- ▶ September 2006 - 100 students ill with nausea and vomiting from cafeteria food
- ▶ October 2006 - 49 tourists ill with nausea, vomiting, diarrhea and headache linked to a hotel
- ▶ May 2011- 357 students and staff from five schools sicken with *Staphylococcus* toxin
- ▶ Annual estimate of economic burden to Guam from foodborne illness - \$258 million

SANITARY PERMIT PROPOSAL

- ▶ Assess monetary fines for repeat and blatant violations
 - ▶ Deter and penalize
- ▶ Increase fee for Sanitary Permit issuance
 - ▶ Meet legal mandate and minimize outbreak from occurring

Proposed Sanitary Permit Fee Increase

| EXISTING *BASE FEE | | PROPOSED PERMIT FEE | PERMIT FEE INCREASE | PERMIT FEE PER EMPLOYEE | PERMIT FEE PER EMPLOYEE INCREASE |
|-----------------------|--------|---------------------|---------------------|-------------------------|----------------------------------|
| \$290 | Year 1 | \$368 | \$78 | \$6.50 | 21¢ |
| | Year 2 | \$468 | \$178 | \$14.83 | 49¢ |
| | Year 3 | \$568 | \$278 | \$23.17 | 76¢ |
| | Year 4 | \$668 | \$378 | \$31.50 | \$1.04 |
| | Year 5 | \$768 | \$478 | \$39.83 | \$1.31 |

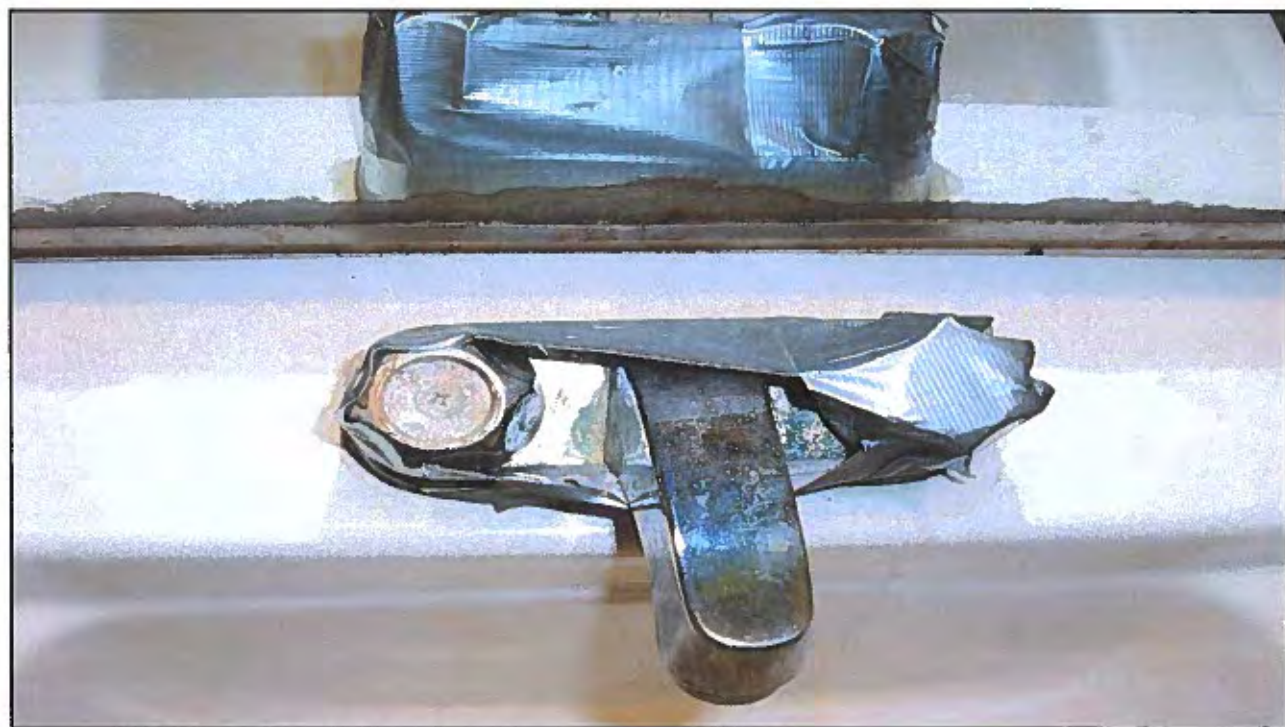
*\$5.00 per employee after 10

EXPECTED OUTCOMES

- ▶ Every HREs, regardless of category, inspected quarterly
- ▶ Reduce repeat violations of critical requirements
- ▶ Reduce SP suspension (closures) of businesses
- ▶ Process and issue Sanitary Permit quicker
- ▶ Prevent injuries, diseases, disabilities, and deaths associated with health-regulated establishments
- ▶ Build public confidence

Please consider the following:

- ▶ Delay the implementation of the fee increase, but allow other provisions to be effective immediately upon adoption.
- ▶ Adopting these regulations will protect you and your love ones from hazards found in HREs, such as the following...















THANK YOU.

EXHIBIT "A"
COMMITTEE MARK-UP
Showing all DPHSS proposed changes
(technical corrections to Exhibit "A")

GOVERNMENT OF GUÅHAN
DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES
DIVISION OF ENVIRONMENTAL HEALTH

**RULES AND REGULATIONS GOVERNING THE
ISSUANCE OF SANITARY PERMITS**

Title 26 Guam Administrative Rules and Regulations

Chapter 4

Article 5

EXHIBIT “A”
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1 **§4501. Purpose.** The purpose of these rules and regulations is to govern the issuance ~~of~~
2 ~~sanitary permits and the assessment of necessary fees for the operation of health-regulated~~
3 ~~establishments~~, fees, and administrative penalty for Sanitary Permits.

4 **§4502. Authority.** Section 20105 of Chapter 20 and Section 21102 of Chapter 21, Title
5 10 Guam Code Annotated authorizes the Director of the Department of Public Health and Social
6 Services to promulgate rules and regulations necessary to carry out the provisions of the law
7 governing the sanitary operations of health-regulated establishments. Section 20118 of Chapter
8 20 of Title 10 Guam Code Annotated authorizes the Department to promulgate rules and
9 regulations for administrative penalties.

10 **§4503. Title.** These rules and regulations shall also be known and cited as the *Sanitary*
11 *Permit Rules and Regulations.*

12 **§4504. Definitions.** As used in these rules and regulations:

13 ~~(a) — Chemical Toilet shall mean a building or structure housing one (1) or more water-~~
14 ~~tight containers of liquid chemical disinfectants intended to receive and hold human~~
15 ~~excrement.~~

16 (a) ~~(b)~~ *Cosmetic Establishment* shall mean any premises or portion thereof, wherein
17 any of the following is practiced for compensation:

- 18 (1) Shaving, clipping, trimming, or cutting human hair;
- 19 (2) Singeing, shampooing, arranging, adorning, dressing, curling, waving,
20 permanent waving, tinting, applying tonic to or dyeing human hair;
- 21 (3) Giving facial, scalp, neck or body massages or treatments with oils, creams,
22 lotions, or other preparations either by hand or mechanical appliances;

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(4) Applying cosmetic preparations, antiseptics, powders, oils, clays, lotions, or other preparations to scalp, face, neck, or hands; or

(5) Manicuring or pedicuring.

(b) ~~(e)~~ *Department* shall mean the Department of Public Health and Social Services of the government of Guam.

(c) ~~(d)~~ *Director* shall mean the Director of the Department of Public Health and Social Services, or his designated representative.

(d) ~~(e)~~ *Dry Cleaning Establishment* shall mean any place, building, structure, room, premises, or portions thereof, used in the business of dry cleaning and dyeing of wearing apparel, household linens and other articles, including coin-operated dry-cleaning establishments.

(e) ~~(f)~~ *Eating and Drinking Establishment* shall mean any food service establishment, mobile food service establishment, or vending machine.

(f) ~~(g)~~ *Edible Garbage Feeding Establishment* shall mean ~~swill or leavings of food or any abandoned, spoiled, condemned meat, fish, fowl, vegetable matter, or offal from slaughtered animals, liquid or solid, which is free of toxic, or deleterious substances, and is deemed by the Director as being suitable for use solely as animal feed.~~ a farm, ranch, facility, premises, site, or any place approved by the Director for operation to process edible garbage for the purpose of livestock feeding.

(g) ~~(h)~~ *Employee* shall mean any individual, including the owner, operator, manager, or other person performing any function in a health-regulated establishment, whether for compensation or otherwise.

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(h) ~~(i)~~ *Food Establishment* shall mean and includes every establishment or place which is used or occupied as a bakery, confectionary, cannery, dairy, creamery, packing house, grocery, supermarket, meat or poultry market, fruit or vegetable market, delicatessen, beverage plant, slaughterhouse, poultry processing plant, fish processing plant, frozen food processing plant, public market, food warehouse, or for the production, processing, manufacture, preparation for sale, canning, bottling, packing, packaging, storage, sale, or distribution of food.

(i) ~~(j)~~ *Health-Regulated Establishment* shall mean any

(1) eating and drinking establishment;

(2) food establishment;

(3) institutional facility;

(4) hotel;

(5) cosmetic establishment;

(6) laundry and dry-cleaning establishment;

(7) public swimming pool;

(8) mortuary;

(9) edible garbage feeding establishment; and

~~(10) chemical toilet; and (10) any other establishment required to possess a Sanitary~~

Permit issued by the Department.

~~(11) any other establishment required to possess a Sanitary Permit issued by the Department.~~

(j) ~~(k)~~ *Hotel* shall mean any structure or any portion of any structure, including any lodging house, rooming house, dormitory (including a dormitory housing for contract employees),

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health spa, bachelor hotel, studio hotel, motel, private club, containing four (4) or more guest rooms and which is occupied or is intended or designed for occupancy, by four (4) or more guests, whether rent is paid in money, goods, labor, or otherwise, or whether with or without meals. It does not include any penal institutions, hospital, clinic, nursing home, school, laboratory, or child care facility.

(k) ~~(n)~~ Institutional Facility shall mean any structure or any portion of any structure operating as a child care facility, penal institution, school, hospital, clinic, nursing home, or laboratory as defined in Title 10 GCA, Chapter 25.

(l) ~~(m)~~ Public Laundry and Dry-Cleaning Establishment shall mean any place, building, structure, room, establishment, premises or portions thereof, used in the business of making, sorting, washing, drying, starching, ironing, or wearing apparel, household linens and other articles, including any establishment providing laundering equipment for use by customers for a fee, and known by various terms such as laundromat, wash-o-mat, or launderette.

(m) ~~(n)~~ Mortuary shall mean any place used for such activities as are incident, convenient, or related to the preparation and arrangements for the funeral, transportation, burial, cremation, or other disposition of dead human bodies.

(n) ~~(o)~~ Public Swimming Pool shall mean any artificial structure, basin, chamber, or tank constructed of impervious material used or intended to be used for swimming, diving, wading, or recreational bathing (but *does not* include conventional bath-tubs where the primary purpose is the cleaning of the body or individual therapeutic tubs) and that is available for public use, whether for a fee or free of charge; or owned or used by any business, partnership, corporation or person for the use of their customers, clients, guests or employees, including, but not limited to, a

Deleted: *Mortuary* shall mean any place used for such activities as are incident, convenient, or related to the preparation and arrangements for the funeral, transportation, burial, cremation, or other disposition of dead human bodies.

Commented [TT1]: Switched Public Laundry and mortuary to be consistent with the Code.

Deleted: *Public Laundry and Dry-Cleaning Establishment* shall mean any place, building, structure, room, establishment, premises or portions thereof, used in the business of making, sorting, washing, drying, starching, ironing, or wearing apparel, household linens and other articles, including any establishment providing laundering equipment for use by customers for a fee, and known by various terms such as laundromat, wash-o-mat, or launderette....

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commercial pool, a community pool or a pool at a hotel, motel, resort, auto park, trailer park, apartment house, or other multiple rental unit, private club, public club, public or private school, gymnasium or health establishment.

(o) ~~(p)~~ *Sanitary Permit* shall mean the official document issued by the Department of Public Health and Social Services authorizing a health-regulated establishment to operate its business.

(p) ~~(q)~~ *Temporary Food Service Establishment (also known as TFSE)* shall mean any eating and drinking establishment which operates at a fixed location for a period of ~~time not exceeding six (6) months~~ 1 to 180 days in conjunction with a carnival, fair, circus, exhibition, or other transitory gathering not of a permanent structure, which are further described and identified below based on its duration of operation:

- (1) TFSE-1 which shall be those operating for 1 day only;
- (2) TFSE-W which shall be those operating for 1 day, every week, for a year;
- (3) TFSE-7 which shall be those operating for up to 7 days, but not less than two consecutive days;
- (4) TFSE-180 which shall be those operating for up to 180 consecutive days; and
- (5) TFSE-X which shall be those operating in various combination of days not defined elsewhere; provided, it does not exceed 180 days.

(q) ~~(r)~~ *Special Village Event* shall mean a carnival, fair, circus, exhibition, or other transitory gathering sponsored by the village Municipal Planning Council, *not to exceed* seven (7) consecutive days.

§4505. Sanitary Permit Applications for New and Renewal.

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(a) All applications, and supporting documents, for a ~~Sanitary Permit~~ shall be in a form, format, and medium prescribed by the Director.

(b) A non-refundable deposit of ~~Twenty~~ Thirty Dollars (~~\$20.00~~\$30.00) shall be made to the 'Treasurer of Guam' at the time the application for Sanitary Permit is submitted to the Department. Upon completion and processing of the application, the deposit amount shall be deducted from the appropriate fee listed in §4506. In the event the calculated, prorated fee for the Sanitary Permit is less than the non-refundable deposit then the applicant shall pay the prorated fee as the deposit.

(c) Any application that remains inactive for sixty (60) consecutive days because of the inaction by the applicant (i.e., pending submission of required supporting documents), shall be considered permanently inactive, removed from the file for processing, and then destroyed, and the non-refundable ~~Twenty Dollars (\$20.00)~~ deposit shall be automatically forfeited.

(d) An applicant who wishes to re-apply after his or her application has become permanently inactive under the provision of §4505(c) shall be considered a new applicant and shall re-submit the application and supporting documents and pay all required fees, including the ~~Twenty Dollars (\$20.00)~~ non-refundable deposit fee.

(e) The expiration date of a Sanitary Permit issued for a Temporary Food Service Establishment shall be the final date of the temporary event. Failure to renew a Sanitary Permit within sixty (60) days of the due date shall void the Sanitary Permit. A valid Sanitary Permit may not be reinstated until a new application is filed and approved by the Department and payment is received, along with any other fees and monetary penalty.

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(f) A health-regulated establishment that fails to renew its Sanitary Permit for two consecutive renewal periods shall be considered inactive, and any application received thereafter for that establishment shall be treated as a new application and meet all the requirements as a new applicant.

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(g) The expiration date of a Sanitary Permit issued for a Temporary Food Service Establishment shall be the final date of the temporary event.

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(h) Any Temporary Food Service Establishment or Special Village Event that meets criteria, as determined by the Department, based on the event's anticipated number of people attending, including highly susceptible populations; expected number of vendors; and types of food to be served or offered for sale must provide at least one designated, reserved parking space near the event and a sheltered booth to be utilized by the Department for the duration of the event by the organizer. The designated parking space shall be no further than the nearest parking made available to the event organizer and/or the public, whichever is closer, and the booth shall have, at a minimum, a table for writing that is no less than 24 sq. ft. in size, two chairs, and an overhead protection from the elements, such as a canopy or other covering.

§4506. Fees. Fees for the issuance of a Sanitary Permit *shall* be as follows:

~~(a) The Sanitary Permit fee for the following health-regulated establishments shall be Two Hundred Ninety Dollars (\$290) if the establishment has 1 to 10 employees and Five Dollars (\$5.00) for each additional employee above ten (10) thereafter; for establishments with less than ten (10) employees, the fee shall be One Hundred Fifty Dollars (\$150.00) until January 1, 2012; for establishments with less than ten (10) employees, the fee shall be Two Hundred Twenty Dollars (\$220.00) from January 2, 2012 until January 2, 2014;~~

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- 1 (1) Eating and Drinking Establishments, excluding vending machines and
2 temporary food service establishments;
3 (2) Food Establishments;
4 (3) Institutional Facilities;
5 (4) Hotels;
6 (5) Cosmetic Establishments;
7 (6) Public Laundry and dry cleaning establishments;
8 (7) Public Swimming Pools;
9 (8) Mortuaries;
10 (9) Edible Garbage Feeding Establishments;
11 (10) Commercial animal establishments; and
12 (11) Any other establishment required to obtain a Sanitary Permit from the
13 Department not explicitly mentioned in these rules and regulations.
14 (b) The Sanitary Permit fee for Temporary Food Service Establishments shall be:
15 (1) One Hundred Dollars (\$100.00) for those operating for less than six (6) months,
16 but more than three (3) days; and
17 (2) Fifty Dollars (\$50.00) for those operation for three (3) days; and
18 (3) Twenty-Five Dollars (\$25.00) for Special Village Events officially sponsored
19 by a village Municipal Planning Council, provided, however, that the vendor shall be
20 limited to three (3) events per calendar year per permit issued.
21 (c) The Sanitary Permit fee for vending machines shall be:

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(1) Two Hundred Ninety Dollars (\$290) per vending machine for each of the first style or model of vending machine; and

(2) Five Dollars (\$5.00) for each additional vending machine.

(d) The Sanitary Permit fee for chemical toilet operator shall be Five Hundred Dollars (\$500.00) regardless of the number chemical toilets possessed by the operator.

(e) Issuance of a duplicate Sanitary Permit shall be Ten Dollars (\$10.00).

(f) Amendments to an existing Sanitary Permit shall be Ten Dollars (\$10.00).

(g) An applicant for a Sanitary Permit may request for the permit to be expedited and processed within 24 hours the request is submitted. The Department may grant such request provided the applicant has met all the requirements of the Department to obtain a Sanitary Permit, including the requirement for the Pre-Operational Inspection. The Department shall assess a fee of Seventy-Five Dollars (\$75.00) for expedited processing in addition to the regular processing fee. Applications for a Sanitary Permit for Temporary Food Service Establishments which are submitted one day or less prior to the event will automatically be assessed an expedited processing fee.

(h) The cost of the structural inspection, also known as a pre-operation inspection, is included in the initial payment for the Sanitary Permit. However, a fee of Fifty Dollars (\$50.00) an hour shall be assessed for all subsequent inspections. With the exception of the first hour, fractional hours shall be rounded up to the nearest whole hour if more than one half (0.5) hour, and rounded down if less than one half (0.5) hour.

(i) Request for an expedited structural inspection may be granted, as determined by the Director, if such inspection does not cause the disruption of any pre-existing inspections

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scheduled for other applicants. The fee for expedited Pre-Operational Inspection shall be One
Hundred Fifty Dollars (\$150.00) in addition to all other required fees established in these rules and
regulations.

(j) Any establishment whose Sanitary Permit is suspended under the provisions of
Title 10 GCA, Chapter 21, §21109, and who is granted reinstatement by the Department as set out
in Title 10 GCA, Chapter 21, §21110, shall first pay a re-opening fee of One Hundred Dollars
(\$100.00) before the Sanitary Permit is returned or re-issued.

(k) The fee schedule established pursuant to this §4506 shall become effective
immediately upon enactment for new applications, provided, however, it shall become effective
for the renewal of all Sanitary Permits issued prior to the enactment of these rules on June 1, 2012.

(a) Excluding TFSE, the Sanitary Permit fee for all health-regulated establishments
shall be the following, which shall be pro-rated based on the annual renewal date of the permit:

(1) Three Hundred Sixty-Eight Dollars (\$368.00), effective immediately upon
the adoption of these rules and regulations, if the establishment has 1 to 10 employees. For
health-regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be
assessed for each additional employee above 10.

(2) Four Hundred Sixty-Eight Dollars (\$468.00) on the second anniversary of
these rules and regulations adoption, if the establishment has 1 to 10 employees. For
health-regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be
assessed for each additional employee above 10.

(3) Five Hundred Sixty-Eight Dollars (\$568.00) on the third anniversary of these
rules and regulations adoption, if the establishment has 1 to 10 employees. For health-

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1 regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be assessed
2 for each additional employee above 10.

3 (4) Six Hundred Sixty-Eight Dollars (\$668.00) on the fourth anniversary of these
4 rules and regulations adoption, if the establishment has 1 to 10 employees. For health-
5 regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be assessed
6 for each additional employee above 10.

7 (5) Seven Hundred Sixty-Eight Dollars (\$768.00) on the fifth anniversary of
8 these rules and regulations adoption, and thereafter, if the establishment has 1 to 10
9 employees. For health-regulated establishments with 11 or more employees, Five Dollars
10 (\$5.00) shall be assessed for each additional employee above 10.

11 (b) The Sanitary Permit fee for Temporary Food Service Establishments shall be:

12 (1) Fifty Dollars (\$50.00) for TFSE-1;

13 (2) One Hundred Fifty-Five Dollars (\$155.00) for TFSE-W;

14 (3) One Hundred Twenty-Five Dollars (\$125.00) for TFSE-7;

15 (4) Two Hundred Dollars (\$200.00) for TFSE-180;

16 (5) Three Hundred Dollars (\$300.00) for TFSE-X; and

17 (6) Twenty-Five Dollars (\$25.00) for Special Village Events officially sponsored
18 by a village Municipal Planning Council, provided, however, that the vendor shall be
19 limited to three (3) events per calendar year per permit issued.

20 (c) The Sanitary Permit fee for vending machines shall be:

21 (1) Five Hundred Dollars (\$500.00) per vending machine for each of the first
22 style or model of vending machine; and

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(2) Ten ~~Dollars~~ (\$10.00) for each additional vending machine.

(d) Issuance of a duplicate Sanitary Permit shall be Ten Dollars (\$10.00).

(e) Amendments to an existing Sanitary Permit shall be Ten Dollars (\$10.00).

(f) An applicant for a Sanitary Permit may request for the permit to be expedited and

processed within 24 hours the request is submitted. The Department may grant such request

provided the applicant has met all the requirements of the Department to obtain a Sanitary Permit,

including the requirement for the Pre-Operational Inspection. The Department shall assess a fee

One Hundred Dollars (\$100.00) for expedited processing in addition to the regular processing fee.

Applications for a Sanitary Permit for Temporary Food Service Establishments which are

submitted one day or less prior to the event will automatically be assessed an expedited processing

fee of Fifty Dollars (\$50.00), in addition to the regular processing fee.

(g) The cost of the Pre-Operational Inspection is included in the initial payment for the

Sanitary Permit. However, a fee of Fifty Dollars (\$50.00) an hour shall be assessed for all

subsequent inspections. With the exception of the first hour, fractional hours shall be rounded up

to the nearest whole hour if more than one half (0.5) hour, and rounded down if less than one half

(0.5) hour.

(h) Request for an expedited Pre-Operational Inspection may be granted, as determined

by the Director, if such inspection does not cause the disruption of any pre-existing inspections

scheduled for other applicants. The fee for expedited Pre-Operational Inspection shall be Two

Hundred Dollars (\$200.00) in addition to all other required fees established in these rules and

regulations if performed during normal Government of Guam business hours (8:00 am – 5:00 pm;

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Commented [TT3]: Deleted : (d) The Sanitary Permit fee for chemical toilet operator shall be Five Hundred Dollars (\$500.00) regardless of the number chemical toilets possessed by the operator. – This language is also already repealed above. Refer to highlighted language on page 10.

Deleted: (d) – The Sanitary Permit fee for chemical toilet operator shall be Five Hundred Dollars (\$500.00) regardless of the number chemical toilets possessed by the operator.

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Monday through Friday). Expedited Pre-Operational Inspection conducted outside normal business hours, including weekends, shall be Five Hundred Dollars (\$500.00).

(i) Any establishment that has its Sanitary Permit suspended under the provision of Title 10 GCA, Chapter 21, §21109:

(1) That requests and obtains a re-inspection from the Department that results in the finding that it had not corrected all of its violations shall be assessed a fee of One Hundred Twenty-Five Dollars (\$125.00), which must be paid by the establishment prior to any subsequent re-inspection by the Department.

(2) That requests to be re-inspected outside normal Government of Guam business hours (8:00 a.m. to 5:00 p.m.; Monday through Friday) may submit a request to the Department, and if approved, shall be assessed a flat fee of Three Hundred Dollars (\$300.00). For any Government of Guam holiday, the fee shall be Six Hundred Dollars (\$600.00), if the request is approved. Payment shall be made on the first business day immediately after the inspection, and if such payment is not made, the Department may re-suspend the Sanitary Permit immediately without any advanced notice and assess all other applicable fees. If the re-inspection results in the non-reinstatement of the Sanitary Permit (i.e., failed inspection) and the establishment fails to make the requirement payment, the Department shall not conduct another re-inspection until such time all outstanding fees have been paid by the establishment.

(j) Request for a follow-up sanitation inspection, prior to the date noted in the inspection report, may be granted by the Department if resources permit. The fee for early follow-

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up sanitation inspection shall be One Hundred Dollars (\$100.00), which shall be paid in advance prior to the inspection.

(k) An application to renew a Sanitary Permit shall be received by the Department prior to the date of that permit's expiration date, and any application received after the expiration date shall be assessed a penalty fee of Twenty-Five Dollars (\$25.00), in addition to all other applicable fees.

(l) Any health-regulated establishment that operated, regardless of the duration, without a Sanitary Permit shall pay the required Sanitary Permit fee for its annual permit, Temporary Food Service Establishment permit, or the Special Village Event permit, retroactively, for that time period, inclusive of the Twenty Dollars (\$20.00) late application submission fee, if applicable.

(m) A Temporary Food Service Establishment, or a sponsor of an event with such establishment, that requests, and is granted, a variance pursuant to the Guam Food Code, which causes the Department to increase its inspection frequency or duration so to closely monitor the establishment in ensuring that the approved modification or waiver does not create any health hazard or nuisance shall pay a fee of Three Hundred Dollars (\$300.00).

(n) All fees collected pursuant to these rules and regulations shall be non-refundable.

(o) The fee schedule established pursuant to these rules and regulations shall become effective immediately upon enactment.

~~§4506.1 Advance-Notification of Fees Schedule.~~ The Director shall ensure that advance, written notification is provided to all Sanitary Permit licensees relative to the cost for permit renewal upon prior to the expiration of the their current Sanitary Permit. The information shall

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Moved up [1]: (a) The Sanitary Permit fee for the following health-regulated establishments shall be Two Hundred Ninety Dollars (\$290) if the establishment has 1 to 10 employees and Five Dollars (\$5.00) for each additional employee above ten (10) thereafter; for establishments with less than ten (10) employees, the fee shall be One Hundred Fifty Dollars (\$150.00) until January 1, 2012; for establishments with less than ten (10) employees, the fee shall be Two Hundred Twenty Dollars (\$220.00) from January 2, 2012 until January 2, 2014; (1) Eating and Drinking Establishments, excluding vending machines and temporary food service establishments; (2) Food Establishments; (3) Institutional Facilities; (4) Hotels; (5) Cosmetic Establishments; (6) Public Laundry and dry cleaning establishments; (7) Public Swimming Pools; (8) Mortuaries; (9) Edible Garbage Feeding Establishments; (10) Commercial animal establishments; and (11) Any other establishment required to obtain a Sanitary Permit from the Department not explicitly mentioned in these rules and regulations; (b) The Sanitary Permit fee for Temporary Food Service Establishments shall be: (1) One Hundred Dollars (\$100.00) for those operating for less than six (6) months, but more than three (3) days; and (2) Fifty Dollars (\$50.00) for those operation for three (3) days; and (3) Twenty-Five Dollars (\$25.00) for Special Village Events officially sponsored by a village Municipal Planning Council, provided, however, that the vendor shall be limited to three (3) events per calendar year per permit issued; (c) The Sanitary Permit fee for vending machines shall be: (1) Two Hundred Ninety Dollars (\$290) per vending machine for each of the first style or model of vending machine; and (2) Five Dollars (\$5.00) for each additional vending machine.

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be immediately provided as a permit renewal notification. The notification may be in a form of a press release to the local news media.

§4507. Suspension or Revocation of Sanitary Permit. Administrative Penalty.

~~The Director may suspend or revoke any Sanitary Permit under the provisions of Title 10 GCA, Chapter 21, §§21107(2)(d) or upon any violation by a health-regulated establishment or by any of its employees for any environmental health violation under Title 10 of the Guam Code Annotated, Chapters 20 through 33 and 35 through 40, or any rules and regulations promulgated concerning Sanitary Permits.~~

(a) ~~Any establishment, which had its Sanitary Permit suspended under the provision of Title 10 GCA, Chapter 21, §21109, is granted reinstatement by the Department as set out in Title 10 GCA, Chapter 21, §21110, shall first pay a re-opening fee of Three Hundred Dollars (\$300.00) if it has ten or less employees, or Five Hundred Dollars (\$500.00), if it has eleven or more employees, before the Sanitary Permit is returned or re-issued by the Department.~~

(b) The Department, at its discretion, shall assess monetary fine in accordance with the following:

(1) Operating an establishment without a valid Sanitary Permit shall be a fine of no more than Two Thousand Five Hundred Dollars (\$2,500.00) but no less than Three Hundred Fifty Dollars (\$350.00)

(2) Transferring a Sanitary Permit to another person or to another location, or posting on or using the permit in any way at any other premises other than for which it was issued shall be a fine of no more than Two Thousand Five Hundred Dollars (\$2,500.00), but no less than Three Hundred Fifty Dollars (\$350.00).

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1 (3) Prohibiting the Department from accessing and inspecting its permitted health-
2 regulated establishment shall be a fine of no more than Two Thousand Five Hundred
3 Dollars (\$2,500.00), but no less than Three Hundred Fifty Dollars (\$350.00).

4 (4) Prohibiting the Department from examining and copying its records that are
5 required to be kept and maintained by the health-regulated establishment shall be a fine of
6 no more than One Thousand Dollars (\$1,000.00), but no less than Two Hundred Dollars
7 (\$200.00).

8 (5) Removing, defacing, destroying, or concealing an inspection report, letter
9 grade, or closure notice shall be a fine of no more than One Thousand Dollars (\$1,000.00),
10 but no less than Two Hundred Fifty Dollars (\$250.00).

11 (6) Knowingly authorizing a person to work who has a communicable disease that
12 can potentially be transmitted to the public in the course of that person's employment shall
13 be a fine of no more than Five Thousand Dollars (\$5,000.00), but no less than Five Hundred
14 Dollars (\$500.00).

15 (7) Having a repeat violation of the same critical requirement, with the assigned six
16 (6) demerit points, within a one-year period (365 days) shall be a fine of no more than One
17 Thousand Dollars (\$1,000.00), but no less than One Hundred Dollars (\$100.00) per
18 violation.

19 (8) Operating an eating and drinking establishment or food establishment without
20 a manager who possesses a Certificate of Management Certification shall be a fine of no
21 more than One Thousand Dollars (\$1,000.00), but no less than Two Hundred Dollars
22 (\$200.00).

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(9) Importing a consumer item regulated by Title 10 Guam Code Annotated, Chapter 32 (Hazardous Substances Act) and Chapter 40 (Guam Food, Drug and Cosmetic Act) that is misbranded, adulterated, or otherwise prohibited by law shall be a fine of no more than Twenty-Five Thousand Dollars (\$25,000.00), but no less than Five Hundred Dollars (\$500.00).

(c) Assessment of monetary penalty may occur concurrently with other administrative, civil, and/or criminal penalty authorized by law.

(d) Before imposing an administrative penalty against a person or a health-regulated establishment, the Director shall issue a notice of intent to impose the penalty and provide the individual or business an opportunity to request a hearing on the proposed penalty. The request must be made within fifteen (15) business days of the date the notice of intent is served upon the person or health-regulated establishment. Serving of the notice of intent to the person in charge of the health-regulated establishment, or by certified mail to the last known mailing address of the health-regulated establishment, shall be acceptable means of notification.

(e) The administrative penalty hearing shall be held in accordance with the Administrative Adjudication Law (Title 5 GCA, Chapter 9).

(f) Any person or health-regulated establishment may seek review of any administrative penalty imposed before the Superior Court of Guam. Such review shall be upon the record established before the Director and not de novo. The Superior Court may sustain, modify, or vacate any administrative penalty it reviews.

(g) If any person or health-regulated establishment fails to comply with an administrative penalty order after it has become final:

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(1) The Director may suspend the Sanitary Permit of the health-regulated establishment until such time that the payment is made in full, but not before a written notice is issued to the establishment notifying it of the action by serving of such notice to the person in charge of the health-regulated establishment, or by certified mail to the last known mailing address of the health-regulated establishment, at least seven (7) calendar days before the suspension takes effect; or

(2) The Director may forward the matter to the Attorney General of Guam to bring a civil action to enforce the order, or to recover the amount ordered or assessed, in accordance to law.

(3) The Director may pursue both §4507(g)(1) and §4507(g)(2), if he/she so desires.

§4508. ~~Hearing~~ Suspension or Revocation of Sanitary Permit.

~~(a) Any health-regulated establishment whose Sanitary Permit is to be suspended or revoked shall be notified by the Director in writing of the Department's intention and the reasons therefore.~~

~~(b) Any health-regulated establishment that receives a notice of violation with intent to suspend or revoke as described in Subsection (a) of this §4508 and that wishes to contest shall request a hearing with the Director in writing no later than fifteen (15) calendar days after receipt of the notice, and shall state the grounds for objecting to the intended suspension or revocation. The Administrative Adjudication Law's hearing procedure applies.~~

~~(c) Upon completion of a hearing, the Director shall make a written determination concerning the violation and whether a suspension or revocation is to be imposed.~~

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(a) The Director may suspend or revoke any Sanitary Permit under the provisions of Title 10 GCA, Chapter 21, §§21107(2)(d) and 21109, or upon any violation by a health-regulated establishment or by any of its employees for any environmental health violation under Title 10 of the Guam Code Annotated, Chapters 20 through 33 and 35 through 40, or any rules and regulations promulgated concerning Sanitary Permits.

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(b) A health-regulated establishment with a suspended Sanitary Permit, as one of its conditions in having its Sanitary Permit reinstated, shall be required the following:

(1) The staff and management receive applicable training and/or consultation from the Department; and

(2) Submits a corrective action plan and/or other applicable, related documentation to the Department.

The date, time, and venue for the training or consultation shall be coordinated between the Department and the health-regulated establishment.

§4509. Suspension Without Hearing.

(a) In accordance to Title 10 GCA, Chapter 21, §§21107(d) and 21109(a) and (b), a Sanitary Permit may be suspended without prior hearing:

(1) — when the demerit score of the establishment is more than forty (40);

(2) — at the discretion of the Director for violating any provisions of Title 10 GCA, Chapters 20 through 40; and

(3) — for twice violating the same requirement deemed critical under the applicable rules and regulations of the Department within any six-month period, in which case, it shall not exceed five (5) days.

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(b) ~~A suspension without prior hearing may remain in effect until the violation is corrected by the establishment, or resolved after a hearing in accordance with the Administrative Adjudication Law. The Director shall have the discretion to decide whether the suspension shall be continued pending a hearing.~~

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(a) Any health-regulated establishment whose Sanitary Permit is to be suspended or revoked shall be notified by the Director in writing of the Department's intention and the reasons therefore.

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(c) Any health-regulated establishment that receives a notice of violation with intent to suspend or revoke as described in Subsection (a) of this §4508 and that wishes to contest shall request a hearing with the Director in writing *no later than* fifteen (15) calendar days after receipt of the notice, and shall state the grounds for objecting to the intended suspension or revocation. The Administrative Adjudication Law's hearing procedure applies.

(d) Upon completion of a hearing, the Director shall make a written determination concerning the violation and whether a suspension or revocation is to be imposed.

§4510. ~~Effective Date.~~ Suspension Without Hearing.

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~~These rules and regulations shall become effective immediately upon enactment.~~

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(a) In accordance with Title 10 GCA, Chapter 21, §§21107(d) and 21109(a) and (b), a Sanitary Permit may be suspended without prior hearing:

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(1) when the demerit score of the establishment is more than forty (40);

(2) at the discretion of the Director for violating any provisions of Title 10

GCA, Chapters 20 through 40; and

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(3) for twice violating the same requirement deemed critical under the applicable rules and regulations of the Department within any six-month period, in which case, it *shall not* exceed five (5) days.

(b) A suspension without prior hearing may remain in effect until the violation is corrected by the establishment, or resolved after a hearing in accordance with the Administrative Adjudication Law. The Director *shall* have the discretion to decide whether the suspension shall be continued pending a hearing.

§4511. Severability. ~~If any provision or application of any provision of these rules and regulations are held invalid, such invalidity shall *not* affect the other provisions or applications of these rules and regulations.~~ **Effective Date.** These rules and regulations *shall* become effective immediately upon enactment.

§4512. Severability. ~~If any provision or application of any provision of these rules and regulations are held invalid, such invalidity shall *not* affect the other provisions or applications of these rules and regulations.~~

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Office of the Speaker **THERESE M. TERLAJE**

I Mina'trentai Sais na Liheslaturan Guåhan | 36th Guam Legislature
Committee on Health, Land, Justice and Culture

COMMITTEE REPORT DIGEST

I. OVERVIEW

Bill No. 209-36 (COR) was introduced on Thursday, October 7, 2021, by Speaker Therese M. Terlaje, and was referred by the Committee on Rules to the Committee on Health, Land, Justice and Culture on Monday, October 11, 2021.

The Committee on Health, Land, Justice, and Culture convened a virtual public hearing on Tuesday, October 19, 2021, beginning at 9:00 AM utilizing the Guam Legislature's Virtual Hearing Platform.

Public Notice Requirements

Notices for this Virtual Public Hearing were disseminated via email to all senators and all main media broadcasting outlets on Tuesday, October 12, 2021 and again on Friday, October 15, 2021. The notice was also published in the Guam Daily Post on Tuesday, October 12, 2021, and again on Friday, October 15, 2021.

Senators Present:

Speaker Therese M. Terlaje, Committee Chairperson
Senator Telo T. Taitague, Committee Member
Senator Joanne M. Brown, Committee Member
Senator V. Anthony Ada

Appearing Before the Committee:

M. Thomas Nadeau, Chief Environmental Public Health Officer (CEPHO), DEH, DPHSS

Written Testimony Submitted:

Director Arthur San Agustin & CEPHO M. Thomas Nadeau, Department of Public Health and Social Services

II. SUMMARY OF TESTIMONY & DISCUSSION

The virtual public hearing was Called-to-Order at **9:00 AM**. Bill No. 209 – “An Act to Adopt the Proposed Amendments to Article 5 of Chapter 4, Title 26, Guam Administrative Rules and Regulations, As Transmitted to *I Liheslaturan Guåhan* Pursuant to the Administrative Adjudication Law, Attached Hereto as Exhibit A,” was the only item on the agenda.

Speaker Therese M. Terlaje, Chairperson: I want to thank my colleagues for being present here today. Senator Telo Taitague, Senator James Moylan and Senator Anthony Ada. *Si Yu'os Ma'åse'*, colleagues.

I wanted to apologize. I have a scheduling conflict this morning, and my Vice Chair is unavailable and so I've asked Senator Taitague to please conduct the rest of the hearing for me, including the introduction of the bill.

And I thank you for your forgiveness on this matter. And I want to thank you again. Thank you, Mr. Nadeau, and thank you, Senator Taitague. If you could please take over.

Senator Telo T. Taitague, Committee Member: *Si Yu'os Ma'åse'*, Madam Speaker, and we acknowledged all the senators that are here today. And with the agenda, the agenda is Bill 209-36, as stated by Speaker Terlaje and introduced by herself. So, before I hear testimony from the panel, I'd like to introduce the bill. As stated, it's an Act to adopt the Proposed Amendments to Article 5 of Chapter 4, Title 26, Guam Administrative Rules and Regulations, As Transmitted to *I Liheslaturan Guåhan* Pursuant to the Administrative Adjudication Law, Attached Hereto as Exhibit A.

On August 10, 2021, pursuant to the Administrative Adjudication Law, DPHSS transmitted its proposed rules and regulations governing the issuance of sanitary permits to the Guam Legislature.

The proposal seeks to insert a monetary penalty for regulated businesses that blatantly and repeatedly violate sanitation requirements and revise the fee schedule for the issuance of sanitary permits, which will allow the recruitment of more inspectors for the

Division of Environmental Health via increased revenue into the Environmental Health Fund.

The Committee on Health held a public hearing on Friday, September 3, 2021, to receive testimony from DPHSS and public feedback. During the hearing, DPHSS's Division on Environmental Health proposed that the revised fee schedule in the proposal be effective 365 days after the end of the Governor's public health emergency declaration or after the adoption of the rules and regulations into law (whichever comes later), because of to the adverse economic impact of COVID-19 pandemic.

Bill 209-36 (COR) was introduced on October 7th for the purpose of amending the Rules as submitted, to change the effective date of §4506 of GARR permit fees and inspection fees. It does not touch DPHSS proposal as to penalties. Without the introduction of this bill, the Rules and Regulations as submitted would lapse into law on November 9, 2021.

We also received confirmation from the Attorney General that the agency on its own accord, or the Governor via Executive Order, would be able to delay the implementation of the fee increase.

So, now we're going to be accepting testimony from the panel. We're going to start first with Tom Nadeau, Chief EHPO, Division of Environmental Health.

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS:

Thank you. Good morning, everyone. Thank you, Senator Taitague, Senator Ada, Senator Moylan, Senator Brown.

I'll be reading a testimony that was actually on behalf of the Director of Public Health. Hafa Adai, I am Tom Nadeau, the Chief Environmental Public Health Officer with the Division of Environmental Health of the Department of Public Health and Social Services on behalf of Mr. Arthur San Augustin, the Director of Public Health and Social Services.

(See attached testimony.)

Senator Telo T. Taitague, Committee Member: Thank you so much, Tom. I'd also like to recognize Senator Joanne Brown, who has joined us early on. I apologize for not recognizing before Tom presenting his testimony but appreciate you being here. Is there is Rosanna going to also be here? I believe Rosana Rabago.

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS: Yes. We had invited her but unfortunately, she had a commitment to another zoom call, so unfortunately I, she's not able to make it. Okay.

Senator Telo T. Taitague, Committee Member: No problem. I'll go ahead and ask my colleagues if they would have any comments or have any questions for you. And we'll start with the Senator Tony Ada.

Senator V. Anthony Ada: Thank you. Madam Chair. Tom, again, thank you guys for everything that you do at the environmental health. I'm glad that we're moving forward with the proposed rules and regulations, and also, thank you for actually, recognizing the difficulty that our economy is having at this point in time to push back the adjustment of the fee schedule until 2022.

I think that just shows that you're willing to work with the public and you're willing to work with the businesses at hand so that they can, not just come into compliance, but also be prepared for next year. Again, to your staff and to the entire public health. Thank you for all that you guys do for keeping our community safe and keeping our establishments always on their toes and always prepared to, just ensure that public health is always first and foremost for our community. Thank you again, Tom.

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS: Thank you very much, Senator.

Senator Telo T. Taitague, Committee Member: Thank you, Senator Ada, and next in line is Senator James Moylan.

Senator James Moylan: Thank you, Madam Chair. Thanks Tom. So just three things that you want to come from this bill are we're going to delay the scheduling of the fee increase until end of October 2022—another year and the current fee schedules will continue. And then, I just want to make sure that these fines when implemented to include the current one, are deposited into the Environmental Health Fund and not the General Fund. Seems pretty clear and easy.

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS: That's correct, Sir. Yes, currently the fees that we assess are deposited into the Environmental Health Funds, which we do have access to. However, the penalties that we're to collect go to the General Fund. So, we simply asked you whether the Committee could consider also transferring these monetary fees that are assessed and collected, that it goes to the Environmental Health Fund as well.

Senator James Moylan: Yeah, it sounds like the right thing to do, unless somebody is going to object to that. But I see no problem with that. And then thanks for sparing us with some of these slides, but I'm just wondering, on these really interesting slides here, are these guys, have they been cleaned up since these slides were made?

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS: Yes. Some of them actually go back a couple of years. They are some of the, I have to say, worst situations. We just simply compiled those that we found that represent some of the conditions that we actually see when we conduct inspection. But some, of course, are dated but all of the violation that's noted there have been corrected. Whatever was decided then, yes.

Senator James Moylan: Okay, thank you. That's good to hear. I'm wondering also on your website, when you do the inspections and you do come up with these pictures. Is that posted on your website where these establishments are, and these photos?

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS: That's something we did consider, Senator. I think had to do with our capability. I'm not the IT guy at our Division or the Department, so I can't say, but what we do is provide that information if requested, whether it be by the media or the public. So, that is available

but I don't believe it's currently available on our website. That's something we're considering on our end, but I don't know if we had the capability at this time, but I could definitely look into.

Senator James Moylan: Okay. I understand. Thank you, Tom. Thank you, Madam Chair.

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS:
Thank you, Senator.

Senator Telo T. Taitague, Committee Member: Thank you, Senator Moylan. And, of course, my favorite Senator, Senator Brown, please. You are recognized.

Senator Joanne Brown, Committee Member: Thank you so much, Madam Chair. I did want to ask Mr. Nadeau, certainly, there's no doubt we appreciate in the community appreciates the work that public health does when we go into these areas and businesses that provide these types of services, particularly restaurants. We always want to make sure that the place we're eating is safe and healthy and that they're following the proper practices to make sure that what we're consuming is safe.

But I wanted to get his feedback with regards to compliance. Of course, you would think that if a restaurant, for example, had a very low rating that that would discourage customers and that they would lose business. And you would think that would be an incentive enough to correct whatever deficiencies that particular facility may have in not meeting the required standards.

So I wanted to get his feedback. These businesses when they are cited, are they inclined to more readily address compliance because of the negativity of getting a lower, bad rating. Or do you go back and have consistent issues of, maybe the same business, not properly addressing the standards because they're unaware or they simply are not wanting to choose to comply. So I wanted to get his feedback on those questions.

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS:
Thank you, Senator. Through our experience and observation of those that are cited—let me

rephrase that—those facilities with numerous deficiencies and noted in our inspection report, they tend to, of course, want to correct as soon as possible so they can get a better grade, but especially if they are suspended, of course, they want to reopen to continue the business.

In that respect, yes, those are businesses that received low grades or closed down, they respond as soon as they can to correct the violations and, of course, we respond in kind and tried to get them open or get them to the new grade. *inaudible* So in that regards, yes, there are definitely establishments.

In fact, all establishments that I call want to, of course, do better and get the higher letter grade and open up. As to the public's response to that, definitely their immediate interest, I think that helped—the public in terms of... cause we get numerous complaints about public establishments.

Whether it be by just a simple email, a photograph, WhatsApp—whatever means that they have available to them and it's transmitted to us and we respond as quickly as we can. So there's public interest as well. I think the problem we have is that these inspections are not done frequently as possible.

So the letter grade that you see could have been a day, a week, a month, a year old. So maybe they're not associating that letter grade with when it was inspected, because we always said it's a snapshot that I give at that moment. So, it may have been last week or last year, but I may not be now. So, we always encourage everyone to look at the inspection report, but that's not something people think of badly.

They just simply look at the inspection grade as soon as they walk into the door. So, I think that's the biggest challenge we have in terms of public information and their understanding of the letter grade and when to inspect it. I hope that answered the question, Senator.

Senator Joanne Brown, Committee Member: And right now, do you have some that are just repeated violators that are not—of course, there are many, I'm sure, just for basic. If you're going to be in business or want to be able to operate that they would

want to quickly address compliance, but do you have repeated businesses that just for whatever reason, just don't get around to properly correcting what those issues are?

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS: I can't think of any particular establishment on top of my head, but I do know that sometimes old habits will come back, especially ones that haven't been inspected for some time.

On the average, at least when we did an initial calculation sometime ago, an average inspection between one establishment—there's a four year gap between inspection of an establishment.

Senator Joanne Brown, Committee Member: I was just going to ask you what's the frequency. That's a big gap. It is a big gap center.

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS: It is a big gap, absolutely. This is one of the reasons why we're really pushing this. We're hopeful that this bill will be passed and become law so we can get more inspectors so we could do more inspections frequently. Yeah, but it's about four years on the average between inspections.

Senator Joanne Brown, Committee Member: And then I wanted to ask you, you mentioned you have people might call in because they had a bad first experience there. Maybe, the food was spoiled or whatever the case may be. And those cases then is that how public health is responding in between these four year gap. That is a big gap of doing inspections.

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS: Yes, absolutely. And I'd like to share what happened 2018. So, in 2018 that's when we had the largest number of closures in a given period. So, we had 40 suspension of businesses and nearly all of them were resolved when the public submitted complaint of an establishment and most were eating at a chicken facility and these were what we call non-priority since they don't cater to the high risk population.

So they weren't in our radar in terms of priority wise, but because of the public's attention and understanding of food safety, they were referred to us and we did inspections. Unfortunately, there were confirmed and we closed down like 40 establishments that Fiscal Year. It was one of the highest we have done. And that was contributed primarily to the contribution from the staff—I'm sorry, public. So that has definitely been helpful in that regard. You know, eyes and ears.

Senator Joanne Brown, Committee Member: So like in, in a restaurant facility, can you just give us some pointers maybe for us and our residents, what they can look for that maybe can be things of concern when they see something in an establishment.

Cause I know you're going to go back in the kitchen, check the temperature, make sure things are properly stored in the location and all that. Certainly as a customer, we don't go and see what's going on in the back. But are there things that our residents can be mindful of just to, when they go into an establishment that they can look at and be aware of that might be areas of concern that, beyond just maybe—the worst thing is someone getting sick because they ate food that wasn't properly prepared and stored.

Nobody wants to go through that experience, which is a major issue of concern, but are there other things residents should be looking for? Is there something like on the letter grade? Does it have a date when that was issued so that we can even look at it and see, hey, this is a four year old report or a three-year old report just for safety, because of course, when you go out and eat and a lot of people now...

Of course, we have the pandemic, either to go in or take out or whatever the case may be. And among ourselves, we know where to recommend where there's good food, where its not such a good place to go, but are there any things we, as residents, can be mindful of and look at just to protect our own safety as well and our family?

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS: Sure. And I think you brought up one of them, which I always recommend, is asked to see the most recent inspection report. Because, like I said, that could have been some time ago, but also it points out even if it's a recent inspection report, it notes the violations that were

cited. So, what I always look for when I actually do go to an establishment, aside from letter grade, if it's available, I tend to look at the violation that was noted.

And I look for something critical, such as personal hygiene, maintaining proper food temperature. Let's see, it's from an approved source; make sure they have basically met all the critical requirements or if they don't have any critical violations on their inspection report. But also, obviously, you can't go to the kitchen or they won't allow you to go into their kitchen normally right, to look at how they're operating.

But you'd just look at the dining facility, but the restroom. I always look at the restroom because I think it's a reflection of their sanitation overall. So if you have facility where the restrooms are not well maintained that could be reflective of the situation in the kitchen, cause dining rooms are generally kept clean cause that's the first thing you present as a business to the client. But what happens in the kitchen and also its the restroom where not everyone may go. I think it's a good reflection, especially go to the restroom. There's no soap. If there's no soap for the clients, how about for the employees. Something basic as looking at the restrooms, I think is helpful, in addition to their last inspection report.

Senator Joanne Brown, Committee Member: And then the last question I have, normally we would always read in the paper and I would look, even if I haven't been someplace, I'll look and I'll see your rating. If you went out and, you went out and did the inspection and they will list down the names of these places.

And if it doesn't get a good rating, then definitely. I know a lot of our people are going to go, we're not going there. Am I missing that? I haven't seen recently, I try to keep up to date looking at, the paper, but I haven't seen recent reports. Is it that you have them, but they're not being covered as often, or is there any reason we don't see them as often as we used to, because that used to be a very regular, it's almost like the police blotter. You could see the public health's grade that was issued for inspections at these facilities. So am I just missing it or is there any reason why we don't see as much coverage with regards to these inspections?

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS: Yes. Once a week, in fact, just yesterday, we issued a list of all the establishments that were inspected, the result and the letter grade. But a lot of our focus recently, back for some time now, has been a COVID enforcement, COVID mitigation measures that are being implemented.

So that's been our focus, but when we do get a complaint, we do follow up, but also we post them on our website. I wish I could give you the link up, which I don't have that at the top of my head, but we also post our inspection results in our database. So that's available but in terms of the media, we don't control what the media presents.

Senator Joanne Brown, Committee Member: So maybe that's the reason you've been doing these inspections, but perhaps, they're just not covering it in the same way because normally print media would always have the listing. So, I just wanted to inquire because maybe that's the reason.

Of course, they get to decide what they want to put, but that used to be a regular feature that we would see. Okay. That answers that question, but I appreciate you provide the information and what we need to be mindful for, but I think it would be a concern certainly for the public to think that, it might be four years since the last regular inspection from public health occurred.

And that's definitely a gap we need to—we don't want people to be getting ill or sick. And these particular restaurants are not meeting the health standards that we require just to ensure the health and safety of our community. So, with that, thank you, Mr. Nadeau, and thank you very much, Madam Chair for the opportunity to ask these questions.

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS:
Thank you, Senator.

Senator Telo T. Taitague, Committee Member: You're very welcome, Senator Brown. Thank you so much. Tom, I just have a few questions. During the process of these rules and regulations, I know that in December, I believe it was December 3rd, 2019. There

was a public hearing and then 20 months later in no between public hearings and submission to legislature around August 10, 2021.

Can you just give us a history on the process of these rules and regulations, and also starting with how did you formulate these fees and fines? What model did you use to formulate it? So if you can start from the beginning, just to know that the process of the AAA. And then, of course, let me know the opportunity, if you had to speak with the Governor whether these rules and regs were approved by her, because, of course, that's a critical element of the AAA process.

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS: Sure. Yes. Of course, the Governor of Guam, she did review the document and she approved the document that was forwarded back to us with a written approval. In fact, I believe that's actually in the original transmittal to the legislature via the Administrative Adjudication Law, formerly known as AAA, I believe.

So, we did all the AAA. We made the necessary announcements on the website and on the local print. We did have our own public hearing. We compiled information. And we packaged it. Also gave it to the Office of Attorney General. They gave their legal review. We comply with the format as required by the Compiler of Law.

Senator Telo T. Taitague, Committee Member: Sorry to interrupt for you. Can you give us the dates?

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS: Sure. I'm sorry. Gosh, unfortunately, I don't have that in front of me, Senator. But you're right. It did start around 2019.

There was a delay because of COVID. So, one, our focus was not on the regulations and two, because we're understanding that economic situation... in fact, because of COVID we asked, and supported by the Governor, to delay the fee schedule component of the proposal until next year. So we're thankful to the Committee of acknowledging as well as supporting that.

So this occurred in 2019 and how we derived with the fee schedule is....well, we do know that the average number of inspection the staff can do. The number of health-related establishments and based on that information, we know how many staff is necessary to do approximately 12,000 inspections a year because each health related establishments require quarterly inspection.

So that's around 3000 or 2,900 establishments multiplied by four, that equates to about 12,000 or just under 12,000 inspections. And we know how many inspections our staff can do a day. So we have approximate number of how many inspectors that's necessary to do 12,000 inspections.

And based on that number, we determined the cost, the salary of these individuals. And we simply took that grand number divided by the number of health-related establishments. I know it sounds really **inaudible**, but it's what we thought was most convenient in that ideal way, if you will. We're not an economist, but we found out that seems to be the idea of methods determined.

Because we know the number of establishment, the cost of each employee salary, how many inspections we need to do. Based on that figure, we've come to 768 as the fee to increase the total fee cost for each establishment to generate that amount of revenue to recruit that number of inspectors. Does that help?

If you look at our Economic Impact Statement that we attached to the proposal, it gives you an outline on how that was derived. So that might be helpful with those who are actually interested in how we did this. Our inspectors could do an average around 2.5 establishments a day. Okay. So based on that, and there's 250 working in government days.

So we have a number of how many inspections an inspector could do a year. And we know how many inspections that needs to be done for all establishments. So do the math. I know I'm Asian. I should be able to just top of my head really quickly, but I don't have the paper in front of me. It's written out on the document. Gosh, I'm embarrassing myself by not having that document in front of me, but I can get back to

you. But it's all in the Economic Impact Statement. I'm sorry. It is outlined in the document.

Senator Telo T. Taitague, Committee Member: Thank you so much, Tom, sorry to put you on the spot so much like that, getting in depth, especially with these fees, not being implemented until later on, moving forward.

And I hope that there's going to be some kind of notification in advance, waiting to give to the businesses out there on when it will be implemented, even though it does say it in the law, 365 days after the pandemic or the emergency as implemented or whichever is at the later date that's stipulated here.

So, I just hope that there's some notification well in advance for these businesses. As well, Tom, how many have you seen has there been any noticeable decreases in the number of permits issued or current with the Department?

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS: Yes. I think it started last year, obviously, for obvious reasons. The number of, I don't have the figure in front of me, in fact, last year and year before, that was an anomaly because of the COVID. So it's not a true reflection of the number of sanitary permits that we issue, but definitely there was a fewer number of sanitary permits that we issued. And I think that's reflecting that some of the business closed or this temporarily not operating.

So yes, to answer your question, there has been a reduced number of sanitary permits that was issued last year compared to the previous years, but this year, this most recent fiscal year, which is 2021 the numbers has gone up. So, I think that's good. That's good news for everyone. I think is showing that the economy is covering somewhat but definitely there's been a increase in 2021 compared to 2020 fiscal year.

Senator Telo T. Taitague, Committee Member: Yeah. And you don't happen to have those numbers with you. Are you looking at like maybe a percentage increase or? We know that it's starting to go up in 2021, but...

M. Thomas Nadeau, Chief Environmental Public Health Officer, DEH, DPHSS:

Unfortunately, I don't have the most recent number. I can only share with you that on the — let's see.

During 2014 to 2018, prior to COVID, we were averaging just over 3000 sanitary permits that were issued. In fact, in 2018, right before the COVID if you will, there was 3,246 sanitary permits that were issued. I know that number went down during 2019-2020 but 2021, it went up slightly. There are definitely an improvement to what was saw in prior years, but I can look for the number for you, Senator.

Senator Telo T. Taitague, Committee Member: I appreciate that. If you can go ahead and send that number to all the senators here, which is a good comparison or a preview of what we're looking at, the growth.

And so that's good news. Very good news. I think that's all the questions I have. I'm going to ask my colleagues if there's any more questions you may have for Tom, before I close it. Okay. So, if there's no further questions or comments from the panel, I'd like to thank Tom, for you being here, Department of Public Health, Division of the Environmental Health for your work on updating its sanitary permits' rules and regulations.

The Committee will be working to submit the report on Bill 209-36 (COR) to the Legislature's Committee on Rules as soon as possible, to place it on this month's session agenda. I do want to know for the record, we don't have the fiscal note. I'm noticing it's not posted up, so I'm hoping we can have that before so that the Committee Report can be circulated.

The Virtual Public Hearing on Bill No. 209-36(COR) was adjourned at **9:23 AM**.

III. FINDINGS & RECOMMENDATIONS

The Department of Public Health and Social Services' proposed Rules and Regulations governing Sanitary Permits was transmitted to *I Liheslaturan Guåhan* on August 10, 2021,

pursuant to the Administrative Adjudication Law. The proposal seeks to insert a monetary penalty for regulated businesses that blatantly and repeatedly violate sanitation requirements in 26 GARR and revise the fee schedule for the issuance of sanitary permits in §4506 of Article 5, Chapter 4 of 26 GARR, which will allow the recruitment of more inspectors for Public Health's Division of Environmental Health (DEH) via increased revenue into the Environmental Health Fund (EHF).

The Committee on Health, Land, Justice and Culture held a public hearing on Friday, September 3, 2021, to receive testimony from the Department and public feedback. During the public hearing, the DEH proposed that the revised fee schedule in the proposal be effective 365 days after the end of the Governor's public health emergency declaration or after the adoption of the rules and regulations into law (whichever comes later), because of the adverse economic impact of COVID-19 pandemic.

The Committee sent a letter to the Office of the Attorney General (OAG) inquiring as to whether the Governor has the authority to delay implementation or waive the fee schedule by Executive Order or if the DPHSS Director has the authority to do so on his own if necessary.

The OAG responded: "it is our office's position that the cleanest approach to delaying the implementation of the fee increases would be to specify the intended effective date. However, upon cursory review of the issue, it is also our position that either the agency, on its own accord, or the governor, via executive order, would be able to delay the implementation of the fee increases."

Bill 209-36 (COR) was introduced on October 7, 2021 for the purpose of adopting the amendments to the Rules and Regulations Governing Sanitary Permits, and to change the effective date of §4506 of Article 5, Chapter 4 of 26 GARR.

The DPHSS provided testimony in support of Bill No. 209-36(COR), restating that the proposed fee schedule would increase revenue into the EHF which would allow hiring of more inspectors to conduct quarterly compliance inspections, allow for timely processing and issuing of Sanitary Permits and that the proposed monetary penalty should deter

businesses from operating without a Sanitary Permit, importing adulterated or mislabeled consumer commodities, and committing other unlawful acts.

DPHSS thanked the Committee for recognizing and supporting the need to delay implementation of the revised fee schedule until October 30, 2022, to enable the industry to recover and prepare. They requested that specific language be inserted in the bill to keep the current fee schedule until the implementation of the revised fee schedule. The Committee has included said language in Section 3 of the bill.

In addition, the DPHSS requested that the Committee consider a provision in Bill 209-36 that would amend §20120 of Chapter 20, Title 10, Guam Code Annotated, to allow the deposit of monetary fines collected into the EHF rather than the General Fund. The Committee will address this recommendation by separate legislation.

The Committee on Health, Land, Justice and Culture hereby reports out **Bill No. 209-36 (COR)- As Amended by the Committee on Health, Land, Justice and Culture- Introduced by Speaker Therese M. Terlaje- "AN ACT TO ADOPT THE PROPOSED AMENDMENTS TO ARTICLE 5 OF CHAPTER 4, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, AS TRANSMITTED TO I LIHESLATURAN GUÅHAN PURSUANT TO THE ADMINISTRATIVE ADJUDICATION LAW, ATTACHED HERETO AS EXHIBIT A, "** with the recommendation **To report out only.**

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 209-36 (COR)

Introduced by:

Therese M. Terlaje 

**AN ACT TO ADOPT THE PROPOSED AMENDMENTS
TO ARTICLE 5 OF CHAPTER 4, TITLE 26, GUAM
ADMINISTRATIVE RULES AND REGULATIONS, AS
TRANSMITTED TO *I LIHESLATURAN GUÅHAN*
PURSUANT TO THE ADMINISTRATIVE
ADJUDICATION LAW, ATTACHED HERETO AS
EXHIBIT A.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds
that the Department of Public Health and Social Services transmitted its proposed
rules and regulations governing the issuance of sanitary permits to the Legislature
on August 10, 2021, pursuant to the Administrative Adjudication Law. The proposal
seeks to insert a monetary penalty for regulated businesses that blatantly and
repeatedly violate sanitation requirements and revise the fee schedule for the
issuance of sanitary permits, which will allow the recruitment of more inspectors for
the Division of Environmental Health via increased revenue into the Environmental
Health Fund. *I Liheslaturan Guåhan* further finds that DPHSS is authorized to
promulgate rules and regulations for administrative penalties pursuant to 10 GCA,
Chapter 20, §20118. Because of the adverse economic impact of COVID-19
pandemic, DPHSS has proposed that the revised fee schedule in the proposal be

1 effective 365 days after the end of the Governor's public health emergency
2 declaration or after these Rules and Regulations adoption, whichever is later.

3 It is the intent of *I Liheslaturan Guåhan* to adopt the rules and regulations
4 together with the Department of Public Health and Social Services'
5 recommendations as shown in EXHIBIT A.

6 **Section 2.** *I Liheslaturan Guåhan* does hereby adopt the proposed
7 amendments to Article 5 of Chapter 4, Title 26, Guam Administrative Rules and
8 Regulations, relative to the "Rules and Regulations Governing the Issuance of
9 Sanitary Permits" as transmitted to *I Liheslaturan Guåhan* pursuant to the
10 Administrative Adjudication Law, attached hereto as EXHIBIT A.

11 **Section 3. Effective Date.** This Act shall be effective upon enactment
12 except the amendments to §4506 of Article 5, Chapter 4, 26 GARR which will be
13 effective on October 30, 2022.

GOVERNMENT OF GUÅHAN
DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES
DIVISION OF ENVIRONMENTAL HEALTH

**RULES AND REGULATIONS GOVERNING THE
ISSUANCE OF SANITARY PERMITS**

Title 26 Guam Administrative Rules and Regulations

Chapter 4

Article 5

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1 **§4501. Purpose.** The purpose of these rules and regulations is to govern the issuance,
2 fees, and administrative penalty for Sanitary Permits.

3 **§4502. Authority.** Section 20105 of Chapter 20 and Section 21102 of Chapter 21, Title
4 10 Guam Code Annotated authorizes the Director of the Department of Public Health and Social
5 Services to promulgate rules and regulations necessary to carry out the provisions of the law
6 governing the sanitary operations of health-regulated establishments. Section 20118 of Chapter
7 20 of Title 10 Guam Code Annotated authorizes the Department to promulgate rules and
8 regulations for administrative penalties.

9 **§4503. Title.** These rules and regulations shall also be known and cited as the *Sanitary*
10 *Permit Rules and Regulations.*

11 **§4504. Definitions.** As used in these rules and regulations:

12 ~~(a) — Chemical Toilet shall mean a building or structure housing one (1) or more water-~~
13 ~~tight containers of liquid chemical disinfectants intended to receive and hold human~~
14 ~~excrement.~~

15 (a) *Cosmetic Establishment* shall mean any premises or portion thereof, wherein any
16 of the following is practiced for compensation:

- 17 (1) Shaving, clipping, trimming, or cutting human hair;
- 18 (2) Singeing, shampooing, arranging, adorning, dressing, curling, waving,
19 permanent waving, tinting, applying tonic to or dyeing human hair;
- 20 (3) Giving facial, scalp, neck or body massages or treatments with oils, creams,
21 lotions, or other preparations either by hand or mechanical appliances;
- 22 (4) Applying cosmetic preparations, antiseptics, powders, oils, clays, lotions, or
23 other preparations to scalp, face, neck, or hands; or

1 (5) Manicuring or pedicuring.

2 (b) *Department* shall mean the Department of Public Health and Social Services of the
3 government of Guam.

4 (c) *Director* shall mean the Director of the Department of Public Health and Social
5 Services, or his designated representative.

6 (d) *Dry Cleaning Establishment* shall mean any place, building, structure, room,
7 premises, or portions thereof, used in the business of dry cleaning and dyeing of wearing apparel,
8 household linens and other articles, including coin-operated dry-cleaning establishments.

9 (e) *Eating and Drinking Establishment* shall mean any food service establishment,
10 mobile food service establishment, or vending machine.

11 (f) *Edible Garbage Feeding Establishment* shall mean ~~swill or leavings of food or any~~
12 ~~abandoned, spoiled, condemned meat, fish, fowl, vegetable matter, or offal from slaughtered~~
13 ~~animals, liquid or solid, which is free of toxic, or deleterious substances, and is deemed by the~~
14 ~~Director as being suitable for use solely as animal feed.~~ a farm, ranch, facility, premises, site, or
15 any place approved by the Director for operation to process edible garbage for the purpose of
16 livestock feeding.

17 (g) *Employee* shall mean any individual, including the owner, operator, manager, or
18 other person performing any function in a health-regulated establishment, whether for
19 compensation or otherwise.

20 (h) *Food Establishment* shall mean and includes every establishment or place which is
21 used or occupied as a bakery, confectionary, cannery, dairy, creamery, packing house, grocery,
22 supermarket, meat or poultry market, fruit or vegetable market, delicatessen, beverage plant,
23 slaughterhouse, poultry processing plant, fish processing plant, frozen food processing plant,

1 public market, food warehouse, or for the production, processing, manufacture, preparation for
2 sale, canning, bottling, packing, packaging, storage, sale, or distribution of food.

3 (i) *Health-Regulated Establishment* shall mean any (1) eating and drinking
4 establishment; (2) food establishment; (3) institutional facility; (4) hotel; (5) cosmetic
5 establishment; (6) laundry and dry-cleaning establishment; (7) public swimming pool; (8)
6 mortuary; (9) edible garbage feeding establishment; ~~(10) chemical toilet~~; and (10) any other
7 establishment required to possess a Sanitary Permit issued by the Department.

8 (j) *Hotel* shall mean any structure or any portion of any structure, including any
9 lodging house, rooming house, dormitory (including a dormitory housing for contract employees),
10 health spa, bachelor hotel, studio hotel, motel, private club, containing four (4) or more guest
11 rooms and which is occupied or is intended or designed for occupancy, by four (4) or more guests,
12 whether rent is paid in money, goods, labor, or otherwise, or whether with or without meals. It
13 does not include any penal institutions, hospital, clinic, nursing home, school, laboratory, or child
14 care facility.

15 (k) *Institutional Facility* shall mean any structure or any portion of any structure
16 operating as a child care facility, penal institution, school, hospital, clinic, nursing home, or
17 laboratory as defined in Title 10 GCA, Chapter 25.

18 (l) *Mortuary* shall mean any place used for such activities as are incident, convenient,
19 or related to the preparation and arrangements for the funeral, transportation, burial, cremation, or
20 other disposition of dead human bodies.

21 (m) ~~*Public Laundry and Dry-Cleaning Establishment*~~ shall mean any place, building,
22 structure, room, establishment, premises or portions thereof, used in the business of making,
23 sorting, washing, drying, starching, ironing, or wearing apparel, household linens and other

1 articles, including any establishment providing laundering equipment for use by customers for a
2 fee, and known by various terms such as laundromat, wash-o-mat, or launderette.

3 (n) *Public Swimming Pool* shall mean any artificial structure, basin, chamber, or tank
4 constructed of impervious material used or intended to be used for swimming, diving, wading, or
5 recreational bathing (but *does not* include conventional bath-tubs where the primary purpose is the
6 cleaning of the body or individual therapeutic tubs) and that is available for public use, whether
7 for a fee or free of charge; or owned or used by any business, partnership, corporation or person
8 for the use of their customers, clients, guests or employees, including, but not limited to, a
9 commercial pool, a community pool or a pool at a hotel, motel, resort, auto park, trailer park,
10 apartment house, or other multiple rental unit, private club, public club, public or private school,
11 gymnasium or health establishment.

12 (o) *Sanitary Permit* shall mean the official document issued by the Department of
13 Public Health and Social Services authorizing a health-regulated establishment to operate its
14 business.

15 (p) *Temporary Food Service Establishment (also known as TFSE)* shall mean any
16 eating and drinking establishment which operates at a fixed location for a period of ~~time not~~
17 ~~exceeding six (6) months~~ 1 to 180 days in conjunction with a carnival, fair, circus, exhibition, or
18 other transitory gathering not of a permanent structure, which are further described and identified
19 below based on its duration of operation:

- 20 (1) TFSE-1 which shall be those operating for 1 day only;
- 21 (2) TFSE-W which shall be those operating for 1 day, every week, for a year;
- 22 (3) TFSE-7 which shall be those operating for up to 7 days, but not less than two
- 23 consecutive days;

1 (4) TFSE-180 which shall be those operating for up to 180 consecutive days; and

2 (5) TFSE-X which shall be those operating in various combination of days not
3 defined elsewhere; provided, it does not exceed 180 days.

4 (q) *Special Village Event* shall mean a carnival, fair, circus, exhibition, or other
5 transitory gathering sponsored by the village Municipal Planning Council, *not to exceed seven (7)*
6 consecutive days.

7 **§4505. Sanitary Permit Applications for New and Renewal.**

8 (a) All applications, and supporting documents, for a Sanitary Permit shall be in a
9 form, format, and medium prescribed by the Director.

10 (b) A non-refundable deposit of ~~Twenty~~ Thirty Dollars (~~\$20.00~~\$30.00) shall be made
11 to the 'Treasurer of Guam' at the time the application for Sanitary Permit is submitted to the
12 Department. Upon completion and processing of the application, the deposit amount shall be
13 deducted from the appropriate fee listed in §4506. In the event the calculated, prorated fee for the
14 Sanitary Permit is less than the non-refundable deposit then the applicant shall pay the prorated
15 fee as the deposit.

16 (c) Any application that remains inactive for sixty (60) consecutive days because of
17 the inaction by the applicant (i.e., pending submission of required supporting documents), shall be
18 considered permanently inactive, removed from the file for processing, and then destroyed, and
19 the non-refundable ~~Twenty Dollars (\$20.00)~~ deposit shall be automatically forfeited.

20 (d) An applicant who wishes to re-apply after his or her application has become
21 permanently inactive under the provision of §4505(c) shall be considered a new applicant and shall
22 re-submit the application and supporting documents and pay all required fees, including the
23 ~~Twenty Dollars (\$20.00)~~ non-refundable deposit fee.

1 (e) Failure to renew a Sanitary Permit within sixty (60) days of the due date shall void
2 the Sanitary Permit. A valid Sanitary Permit may not be reinstated until a new application is filed
3 and approved by the Department and payment is received, along with any other fees and monetary
4 penalty.

5 (f) A health-regulated establishment that fails to renew its Sanitary Permit for two
6 consecutive renewal periods shall be considered inactive, and any application received thereafter
7 for that establishment shall be treated as a new application and meet all the requirements as a new
8 applicant.

9 (g) The expiration date of a Sanitary Permit issued for a Temporary Food Service
10 Establishment shall be the final date of the temporary event.

11 (h) Any Temporary Food Service Establishment or Special Village Event that meets
12 criteria, as determined by the Department, based on the event's anticipated number of people
13 attending, including highly susceptible populations; expected number of vendors; and types of
14 food to be served or offered for sale must provide at least one designated, reserved parking space
15 near the event and a sheltered booth to be utilized by the Department for the duration of the event
16 by the organizer. The designated parking space shall be no further than the nearest parking made
17 available to the event organizer and/or the public, whichever is closer, and the booth shall have, at
18 a minimum, a table for writing that is no less than 24 sq. ft. in size, two chairs, and an overhead
19 protection from the elements, such as a canopy or other covering.

20 **§4506. Fees.** Fees for the issuance of a Sanitary Permit *shall* be as follows:

21 (a) Excluding TFSE, the Sanitary Permit fee for all health-regulated establishments
22 shall be the following, which shall be pro-rated based on the annual renewal date of the permit:

1 (1) Three Hundred Sixty-Eight Dollars (\$368.00), effective immediately upon
2 the adoption of these rules and regulations, if the establishment has 1 to 10 employees. For
3 health-regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be
4 assessed for each additional employee above 10.

5 (2) Four Hundred Sixty-Eight Dollars (\$468.00) on the second anniversary of
6 these rules and regulations adoption, if the establishment has 1 to 10 employees. For
7 health-regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be
8 assessed for each additional employee above 10.

9 (3) Five Hundred Sixty-Eight Dollars (\$568.00) on the third anniversary of these
10 rules and regulations adoption, if the establishment has 1 to 10 employees. For health-
11 regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be assessed
12 for each additional employee above 10.

13 (4) Six Hundred Sixty-Eight Dollars (\$668.00) on the fourth anniversary of these
14 rules and regulations adoption, if the establishment has 1 to 10 employees. For health-
15 regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be assessed
16 for each additional employee above 10.

17 (5) Seven Hundred Sixty-Eight Dollars (\$768.00) on the fifth anniversary of
18 these rules and regulations adoption, and thereafter, if the establishment has 1 to 10
19 employees. For health-regulated establishments with 11 or more employees, Five Dollars
20 (\$5.00) shall be assessed for each additional employee above 10.

21 (b) The Sanitary Permit fee for Temporary Food Service Establishments shall be:

22 (1) Fifty Dollars (\$50.00) for TFSE-1;

23 (2) One Hundred Fifty-Five Dollars (\$155.00) for TFSE-W;

1 (3) One Hundred Twenty-Five Dollars (\$125.00) for TFSE-7;
2 (4) Two Hundred Dollars (\$200.00) for TFSE-180;
3 (5) Three Hundred Dollars (\$300.00) for TFSE-X; and
4 (6) Twenty-Five Dollars (\$25.00) for Special Village Events officially sponsored
5 by a village Municipal Planning Council, provided, however, that the vendor shall be
6 limited to three (3) events per calendar year per permit issued.
7 (c) The Sanitary Permit fee for vending machines shall be:
8 (1) Five Hundred Dollars (\$500.00) per vending machine for each of the first
9 style or model of vending machine; and
10 (2) Ten Dollars (\$5.00-\$10.00) for each additional vending machine.
11 ~~(d) The Sanitary Permit fee for chemical toilet operator shall be Five Hundred Dollars~~
12 ~~(\$500.00) regardless of the number chemical toilets possessed by the operator.~~
13 (d) Issuance of a duplicate Sanitary Permit shall be Ten Dollars (\$10.00).
14 (e) Amendments to an existing Sanitary Permit shall be Ten Dollars (\$10.00).
15 (f) An applicant for a Sanitary Permit may request for the permit to be expedited and
16 processed within 24 hours the request is submitted. The Department may grant such request
17 provided the applicant has met all the requirements of the Department to obtain a Sanitary Permit,
18 including the requirement for the Pre-Operational Inspection. The Department shall assess a fee
19 One Hundred Dollars (\$100.00) for expedited processing in addition to the regular processing fee.
20 Applications for a Sanitary Permit for Temporary Food Service Establishments which are
21 submitted one day or less prior to the event will automatically be assessed an expedited processing
22 fee of Fifty Dollars (\$50.00), in addition to the regular processing fee.

1 (g) The cost of the Pre-Operational Inspection is included in the initial payment for the
2 Sanitary Permit. However, a fee of Fifty Dollars (\$50.00) an hour shall be assessed for all
3 subsequent inspections. With the exception of the first hour, fractional hours shall be rounded up
4 to the nearest whole hour if more than one half (0.5) hour, and rounded down if less than one half
5 (0.5) hour.

6 (h) Request for an expedited Pre-Operational Inspection may be granted, as determined
7 by the Director, if such inspection does not cause the disruption of any pre-existing inspections
8 scheduled for other applicants. The fee for expedited Pre-Operational Inspection shall be Two
9 Hundred Dollars (\$200.00) in addition to all other required fees established in these rules and
10 regulations if performed during normal Government of Guam business hours (8:00 am – 5:00 pm;
11 Monday through Friday). Expedited Pre-Operational Inspection conducted outside normal
12 business hours, including weekends, shall be Five Hundred Dollars (\$500.00).

13 (i) Any establishment that has its Sanitary Permit suspended under the provision of
14 Title 10 GCA, Chapter 21, §21109:

15 (1) That requests and obtains a re-inspection from the Department that results
16 in the finding that it had not corrected all of its violations shall be assessed a fee of One
17 Hundred Twenty-Five Dollars (\$125.00), which must be paid by the establishment prior to
18 any subsequent re-inspection by the Department.

19 (2) That requests to be re-inspected outside normal Government of Guam
20 business hours (8:00 a.m. to 5:00 p.m.; Monday through Friday) may submit a request to
21 the Department, and if approved, shall be assessed a flat fee of Three Hundred Dollars
22 (\$300.00). For any Government of Guam holiday, the fee shall be Six Hundred Dollars
23 (\$600.00), if the request is approved. Payment shall be made on the first business day

1 immediately after the inspection, and if such payment is not made, the Department may re-
2 suspend the Sanitary Permit immediately without any advanced notice and assess all other
3 applicable fees. If the re-inspection results in the non-reinstatement of the Sanitary Permit
4 (i.e., failed inspection) and the establishment fails to make the requirement payment, the
5 Department shall not conduct another re-inspection until such time all outstanding fees
6 have been paid by the establishment.

7 (j) Request for a follow-up sanitation inspection, prior to the date noted in the
8 inspection report, may be granted by the Department if resources permit. The fee for early follow-
9 up sanitation inspection shall be One Hundred Dollars (\$100.00), which shall be paid in advance
10 prior to the inspection.

11 (k) An application to renew a Sanitary Permit shall be received by the Department prior
12 to the date of that permit's expiration date, and any application received after the expiration date
13 shall be assessed a penalty fee of Twenty-Five Dollars (\$25.00), in addition to all other applicable
14 fees.

15 (l) Any health-regulated establishment that operated, regardless of the duration,
16 without a Sanitary Permit shall pay the required Sanitary Permit fee for its annual permit,
17 Temporary Food Service Establishment permit, or the Special Village Event permit, retroactively,
18 for that time period, inclusive of the Twenty Dollars (\$20.00) late application submission fee, if
19 applicable.

20 (m) A Temporary Food Service Establishment, or a sponsor of an event with such
21 establishment, that requests, and is granted, a variance pursuant to the Guam Food Code, which
22 causes the Department to increase its inspection frequency or duration so to closely monitor the

1 establishment in ensuring that the approved modification or waiver does not create any health
2 hazard or nuisance shall pay a fee of Three Hundred Dollars (\$300.00).

3 (n) All fees collected pursuant to these rules and regulations shall be non-refundable.

4 (o) The fee schedule established pursuant to these rules and regulations shall become
5 effective immediately upon enactment.

6 (a) ~~The Sanitary Permit fee for the following health-regulated establishments shall be~~
7 ~~Two Hundred Ninety Dollars (\$290) if the establishment has 1 to 10 employees and Five Dollars~~
8 ~~(\$5.00) for each additional employee above ten (10) thereafter; for establishments with less than~~
9 ~~ten (10) employees, the fee shall be One Hundred Fifty Dollars (\$150.00) until January 1, 2012;~~
10 ~~for establishments with less than ten (10) employees, the fee shall be Two Hundred Twenty Dollars~~
11 ~~(\$220.00) from January 2, 2012 until January 2, 2014:~~

12 (1) ~~Eating and Drinking Establishments, excluding vending machines and~~
13 ~~temporary food service establishments;~~

14 (2) ~~Food Establishments;~~

15 (3) ~~Institutional Facilities;~~

16 (4) ~~Hotels;~~

17 (5) ~~Cosmetic Establishments;~~

18 (6) ~~Public Laundry and dry cleaning establishments;~~

19 (7) ~~Public Swimming Pools;~~

20 (8) ~~Mortuaries;~~

21 (9) ~~Edible Garbage Feeding Establishments;~~

22 (10) ~~Commercial animal establishments; and~~

1 ~~(11) Any other establishment required to obtain a Sanitary Permit from the~~
2 ~~Department not explicitly mentioned in these rules and regulations.~~

3 ~~(b) — The Sanitary Permit fee for Temporary Food Service Establishments shall be:~~

4 ~~(1) One Hundred Dollars (\$100.00) for those operating for less than six (6) months,~~
5 ~~but more than three (3) days; and~~

6 ~~(2) Fifty Dollars (\$50.00) for those operation for three (3) days; and~~

7 ~~(3) Twenty-Five Dollars (\$25.00) for Special Village Events officially sponsored~~
8 ~~by a village Municipal Planning Council, provided, however, that the vendor shall be~~
9 ~~limited to three (3) events per calendar year per permit issued.~~

10 ~~(c) — The Sanitary Permit fee for vending machines shall be:~~

11 ~~(1) Two Hundred Ninety Dollars (\$290) per vending machine for each of the first~~
12 ~~style or model of vending machine; and~~

13 ~~(2) Five Dollars (\$5.00) for each additional vending machine.~~

14 ~~(d) — The Sanitary Permit fee for chemical toilet operator shall be Five Hundred Dollars~~
15 ~~(\$500.00) regardless of the number chemical toilets possessed by the operator.~~

16 ~~(e) — Issuance of a duplicate Sanitary Permit shall be Ten Dollars (\$10.00).~~

17 ~~(f) — Amendments to an existing Sanitary Permit shall be Ten Dollars (\$10.00).~~

18 ~~(g) — An applicant for a Sanitary Permit may request for the permit to be expedited and~~
19 ~~processed within 24 hours the request is submitted. The Department may grant such request~~
20 ~~provided the applicant has met all the requirements of the Department to obtain a Sanitary Permit,~~
21 ~~including the requirement for the Pre-Operational Inspection. The Department shall assess a fee~~
22 ~~of Seventy Five Dollars (\$75.00) for expedited processing in addition to the regular processing~~
23 ~~fee. Applications for a Sanitary Permit for Temporary Food Service Establishments which are~~

1 submitted one day or less prior to the event will automatically be assessed an expedited processing
2 fee.

3 (h) ~~—The cost of the structural inspection, also known as a pre-operation inspection, is~~
4 ~~included in the initial payment for the Sanitary Permit. However, a fee of Fifty Dollars (\$50.00)~~
5 ~~an hour shall be assessed for all subsequent inspections. With the exception of the first hour,~~
6 ~~fractional hours shall be rounded up to the nearest whole hour if more than one half (0.5) hour,~~
7 ~~and rounded down if less than one half (0.5) hour.~~

8 (i) ~~—Request for an expedited structural inspection may be granted, as determined by~~
9 ~~the Director, if such inspection does not cause the disruption of any pre-existing inspections~~
10 ~~scheduled for other applicants. The fee for expedited Pre-Operational Inspection shall be One~~
11 ~~Hundred Fifty Dollars (\$150.00) in addition to all other required fees established in these rules and~~
12 ~~regulations.~~

13 (j) ~~—Any establishment whose Sanitary Permit is suspended under the provisions of~~
14 ~~Title 10 GCA, Chapter 21, §21109, and who is granted reinstatement by the Department as set out~~
15 ~~in Title 10 GCA, Chapter 21, §21110, shall first pay a re-opening fee of One Hundred Dollars~~
16 ~~(\$100.00) before the Sanitary Permit is returned or re-issued.~~

17 (k) ~~—The fee schedule established pursuant to this §4506 shall become effective~~
18 ~~immediately upon enactment for new applications, provided, however, it shall become effective~~
19 ~~for the renewal of all Sanitary Permits issued prior to the enactment of these rules on June 1, 2012.~~

20 **§4506.1 Advance Notification of Fee Schedule.** The Director shall ensure that advance,
21 written notification is provided to all Sanitary Permit licensees relative to the cost for permit
22 renewal upon prior to the expiration of the ~~their current~~ Sanitary Permit. ~~The information shall be~~

1 ~~immediately provided as a permit renewal notification.~~ The notification may be in a form of a
2 press release to the local news media.

3 **§4507. Administrative Penalty.**

4 (a) Any establishment, ~~which whose~~ had its Sanitary Permit is suspended under the
5 provision of Title 10 GCA, Chapter 21, §21109, is granted reinstatement by the Department as set
6 out in Title 10 GCA, Chapter 21, §21110, shall first pay a re-opening fee of Three Hundred Dollars
7 (\$300.00) ~~One Hundred Dollars (\$100.00), if it has ten or less employees, or Five Hundred Dollars~~
8 (\$500.00), if it has eleven or more employees, before the Sanitary Permit is returned or re-issued
9 by the Department.

10 (b) The Department, at its discretion, shall assess monetary fine in accordance with the
11 following:

12 (1) Operating an establishment without a valid Sanitary Permit shall be a fine of no
13 more than Two Thousand Five Hundred Dollars (\$2,500.00) but no less than Three
14 Hundred Fifty Dollars (\$350.00)

15 (2) Transferring a Sanitary Permit to another person or to another location, or
16 posting on or using the permit in any way at any other premises other than for which it was
17 issued shall be a fine of no more than Two Thousand Five Hundred Dollars (\$2,500.00),
18 but no less than Three Hundred Fifty Dollars (\$350.00).

19 (3) Prohibiting the Department from accessing and inspecting its permitted health-
20 regulated establishment shall be a fine of no more than Two Thousand Five Hundred
21 Dollars (\$2,500.00), but no less than Three Hundred Fifty Dollars (\$350.00).

22 (4) Prohibiting the Department from examining and copying its records that are
23 required to be kept and maintained by the health-regulated establishment shall be a fine of

1 no more than One Thousand Dollars (\$1,000.00), but no less than Two Hundred Dollars
2 (\$200.00).

3 (5) Removing, defacing, destroying, or concealing an inspection report, letter
4 grade, or closure notice shall be a fine of no more than One Thousand Dollars (\$1,000.00),
5 but no less than Two Hundred Fifty Dollars (\$250.00).

6 (6) Knowingly authorizing a person to work who has a communicable disease that
7 can potentially be transmitted to the public in the course of that person's employment shall
8 be a fine of no more than Five Thousand Dollars (\$5,000.00), but no less than Five Hundred
9 Dollars (\$500.00).

10 (7) Having a repeat violation of the same critical requirement, with the assigned six
11 (6) demerit points, within a one-year period (365 days) shall be a fine of no more than One
12 Thousand Dollars (\$1,000.00), but no less than One Hundred Dollars (\$100.00) per
13 violation.

14 (8) Operating an eating and drinking establishment or food establishment without
15 a manager who possesses a Certificate of Management Certification shall be a fine of no
16 more than One Thousand Dollars (\$1,000.00), but no less than Two Hundred Dollars
17 (\$200.00).

18 (9) Importing a consumer item regulated by Title 10 Guam Code Annotated,
19 Chapter 32 (Hazardous Substances Act) and Chapter 40 (Guam Food, Drug and Cosmetic
20 Act) that is misbranded, adulterated, or otherwise prohibited by law shall be a fine of no
21 more than Twenty-Five Thousand Dollars (\$25,000.00), but no less than Five Hundred
22 Dollars (\$500.00).

1 (c) Assessment of monetary penalty may occur concurrently with other administrative,
2 civil, and/or criminal penalty authorized by law.

3 (d) Before imposing an administrative penalty against a person or a health-regulated
4 establishment, the Director shall issue a notice of intent to impose the penalty and provide the
5 individual or business an opportunity to request a hearing on the proposed penalty. The request
6 must be made within fifteen (15) business days of the date the notice of intent is served upon the
7 person or health-regulated establishment. Serving of the notice of intent to the person in charge
8 of the health-regulated establishment, or by certified mail to the last known mailing address of the
9 health-regulated establishment, shall be acceptable means of notification.

10 (e) The administrative penalty hearing shall be held in accordance with the
11 Administrative Adjudication Law (Title 5 GCA, Chapter 9).

12 (f) Any person or health-regulated establishment may seek review of any administrative
13 penalty imposed before the Superior Court of Guam. Such review shall be upon the record
14 established before the Director and not de novo. The Superior Court may sustain, modify, or
15 vacate any administrative penalty it reviews.

16 (g) If any person or health-regulated establishment fails to comply with an administrative
17 penalty order after it has become final:

18 (1) The Director may suspend the Sanitary Permit of the health-regulated
19 establishment until such time that the payment is made in full, but not before a written
20 notice is issued to the establishment notifying it of the action by serving of such notice to
21 the person in charge of the health-regulated establishment, or by certified mail to the last
22 known mailing address of the health-regulated establishment, at least seven (7) calendar
23 days before the suspension takes effect; or

1 (2) The Director may forward the matter to the Attorney General of Guam to bring
2 a civil action to enforce the order, or to recover the amount ordered or assessed, in
3 accordance to law.

4 (3) The Director may pursue both §4507(g)(1) and §4507(g)(2), if he/she so
5 desires.

6 **§4508. Suspension or Revocation of Sanitary Permit.**

7 (a) The Director may suspend or revoke any Sanitary Permit under the provisions of Title
8 10 GCA, Chapter 21, §§21107(2)(d) and 21109, or upon any violation by a health-regulated
9 establishment or by any of its employees for any environmental health violation under Title 10 of
10 the Guam Code Annotated, Chapters 20 through 33 and 35 through 40, or any rules and regulations
11 promulgated concerning Sanitary Permits.

12 (b) A health-regulated establishment with a suspended Sanitary Permit, as one of its
13 conditions in having its Sanitary Permit reinstated, shall be required the following:

14 (1) The staff and management receive applicable training and/or consultation
15 from the Department; and

16 (2) Submits a corrective action plan and/or other applicable, related
17 documentation to the Department.

18 The date, time, and venue for the training or consultation shall be coordinated between the
19 Department and the health-regulated establishment.

20 **§4509. Hearing.** (a) Any health-regulated establishment whose Sanitary Permit is to be
21 suspended or revoked *shall* be notified by the Director in writing of the Department's intention
22 and the reasons therefore.

1 (b) Any health-regulated establishment that receives a notice of violation with intent to
2 suspend or revoke as described in Subsection (a) of this §4508 and that wishes to contest *shall*
3 request a hearing with the Director in writing *no later than* fifteen (15) calendar days after receipt
4 of the notice, and *shall* state the grounds for objecting to the intended suspension or revocation.
5 The Administrative Adjudication Law's hearing procedure applies.

6 (c) Upon completion of a hearing, the Director *shall* make a written determination
7 concerning the violation and whether a suspension or revocation is to be imposed.

8 **§45010. Suspension without Hearing.** (a) In accordance to with Title 10 GCA, Chapter
9 21, §§21107(d) and 21109(a) and (b), a Sanitary Permit may be suspended without prior hearing:

10 (1) when the demerit score of the establishment is more than forty (40);

11 (2) at the discretion of the Director for violating any provisions of Title 10
12 GCA, Chapters 20 through 40; and

13 (3) for twice violating the same requirement deemed critical under the
14 applicable rules and regulations of the Department within any six-month period, in which
15 case, it *shall not* exceed five (5) days.

16 (b) A suspension without prior hearing may remain in effect until the violation is
17 corrected by the establishment, or resolved after a hearing in accordance with the Administrative
18 Adjudication Law. The Director *shall* have the discretion to decide whether the suspension shall
19 be continued pending a hearing.

20 **§4511. Effective Date.** These rules and regulations *shall* become effective immediately
21 upon enactment.

1 **§4512. Severability.** *If* any provision or application of any provision of these rules and
2 regulations are held invalid, such invalidity shall *not* affect the other provisions or applications of
3 these rules and regulations.

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 209-36 (COR)

As Amended by the Committee
on Health, Land, Justice and Culture

Introduced by:

Therese M. Terlaje

**AN ACT TO ADOPT THE PROPOSED AMENDMENTS
TO ARTICLE 5 OF CHAPTER 4, TITLE 26, GUAM
ADMINISTRATIVE RULES AND REGULATIONS, AS
TRANSMITTED TO *I LIHESLATURAN GUÅHAN*
PURSUANT TO THE ADMINISTRATIVE
ADJUDICATION LAW, ATTACHED HERETO AS
EXHIBIT A.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the Department of Public Health and Social Services transmitted its proposed rules and regulations governing the issuance of sanitary permits to the Legislature on August 10, 2021, pursuant to the Administrative Adjudication Law. The proposal seeks to insert a monetary penalty for regulated businesses that blatantly and repeatedly violate sanitation requirements and revise the fee schedule for the issuance of sanitary permits, which will allow the recruitment of more inspectors for the Division of Environmental Health via increased revenue into the Environmental Health Fund. *I Liheslaturan Guåhan* further finds that DPHSS is authorized to promulgate rules and regulations for administrative penalties pursuant to 10 GCA, Chapter 20, §20118. Because of the adverse economic impact of COVID-19 pandemic, DPHSS has proposed that the revised fee schedule in the proposal be

1 effective 365 days after the end of the Governor’s public health emergency
2 declaration or after these Rules and Regulations adoption, whichever is later.

3 It is the intent of *I Liheslaturan Guåhan* to adopt the rules and regulations
4 together with the Department of Public Health and Social Services’
5 recommendations as shown in EXHIBIT A.

6 **Section 2.** *I Liheslaturan Guåhan* does hereby adopt the proposed
7 amendments to Article 5 of Chapter 4, Title 26, Guam Administrative Rules and
8 Regulations, relative to the “Rules and Regulations Governing the Issuance of
9 Sanitary Permits” as transmitted to *I Liheslaturan Guåhan* pursuant to the
10 Administrative Adjudication Law, attached hereto as EXHIBIT A.

11 **Section 3. Effective Date.** This Act shall be effective upon enactment
12 except the amendments to §4506 of Article 5, Chapter 4, 26 GARR which will be
13 effective on October 30, 2022. Prior to October 30, 2022, current provisions of
14 §4506 shall continue to be in effect.

EXHIBIT “A”

GOVERNMENT OF GUÅHAN
DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES
DIVISION OF ENVIRONMENTAL HEALTH

**RULES AND REGULATIONS GOVERNING THE
ISSUANCE OF SANITARY PERMITS**

Title 26 Guam Administrative Rules and Regulations

Chapter 4

Article 5

EXHIBIT “A”

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EXHIBIT “A”

1 **§4501. Purpose.** The purpose of these rules and regulations is to govern the issuance,
2 fees, and administrative penalty for Sanitary Permits.

3 **§4502. Authority.** Section 20105 of Chapter 20 and Section 21102 of Chapter 21, Title
4 10 Guam Code Annotated authorizes the Director of the Department of Public Health and Social
5 Services to promulgate rules and regulations necessary to carry out the provisions of the law
6 governing the sanitary operations of health-regulated establishments. Section 20118 of Chapter
7 20 of Title 10 Guam Code Annotated authorizes the Department to promulgate rules and
8 regulations for administrative penalties.

9 **§4503. Title.** These rules and regulations shall also be known and cited as the *Sanitary*
10 *Permit Rules and Regulations.*

11 **§4504. Definitions.** As used in these rules and regulations:

12 ~~(a) — *Chemical Toilet* shall mean a building or structure housing one (1) or more water-~~
13 ~~tight containers of liquid chemical disinfectants intended to receive and hold human~~
14 ~~excrement.~~

15 (a) *Cosmetic Establishment* shall mean any premises or portion thereof, wherein any
16 of the following is practiced for compensation:

- 17 (1) Shaving, clipping, trimming, or cutting human hair;
- 18 (2) Singeing, shampooing, arranging, adorning, dressing, curling, waving,
19 permanent waving, tinting, applying tonic to or dyeing human hair;
- 20 (3) Giving facial, scalp, neck or body massages or treatments with oils, creams,
21 lotions, or other preparations either by hand or mechanical appliances;
- 22 (4) Applying cosmetic preparations, antiseptics, powders, oils, clays, lotions, or
23 other preparations to scalp, face, neck, or hands; or

EXHIBIT "A"

(5) Manicuring or pedicuring.

(b) *Department* shall mean the Department of Public Health and Social Services of the government of Guam.

(c) *Director* shall mean the Director of the Department of Public Health and Social Services, or his designated representative.

(d) *Dry Cleaning Establishment* shall mean any place, building, structure, room, premises, or portions thereof, used in the business of dry cleaning and dyeing of wearing apparel, household linens and other articles, including coin-operated dry-cleaning establishments.

(e) *Eating and Drinking Establishment* shall mean any food service establishment, mobile food service establishment, or vending machine.

(f) *Edible Garbage Feeding Establishment* shall mean ~~swill or leavings of food or any abandoned, spoiled, condemned meat, fish, fowl, vegetable matter, or offal from slaughtered animals, liquid or solid, which is free of toxic, or deleterious substances, and is deemed by the Director as being suitable for use solely as animal feed.~~ a farm, ranch, facility, premises, site, or any place approved by the Director for operation to process edible garbage for the purpose of livestock feeding.

(g) *Employee* shall mean any individual, including the owner, operator, manager, or other person performing any function in a health-regulated establishment, whether for compensation or otherwise.

(h) *Food Establishment* shall mean and includes every establishment or place which is used or occupied as a bakery, confectionary, cannery, dairy, creamery, packing house, grocery, supermarket, meat or poultry market, fruit or vegetable market, delicatessen, beverage plant, slaughterhouse, poultry processing plant, fish processing plant, frozen food processing plant,

EXHIBIT "A"

public market, food warehouse, or for the production, processing, manufacture, preparation for sale, canning, bottling, packing, packaging, storage, sale, or distribution of food.

(i) *Health-Regulated Establishment* shall mean any (1) eating and drinking establishment; (2) food establishment; (3) institutional facility; (4) hotel; (5) cosmetic establishment; (6) laundry and dry-cleaning establishment; (7) public swimming pool; (8) mortuary; (9) edible garbage feeding establishment; ~~(10) chemical toilet~~; and (10) any other establishment required to possess a Sanitary Permit issued by the Department.

(j) *Hotel* shall mean any structure or any portion of any structure, including any lodging house, rooming house, dormitory (including a dormitory housing for contract employees), health spa, bachelor hotel, studio hotel, motel, private club, containing four (4) or more guest rooms and which is occupied or is intended or designed for occupancy, by four (4) or more guests, whether rent is paid in money, goods, labor, or otherwise, or whether with or without meals. It does not include any penal institutions, hospital, clinic, nursing home, school, laboratory, or child care facility.

(k) *Institutional Facility* shall mean any structure or any portion of any structure operating as a child care facility, penal institution, school, hospital, clinic, nursing home, or laboratory as defined in Title 10 GCA, Chapter 25.

(l) *Mortuary* shall mean any place used for such activities as are incident, convenient, or related to the preparation and arrangements for the funeral, transportation, burial, cremation, or other disposition of dead human bodies.

(m) *Public Laundry and ~~Dry-Cleaning Establishment~~* shall mean any place, building, structure, room, establishment, premises or portions thereof, used in the business of making, sorting, washing, drying, starching, ironing, or wearing apparel, household linens and other

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articles, including any establishment providing laundering equipment for use by customers for a fee, and known by various terms such as laundromat, wash-o-mat, or launderette.

(n) *Public Swimming Pool* shall mean any artificial structure, basin, chamber, or tank constructed of impervious material used or intended to be used for swimming, diving, wading, or recreational bathing (but *does not* include conventional bath-tubs where the primary purpose is the cleaning of the body or individual therapeutic tubs) and that is available for public use, whether for a fee or free of charge; or owned or used by any business, partnership, corporation or person for the use of their customers, clients, guests or employees, including, but not limited to, a commercial pool, a community pool or a pool at a hotel, motel, resort, auto park, trailer park, apartment house, or other multiple rental unit, private club, public club, public or private school, gymnasium or health establishment.

(o) *Sanitary Permit* shall mean the official document issued by the Department of Public Health and Social Services authorizing a health-regulated establishment to operate its business.

(p) *Temporary Food Service Establishment (also known as TFSE)* shall mean any eating and drinking establishment which operates at a fixed location for a period of ~~time not exceeding six (6) months~~ 1 to 180 days in conjunction with a carnival, fair, circus, exhibition, or other transitory gathering not of a permanent structure, which are further described and identified below based on its duration of operation:

(1) TFSE-1 which shall be those operating for 1 day only;

(2) TFSE-W which shall be those operating for 1 day, every week, for a year;

(3) TFSE-7 which shall be those operating for up to 7 days, but not less than two consecutive days;

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(4) TFSE-180 which shall be those operating for up to 180 consecutive days; and

(5) TFSE-X which shall be those operating in various combination of days not defined elsewhere; provided, it does not exceed 180 days.

(q) *Special Village Event* shall mean a carnival, fair, circus, exhibition, or other transitory gathering sponsored by the village Municipal Planning Council, *not to exceed* seven (7) consecutive days.

§4505. Sanitary Permit Applications for New and Renewal.

(a) All applications, and supporting documents, for a Sanitary Permit shall be in a form, format, and medium prescribed by the Director.

(b) A non-refundable deposit of ~~Twenty~~ Thirty Dollars (~~\$20.00~~\$30.00) shall be made to the 'Treasurer of Guam' at the time the application for Sanitary Permit is submitted to the Department. Upon completion and processing of the application, the deposit amount shall be deducted from the appropriate fee listed in §4506. In the event the calculated, prorated fee for the Sanitary Permit is less than the non-refundable deposit then the applicant shall pay the prorated fee as the deposit.

(c) Any application that remains inactive for sixty (60) consecutive days because of the inaction by the applicant (i.e., pending submission of required supporting documents), shall be considered permanently inactive, removed from the file for processing, and then destroyed, and the non-refundable ~~Twenty Dollars (\$20.00)~~ deposit shall be automatically forfeited.

(d) An applicant who wishes to re-apply after his or her application has become permanently inactive under the provision of §4505(c) shall be considered a new applicant and shall re-submit the application and supporting documents and pay all required fees, including the ~~Twenty Dollars (\$20.00)~~ non-refundable deposit fee.

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(e) Failure to renew a Sanitary Permit within sixty (60) days of the due date shall void the Sanitary Permit. A valid Sanitary Permit may not be reinstated until a new application is filed and approved by the Department and payment is received, along with any other fees and monetary penalty.

(f) A health-regulated establishment that fails to renew its Sanitary Permit for two consecutive renewal periods shall be considered inactive, and any application received thereafter for that establishment shall be treated as a new application and meet all the requirements as a new applicant.

(g) The expiration date of a Sanitary Permit issued for a Temporary Food Service Establishment shall be the final date of the temporary event.

(h) Any Temporary Food Service Establishment or Special Village Event that meets criteria, as determined by the Department, based on the event's anticipated number of people attending, including highly susceptible populations; expected number of vendors; and types of food to be served or offered for sale must provide at least one designated, reserved parking space near the event and a sheltered booth to be utilized by the Department for the duration of the event by the organizer. The designated parking space shall be no further than the nearest parking made available to the event organizer and/or the public, whichever is closer, and the booth shall have, at a minimum, a table for writing that is no less than 24 sq. ft. in size, two chairs, and an overhead protection from the elements, such as a canopy or other covering.

§4506. Fees. Fees for the issuance of a Sanitary Permit *shall* be as follows:

(a) Excluding TFSE, the Sanitary Permit fee for all health-regulated establishments shall be the following, which shall be pro-rated based on the annual renewal date of the permit:

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1 (1) Three Hundred Sixty-Eight Dollars (\$368.00), effective immediately upon
2 the adoption of these rules and regulations, if the establishment has 1 to 10 employees. For
3 health-regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be
4 assessed for each additional employee above 10.

5 (2) Four Hundred Sixty-Eight Dollars (\$468.00) on the second anniversary of
6 these rules and regulations adoption, if the establishment has 1 to 10 employees. For
7 health-regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be
8 assessed for each additional employee above 10.

9 (3) Five Hundred Sixty-Eight Dollars (\$568.00) on the third anniversary of these
10 rules and regulations adoption, if the establishment has 1 to 10 employees. For health-
11 regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be assessed
12 for each additional employee above 10.

13 (4) Six Hundred Sixty-Eight Dollars (\$668.00) on the fourth anniversary of these
14 rules and regulations adoption, if the establishment has 1 to 10 employees. For health-
15 regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be assessed
16 for each additional employee above 10.

17 (5) Seven Hundred Sixty-Eight Dollars (\$768.00) on the fifth anniversary of
18 these rules and regulations adoption, and thereafter, if the establishment has 1 to 10
19 employees. For health-regulated establishments with 11 or more employees, Five Dollars
20 (\$5.00) shall be assessed for each additional employee above 10.

21 (b) The Sanitary Permit fee for Temporary Food Service Establishments shall be:

22 (1) Fifty Dollars (\$50.00) for TFSE-1;

23 (2) One Hundred Fifty-Five Dollars (\$155.00) for TFSE-W;

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(3) One Hundred Twenty-Five Dollars (\$125.00) for TFSE-7;

(4) Two Hundred Dollars (\$200.00) for TFSE-180;

(5) Three Hundred Dollars (\$300.00) for TFSE-X; and

(6) Twenty-Five Dollars (\$25.00) for Special Village Events officially sponsored by a village Municipal Planning Council, provided, however, that the vendor shall be limited to three (3) events per calendar year per permit issued.

(c) The Sanitary Permit fee for vending machines shall be:

(1) Five Hundred Dollars (\$500.00) per vending machine for each of the first style or model of vending machine; and

(2) Ten Dollars (\$5.00-\$10.00) for each additional vending machine.

~~(d) — The Sanitary Permit fee for chemical toilet operator shall be Five Hundred Dollars (\$500.00) regardless of the number chemical toilets possessed by the operator.~~

(d) Issuance of a duplicate Sanitary Permit shall be Ten Dollars (\$10.00).

(e) Amendments to an existing Sanitary Permit shall be Ten Dollars (\$10.00).

(f) An applicant for a Sanitary Permit may request for the permit to be expedited and processed within 24 hours the request is submitted. The Department may grant such request provided the applicant has met all the requirements of the Department to obtain a Sanitary Permit, including the requirement for the Pre-Operational Inspection. The Department shall assess a fee One Hundred Dollars (\$100.00) for expedited processing in addition to the regular processing fee. Applications for a Sanitary Permit for Temporary Food Service Establishments which are submitted one day or less prior to the event will automatically be assessed an expedited processing fee of Fifty Dollars (\$50.00), in addition to the regular processing fee.

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1 (g) The cost of the Pre-Operational Inspection is included in the initial payment for the
2 Sanitary Permit. However, a fee of Fifty Dollars (\$50.00) an hour shall be assessed for all
3 subsequent inspections. With the exception of the first hour, fractional hours shall be rounded up
4 to the nearest whole hour if more than one half (0.5) hour, and rounded down if less than one half
5 (0.5) hour.

6 (h) Request for an expedited Pre-Operational Inspection may be granted, as determined
7 by the Director, if such inspection does not cause the disruption of any pre-existing inspections
8 scheduled for other applicants. The fee for expedited Pre-Operational Inspection shall be Two
9 Hundred Dollars (\$200.00) in addition to all other required fees established in these rules and
10 regulations if performed during normal Government of Guam business hours (8:00 am – 5:00 pm;
11 Monday through Friday). Expedited Pre-Operational Inspection conducted outside normal
12 business hours, including weekends, shall be Five Hundred Dollars (\$500.00).

13 (i) Any establishment that has its Sanitary Permit suspended under the provision of
14 Title 10 GCA, Chapter 21, §21109:

15 (1) That requests and obtains a re-inspection from the Department that results
16 in the finding that it had not corrected all of its violations shall be assessed a fee of One
17 Hundred Twenty-Five Dollars (\$125.00), which must be paid by the establishment prior to
18 any subsequent re-inspection by the Department.

19 (2) That requests to be re-inspected outside normal Government of Guam
20 business hours (8:00 a.m. to 5:00 p.m.; Monday through Friday) may submit a request to
21 the Department, and if approved, shall be assessed a flat fee of Three Hundred Dollars
22 (\$300.00). For any Government of Guam holiday, the fee shall be Six Hundred Dollars
23 (\$600.00), if the request is approved. Payment shall be made on the first business day

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1 immediately after the inspection, and if such payment is not made, the Department may re-
2 suspend the Sanitary Permit immediately without any advanced notice and assess all other
3 applicable fees. If the re-inspection results in the non-reinstatement of the Sanitary Permit
4 (i.e., failed inspection) and the establishment fails to make the requirement payment, the
5 Department shall not conduct another re-inspection until such time all outstanding fees
6 have been paid by the establishment.

7 (j) Request for a follow-up sanitation inspection, prior to the date noted in the
8 inspection report, may be granted by the Department if resources permit. The fee for early follow-
9 up sanitation inspection shall be One Hundred Dollars (\$100.00), which shall be paid in advance
10 prior to the inspection.

11 (k) An application to renew a Sanitary Permit shall be received by the Department prior
12 to the date of that permit's expiration date, and any application received after the expiration date
13 shall be assessed a penalty fee of Twenty-Five Dollars (\$25.00), in addition to all other applicable
14 fees.

15 (l) Any health-regulated establishment that operated, regardless of the duration,
16 without a Sanitary Permit shall pay the required Sanitary Permit fee for its annual permit,
17 Temporary Food Service Establishment permit, or the Special Village Event permit, retroactively,
18 for that time period, inclusive of the Twenty Dollars (\$20.00) late application submission fee, if
19 applicable.

20 (m) A Temporary Food Service Establishment, or a sponsor of an event with such
21 establishment, that requests, and is granted, a variance pursuant to the Guam Food Code, which
22 causes the Department to increase its inspection frequency or duration so to closely monitor the

EXHIBIT "A"

establishment in ensuring that the approved modification or waiver does not create any health hazard or nuisance shall pay a fee of Three Hundred Dollars (\$300.00).

(n) All fees collected pursuant to these rules and regulations shall be non-refundable.

(o) The fee schedule established pursuant to these rules and regulations shall become effective immediately upon enactment.

~~(a) — The Sanitary Permit fee for the following health-regulated establishments shall be Two Hundred Ninety Dollars (\$290) if the establishment has 1 to 10 employees and Five Dollars (\$5.00) for each additional employee above ten (10) thereafter; for establishments with less than ten (10) employees, the fee shall be One Hundred Fifty Dollars (\$150.00) until January 1, 2012; for establishments with less than ten (10) employees, the fee shall be Two Hundred Twenty Dollars (\$220.00) from January 2, 2012 until January 2, 2014:~~

~~(1) Eating and Drinking Establishments, excluding vending machines and temporary food service establishments;~~

~~(2) Food Establishments;~~

~~(3) Institutional Facilities;~~

~~(4) Hotels;~~

~~(5) Cosmetic Establishments;~~

~~(6) Public Laundry and dry cleaning establishments;~~

~~(7) Public Swimming Pools;~~

~~(8) Mortuaries;~~

~~(9) Edible Garbage Feeding Establishments;~~

~~(10) Commercial animal establishments; and~~

EXHIBIT "A"

~~(11) Any other establishment required to obtain a Sanitary Permit from the Department not explicitly mentioned in these rules and regulations.~~

~~(b) The Sanitary Permit fee for Temporary Food Service Establishments shall be:~~

~~(1) One Hundred Dollars (\$100.00) for those operating for less than six (6) months, but more than three (3) days; and~~

~~(2) Fifty Dollars (\$50.00) for those operation for three (3) days; and~~

~~(3) Twenty Five Dollars (\$25.00) for Special Village Events officially sponsored by a village Municipal Planning Council, provided, however, that the vendor shall be limited to three (3) events per calendar year per permit issued.~~

~~(c) The Sanitary Permit fee for vending machines shall be:~~

~~(1) Two Hundred Ninety Dollars (\$290) per vending machine for each of the first style or model of vending machine; and~~

~~(2) Five Dollars (\$5.00) for each additional vending machine.~~

~~(d) The Sanitary Permit fee for chemical toilet operator shall be Five Hundred Dollars (\$500.00) regardless of the number chemical toilets possessed by the operator.~~

~~(e) Issuance of a duplicate Sanitary Permit shall be Ten Dollars (\$10.00).~~

~~(f) Amendments to an existing Sanitary Permit shall be Ten Dollars (\$10.00).~~

~~(g) An applicant for a Sanitary Permit may request for the permit to be expedited and processed within 24 hours the request is submitted. The Department may grant such request provided the applicant has met all the requirements of the Department to obtain a Sanitary Permit, including the requirement for the Pre-Operational Inspection. The Department shall assess a fee of Seventy Five Dollars (\$75.00) for expedited processing in addition to the regular processing fee. Applications for a Sanitary Permit for Temporary Food Service Establishments which are~~

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submitted one day or less prior to the event will automatically be assessed an expedited processing fee.

(h) ~~The cost of the structural inspection, also known as a pre-operation inspection, is included in the initial payment for the Sanitary Permit. However, a fee of Fifty Dollars (\$50.00) an hour shall be assessed for all subsequent inspections. With the exception of the first hour, fractional hours shall be rounded up to the nearest whole hour if more than one half (0.5) hour, and rounded down if less than one half (0.5) hour.~~

(i) ~~Request for an expedited structural inspection may be granted, as determined by the Director, if such inspection does not cause the disruption of any pre-existing inspections scheduled for other applicants. The fee for expedited Pre-Operational Inspection shall be One Hundred Fifty Dollars (\$150.00) in addition to all other required fees established in these rules and regulations.~~

(j) ~~Any establishment whose Sanitary Permit is suspended under the provisions of Title 10-GCA, Chapter 21, §21109, and who is granted reinstatement by the Department as set out in Title 10-GCA, Chapter 21, §21110, shall first pay a re-opening fee of One Hundred Dollars (\$100.00) before the Sanitary Permit is returned or re-issued.~~

~~(k) The fee schedule established pursuant to this §4506 shall become effective immediately upon enactment for new applications, provided, however, it shall become effective for the renewal of all Sanitary Permits issued prior to the enactment of these rules on June 1, 2012.~~

§4506.1 Advance Notification of Fee Schedule. The Director shall ensure that advance, written notification is provided to all Sanitary Permit licensees relative to the cost for permit renewal upon prior to the expiration of the ~~their current~~ Sanitary Permit. ~~The information shall be~~

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~~immediately provided as a permit renewal notification.~~ The notification may be in a form of a press release to the local news media.

§4507. Administrative Penalty.

(a) Any establishment, ~~which whose~~ had its Sanitary Permit ~~is~~ suspended under the provision of Title 10 GCA, Chapter 21, §21109, ~~is~~ granted reinstatement by the Department as set out in Title 10 GCA, Chapter 21, §21110, shall first pay a re-opening fee of Three Hundred Dollars (\$300.00) ~~One Hundred Dollars (\$100.00)~~, if it has ten or less employees, or Five Hundred Dollars (\$500.00), if it has eleven or more employees, before the Sanitary Permit is returned or re-issued by the Department.

(b) The Department, at its discretion, shall assess monetary fine in accordance with the following:

(1) Operating an establishment without a valid Sanitary Permit shall be a fine of no more than Two Thousand Five Hundred Dollars (\$2,500.00) but no less than Three Hundred Fifty Dollars (\$350.00)

(2) Transferring a Sanitary Permit to another person or to another location, or posting on or using the permit in any way at any other premises other than for which it was issued shall be a fine of no more than Two Thousand Five Hundred Dollars (\$2,500.00), but no less than Three Hundred Fifty Dollars (\$350.00).

(3) Prohibiting the Department from accessing and inspecting its permitted health-regulated establishment shall be a fine of no more than Two Thousand Five Hundred Dollars (\$2,500.00), but no less than Three Hundred Fifty Dollars (\$350.00).

(4) Prohibiting the Department from examining and copying its records that are required to be kept and maintained by the health-regulated establishment shall be a fine of

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1 no more than One Thousand Dollars (\$1,000.00), but no less than Two Hundred Dollars
2 (\$200.00).

3 (5) Removing, defacing, destroying, or concealing an inspection report, letter
4 grade, or closure notice shall be a fine of no more than One Thousand Dollars (\$1,000.00),
5 but no less than Two Hundred Fifty Dollars (\$250.00).

6 (6) Knowingly authorizing a person to work who has a communicable disease that
7 can potentially be transmitted to the public in the course of that person's employment shall
8 be a fine of no more than Five Thousand Dollars (\$5,000.00), but no less than Five Hundred
9 Dollars (\$500.00).

10 (7) Having a repeat violation of the same critical requirement, with the assigned six
11 (6) demerit points, within a one-year period (365 days) shall be a fine of no more than One
12 Thousand Dollars (\$1,000.00), but no less than One Hundred Dollars (\$100.00) per
13 violation.

14 (8) Operating an eating and drinking establishment or food establishment without
15 a manager who possesses a Certificate of Management Certification shall be a fine of no
16 more than One Thousand Dollars (\$1,000.00), but no less than Two Hundred Dollars
17 (\$200.00).

18 (9) Importing a consumer item regulated by Title 10 Guam Code Annotated,
19 Chapter 32 (Hazardous Substances Act) and Chapter 40 (Guam Food, Drug and Cosmetic
20 Act) that is misbranded, adulterated, or otherwise prohibited by law shall be a fine of no
21 more than Twenty-Five Thousand Dollars (\$25,000.00), but no less than Five Hundred
22 Dollars (\$500.00).

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1 (c) Assessment of monetary penalty may occur concurrently with other administrative,
2 civil, and/or criminal penalty authorized by law.

3 (d) Before imposing an administrative penalty against a person or a health-regulated
4 establishment, the Director shall issue a notice of intent to impose the penalty and provide the
5 individual or business an opportunity to request a hearing on the proposed penalty. The request
6 must be made within fifteen (15) business days of the date the notice of intent is served upon the
7 person or health-regulated establishment. Serving of the notice of intent to the person in charge
8 of the health-regulated establishment, or by certified mail to the last known mailing address of the
9 health-regulated establishment, shall be acceptable means of notification.

10 (e) The administrative penalty hearing shall be held in accordance with the
11 Administrative Adjudication Law (Title 5 GCA, Chapter 9).

12 (f) Any person or health-regulated establishment may seek review of any administrative
13 penalty imposed before the Superior Court of Guam. Such review shall be upon the record
14 established before the Director and not de novo. The Superior Court may sustain, modify, or
15 vacate any administrative penalty it reviews.

16 (g) If any person or health-regulated establishment fails to comply with an administrative
17 penalty order after it has become final:

18 (1) The Director may suspend the Sanitary Permit of the health-regulated
19 establishment until such time that the payment is made in full, but not before a written
20 notice is issued to the establishment notifying it of the action by serving of such notice to
21 the person in charge of the health-regulated establishment, or by certified mail to the last
22 known mailing address of the health-regulated establishment, at least seven (7) calendar
23 days before the suspension takes effect; or

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(2) The Director may forward the matter to the Attorney General of Guam to bring a civil action to enforce the order, or to recover the amount ordered or assessed, in accordance to law.

(3) The Director may pursue both §4507(g)(1) and §4507(g)(2), if he/she so desires.

§4508. Suspension or Revocation of Sanitary Permit.

(a) The Director may suspend or revoke any Sanitary Permit under the provisions of Title 10 GCA, Chapter 21, §§21107(2)(d) and 21109, or upon any violation by a health-regulated establishment or by any of its employees for any environmental health violation under Title 10 of the Guam Code Annotated, Chapters 20 through 33 and 35 through 40, or any rules and regulations promulgated concerning Sanitary Permits.

(b) A health-regulated establishment with a suspended Sanitary Permit, as one of its conditions in having its Sanitary Permit reinstated, shall be required the following:

(1) The staff and management receive applicable training and/or consultation from the Department; and

(2) Submits a corrective action plan and/or other applicable, related documentation to the Department.

The date, time, and venue for the training or consultation shall be coordinated between the Department and the health-regulated establishment.

§4509. Hearing. (a) Any health-regulated establishment whose Sanitary Permit is to be suspended or revoked *shall* be notified by the Director in writing of the Department's intention and the reasons therefore.

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(b) Any health-regulated establishment that receives a notice of violation with intent to suspend or revoke as described in Subsection (a) of this §4508 and that wishes to contest *shall* request a hearing with the Director in writing *no later than* fifteen (15) calendar days after receipt of the notice, and *shall* state the grounds for objecting to the intended suspension or revocation. The Administrative Adjudication Law's hearing procedure applies.

(c) Upon completion of a hearing, the Director *shall* make a written determination concerning the violation and whether a suspension or revocation is to be imposed.

§45010. Suspension without Hearing. (a) In accordance ~~to~~ with Title 10 GCA, Chapter 21, §§21107(d) and 21109(a) and (b), a Sanitary Permit may be suspended without prior hearing:

- (1) when the demerit score of the establishment is more than forty (40);
- (2) at the discretion of the Director for violating any provisions of Title 10 GCA, Chapters 20 through 40; and
- (3) for twice violating the same requirement deemed critical under the applicable rules and regulations of the Department within any six-month period, in which case, it *shall not* exceed five (5) days.

(b) A suspension without prior hearing may remain in effect until the violation is corrected by the establishment, or resolved after a hearing in accordance with the Administrative Adjudication Law. The Director *shall* have the discretion to decide whether the suspension shall be continued pending a hearing.

§4511. Effective Date. These rules and regulations *shall* become effective immediately upon enactment.

EXHIBIT “A”

1 **§4512. Severability.** *If* any provision or application of any provision of these rules and
2 regulations are held invalid, such invalidity shall *not* affect the other provisions or applications of
3 these rules and regulations.

COMMITTEE MARK UP

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 209-36 (COR)

As Amended by the Committee
on Health, Land, Justice and Culture

Introduced by:

Therese M. Terlaje

**AN ACT TO ADOPT THE PROPOSED AMENDMENTS
TO ARTICLE 5 OF CHAPTER 4, TITLE 26, GUAM
ADMINISTRATIVE RULES AND REGULATIONS, AS
TRANSMITTED TO *I LIHESLATURAN GUÅHAN*
PURSUANT TO THE ADMINISTRATIVE
ADJUDICATION LAW, ATTACHED HERETO AS
EXHIBIT A.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the Department of Public Health and Social Services transmitted its proposed rules and regulations governing the issuance of sanitary permits to the Legislature on August 10, 2021, pursuant to the Administrative Adjudication Law. The proposal seeks to insert a monetary penalty for regulated businesses that blatantly and repeatedly violate sanitation requirements and revise the fee schedule for the issuance of sanitary permits, which will allow the recruitment of more inspectors for the Division of Environmental Health via increased revenue into the Environmental Health Fund. *I Liheslaturan Guåhan* further finds that DPHSS is authorized to promulgate rules and regulations for administrative penalties pursuant to 10 GCA, Chapter 20, §20118. Because of the adverse economic impact of COVID-19 pandemic, DPHSS has proposed that the revised fee schedule in the proposal be

1 effective 365 days after the end of the Governor’s public health emergency
2 declaration or after these Rules and Regulations adoption, whichever is later.

3 It is the intent of *I Liheslaturan Guåhan* to adopt the rules and regulations
4 together with the Department of Public Health and Social Services’
5 recommendations as shown in EXHIBIT A.

6 **Section 2.** *I Liheslaturan Guåhan* does hereby adopt the proposed
7 amendments to Article 5 of Chapter 4, Title 26, Guam Administrative Rules and
8 Regulations, relative to the “Rules and Regulations Governing the Issuance of
9 Sanitary Permits” as transmitted to *I Liheslaturan Guåhan* pursuant to the
10 Administrative Adjudication Law, attached hereto as EXHIBIT A.

11 **Section 3. Effective Date.** This Act shall be effective upon enactment
12 except the amendments to §4506 of Article 5, Chapter 4, 26 GARR which will be
13 effective on October 30, 2022. Prior to October 30, 2022, current provisions of
14 §4506 shall continue to be in effect.

EXHIBIT “A”

GOVERNMENT OF GUÅHAN
DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES
DIVISION OF ENVIRONMENTAL HEALTH

**RULES AND REGULATIONS GOVERNING THE
ISSUANCE OF SANITARY PERMITS**

Title 26 Guam Administrative Rules and Regulations

Chapter 4

Article 5

EXHIBIT “A”

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1 **§4501. Purpose.** The purpose of these rules and regulations is to govern the issuance,
2 fees, and administrative penalty for Sanitary Permits.

3 **§4502. Authority.** Section 20105 of Chapter 20 and Section 21102 of Chapter 21, Title
4 10 Guam Code Annotated authorizes the Director of the Department of Public Health and Social
5 Services to promulgate rules and regulations necessary to carry out the provisions of the law
6 governing the sanitary operations of health-regulated establishments. Section 20118 of Chapter
7 20 of Title 10 Guam Code Annotated authorizes the Department to promulgate rules and
8 regulations for administrative penalties.

9 **§4503. Title.** These rules and regulations shall also be known and cited as the *Sanitary*
10 *Permit Rules and Regulations.*

11 **§4504. Definitions.** As used in these rules and regulations:

12 ~~(a) — *Chemical Toilet* shall mean a building or structure housing one (1) or more water-~~
13 ~~tight containers of liquid chemical disinfectants intended to receive and hold human~~
14 ~~excrement.~~

15 (a) *Cosmetic Establishment* shall mean any premises or portion thereof, wherein any
16 of the following is practiced for compensation:

- 17 (1) Shaving, clipping, trimming, or cutting human hair;
- 18 (2) Singeing, shampooing, arranging, adorning, dressing, curling, waving,
19 permanent waving, tinting, applying tonic to or dyeing human hair;
- 20 (3) Giving facial, scalp, neck or body massages or treatments with oils, creams,
21 lotions, or other preparations either by hand or mechanical appliances;
- 22 (4) Applying cosmetic preparations, antiseptics, powders, oils, clays, lotions, or
23 other preparations to scalp, face, neck, or hands; or

EXHIBIT "A"

(5) Manicuring or pedicuring.

(b) *Department* shall mean the Department of Public Health and Social Services of the government of Guam.

(c) *Director* shall mean the Director of the Department of Public Health and Social Services, or his designated representative.

(d) *Dry Cleaning Establishment* shall mean any place, building, structure, room, premises, or portions thereof, used in the business of dry cleaning and dyeing of wearing apparel, household linens and other articles, including coin-operated dry-cleaning establishments.

(e) *Eating and Drinking Establishment* shall mean any food service establishment, mobile food service establishment, or vending machine.

(f) *Edible Garbage Feeding Establishment* shall mean ~~swill or leavings of food or any abandoned, spoiled, condemned meat, fish, fowl, vegetable matter, or offal from slaughtered animals, liquid or solid, which is free of toxic, or deleterious substances, and is deemed by the Director as being suitable for use solely as animal feed.~~ a farm, ranch, facility, premises, site, or any place approved by the Director for operation to process edible garbage for the purpose of livestock feeding.

(g) *Employee* shall mean any individual, including the owner, operator, manager, or other person performing any function in a health-regulated establishment, whether for compensation or otherwise.

(h) *Food Establishment* shall mean and includes every establishment or place which is used or occupied as a bakery, confectionary, cannery, dairy, creamery, packing house, grocery, supermarket, meat or poultry market, fruit or vegetable market, delicatessen, beverage plant, slaughterhouse, poultry processing plant, fish processing plant, frozen food processing plant,

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public market, food warehouse, or for the production, processing, manufacture, preparation for sale, canning, bottling, packing, packaging, storage, sale, or distribution of food.

(i) *Health-Regulated Establishment* shall mean any (1) eating and drinking establishment; (2) food establishment; (3) institutional facility; (4) hotel; (5) cosmetic establishment; (6) laundry and dry-cleaning establishment; (7) public swimming pool; (8) mortuary; (9) edible garbage feeding establishment; ~~(10) chemical toilet~~; and (10) any other establishment required to possess a Sanitary Permit issued by the Department.

(j) *Hotel* shall mean any structure or any portion of any structure, including any lodging house, rooming house, dormitory (including a dormitory housing for contract employees), health spa, bachelor hotel, studio hotel, motel, private club, containing four (4) or more guest rooms and which is occupied or is intended or designed for occupancy, by four (4) or more guests, whether rent is paid in money, goods, labor, or otherwise, or whether with or without meals. It does not include any penal institutions, hospital, clinic, nursing home, school, laboratory, or child care facility.

(k) *Institutional Facility* shall mean any structure or any portion of any structure operating as a child care facility, penal institution, school, hospital, clinic, nursing home, or laboratory as defined in Title 10 GCA, Chapter 25.

(l) *Mortuary* shall mean any place used for such activities as are incident, convenient, or related to the preparation and arrangements for the funeral, transportation, burial, cremation, or other disposition of dead human bodies.

(m) *Public Laundry and ~~Dry-Cleaning Establishment~~* shall mean any place, building, structure, room, establishment, premises or portions thereof, used in the business of making, sorting, washing, drying, starching, ironing, or wearing apparel, household linens and other

EXHIBIT "A"

articles, including any establishment providing laundering equipment for use by customers for a fee, and known by various terms such as laundromat, wash-o-mat, or launderette.

(n) *Public Swimming Pool* shall mean any artificial structure, basin, chamber, or tank constructed of impervious material used or intended to be used for swimming, diving, wading, or recreational bathing (but *does not* include conventional bath-tubs where the primary purpose is the cleaning of the body or individual therapeutic tubs) and that is available for public use, whether for a fee or free of charge; or owned or used by any business, partnership, corporation or person for the use of their customers, clients, guests or employees, including, but not limited to, a commercial pool, a community pool or a pool at a hotel, motel, resort, auto park, trailer park, apartment house, or other multiple rental unit, private club, public club, public or private school, gymnasium or health establishment.

(o) *Sanitary Permit* shall mean the official document issued by the Department of Public Health and Social Services authorizing a health-regulated establishment to operate its business.

(p) *Temporary Food Service Establishment (also known as TFSE)* shall mean any eating and drinking establishment which operates at a fixed location for a period of ~~time not exceeding six (6) months~~ 1 to 180 days in conjunction with a carnival, fair, circus, exhibition, or other transitory gathering not of a permanent structure, which are further described and identified below based on its duration of operation:

(1) TFSE-1 which shall be those operating for 1 day only;

(2) TFSE-W which shall be those operating for 1 day, every week, for a year;

(3) TFSE-7 which shall be those operating for up to 7 days, but not less than two consecutive days;

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(4) TFSE-180 which shall be those operating for up to 180 consecutive days; and

(5) TFSE-X which shall be those operating in various combination of days not defined elsewhere; provided, it does not exceed 180 days.

(q) *Special Village Event* shall mean a carnival, fair, circus, exhibition, or other transitory gathering sponsored by the village Municipal Planning Council, *not to exceed* seven (7) consecutive days.

§4505. Sanitary Permit Applications for New and Renewal.

(a) All applications, and supporting documents, for a Sanitary Permit shall be in a form, format, and medium prescribed by the Director.

(b) A non-refundable deposit of ~~Twenty~~ Thirty Dollars (~~\$20.00~~\$30.00) shall be made to the 'Treasurer of Guam' at the time the application for Sanitary Permit is submitted to the Department. Upon completion and processing of the application, the deposit amount shall be deducted from the appropriate fee listed in §4506. In the event the calculated, prorated fee for the Sanitary Permit is less than the non-refundable deposit then the applicant shall pay the prorated fee as the deposit.

(c) Any application that remains inactive for sixty (60) consecutive days because of the inaction by the applicant (i.e., pending submission of required supporting documents), shall be considered permanently inactive, removed from the file for processing, and then destroyed, and the non-refundable ~~Twenty Dollars (\$20.00)~~ deposit shall be automatically forfeited.

(d) An applicant who wishes to re-apply after his or her application has become permanently inactive under the provision of §4505(c) shall be considered a new applicant and shall re-submit the application and supporting documents and pay all required fees, including the ~~Twenty Dollars (\$20.00)~~ non-refundable deposit fee.

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(e) Failure to renew a Sanitary Permit within sixty (60) days of the due date shall void the Sanitary Permit. A valid Sanitary Permit may not be reinstated until a new application is filed and approved by the Department and payment is received, along with any other fees and monetary penalty.

(f) A health-regulated establishment that fails to renew its Sanitary Permit for two consecutive renewal periods shall be considered inactive, and any application received thereafter for that establishment shall be treated as a new application and meet all the requirements as a new applicant.

(g) The expiration date of a Sanitary Permit issued for a Temporary Food Service Establishment shall be the final date of the temporary event.

(h) Any Temporary Food Service Establishment or Special Village Event that meets criteria, as determined by the Department, based on the event's anticipated number of people attending, including highly susceptible populations; expected number of vendors; and types of food to be served or offered for sale must provide at least one designated, reserved parking space near the event and a sheltered booth to be utilized by the Department for the duration of the event by the organizer. The designated parking space shall be no further than the nearest parking made available to the event organizer and/or the public, whichever is closer, and the booth shall have, at a minimum, a table for writing that is no less than 24 sq. ft. in size, two chairs, and an overhead protection from the elements, such as a canopy or other covering.

§4506. Fees. Fees for the issuance of a Sanitary Permit *shall* be as follows:

(a) Excluding TFSE, the Sanitary Permit fee for all health-regulated establishments shall be the following, which shall be pro-rated based on the annual renewal date of the permit:

EXHIBIT "A"

1 (1) Three Hundred Sixty-Eight Dollars (\$368.00), effective immediately upon
2 the adoption of these rules and regulations, if the establishment has 1 to 10 employees. For
3 health-regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be
4 assessed for each additional employee above 10.

5 (2) Four Hundred Sixty-Eight Dollars (\$468.00) on the second anniversary of
6 these rules and regulations adoption, if the establishment has 1 to 10 employees. For
7 health-regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be
8 assessed for each additional employee above 10.

9 (3) Five Hundred Sixty-Eight Dollars (\$568.00) on the third anniversary of these
10 rules and regulations adoption, if the establishment has 1 to 10 employees. For health-
11 regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be assessed
12 for each additional employee above 10.

13 (4) Six Hundred Sixty-Eight Dollars (\$668.00) on the fourth anniversary of these
14 rules and regulations adoption, if the establishment has 1 to 10 employees. For health-
15 regulated establishments with 11 or more employees, Five Dollars (\$5.00) shall be assessed
16 for each additional employee above 10.

17 (5) Seven Hundred Sixty-Eight Dollars (\$768.00) on the fifth anniversary of
18 these rules and regulations adoption, and thereafter, if the establishment has 1 to 10
19 employees. For health-regulated establishments with 11 or more employees, Five Dollars
20 (\$5.00) shall be assessed for each additional employee above 10.

21 (b) The Sanitary Permit fee for Temporary Food Service Establishments shall be:

22 (1) Fifty Dollars (\$50.00) for TFSE-1;

23 (2) One Hundred Fifty-Five Dollars (\$155.00) for TFSE-W;

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(3) One Hundred Twenty-Five Dollars (\$125.00) for TFSE-7;

(4) Two Hundred Dollars (\$200.00) for TFSE-180;

(5) Three Hundred Dollars (\$300.00) for TFSE-X; and

(6) Twenty-Five Dollars (\$25.00) for Special Village Events officially sponsored by a village Municipal Planning Council, provided, however, that the vendor shall be limited to three (3) events per calendar year per permit issued.

(c) The Sanitary Permit fee for vending machines shall be:

(1) Five Hundred Dollars (\$500.00) per vending machine for each of the first style or model of vending machine; and

(2) Ten Dollars (\$5.00-\$10.00) for each additional vending machine.

~~(d) — The Sanitary Permit fee for chemical toilet operator shall be Five Hundred Dollars (\$500.00) regardless of the number chemical toilets possessed by the operator.~~

(d) Issuance of a duplicate Sanitary Permit shall be Ten Dollars (\$10.00).

(e) Amendments to an existing Sanitary Permit shall be Ten Dollars (\$10.00).

(f) An applicant for a Sanitary Permit may request for the permit to be expedited and processed within 24 hours the request is submitted. The Department may grant such request provided the applicant has met all the requirements of the Department to obtain a Sanitary Permit, including the requirement for the Pre-Operational Inspection. The Department shall assess a fee One Hundred Dollars (\$100.00) for expedited processing in addition to the regular processing fee. Applications for a Sanitary Permit for Temporary Food Service Establishments which are submitted one day or less prior to the event will automatically be assessed an expedited processing fee of Fifty Dollars (\$50.00), in addition to the regular processing fee.

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1 (g) The cost of the Pre-Operational Inspection is included in the initial payment for the
2 Sanitary Permit. However, a fee of Fifty Dollars (\$50.00) an hour shall be assessed for all
3 subsequent inspections. With the exception of the first hour, fractional hours shall be rounded up
4 to the nearest whole hour if more than one half (0.5) hour, and rounded down if less than one half
5 (0.5) hour.

6 (h) Request for an expedited Pre-Operational Inspection may be granted, as determined
7 by the Director, if such inspection does not cause the disruption of any pre-existing inspections
8 scheduled for other applicants. The fee for expedited Pre-Operational Inspection shall be Two
9 Hundred Dollars (\$200.00) in addition to all other required fees established in these rules and
10 regulations if performed during normal Government of Guam business hours (8:00 am – 5:00 pm;
11 Monday through Friday). Expedited Pre-Operational Inspection conducted outside normal
12 business hours, including weekends, shall be Five Hundred Dollars (\$500.00).

13 (i) Any establishment that has its Sanitary Permit suspended under the provision of
14 Title 10 GCA, Chapter 21, §21109:

15 (1) That requests and obtains a re-inspection from the Department that results
16 in the finding that it had not corrected all of its violations shall be assessed a fee of One
17 Hundred Twenty-Five Dollars (\$125.00), which must be paid by the establishment prior to
18 any subsequent re-inspection by the Department.

19 (2) That requests to be re-inspected outside normal Government of Guam
20 business hours (8:00 a.m. to 5:00 p.m.; Monday through Friday) may submit a request to
21 the Department, and if approved, shall be assessed a flat fee of Three Hundred Dollars
22 (\$300.00). For any Government of Guam holiday, the fee shall be Six Hundred Dollars
23 (\$600.00), if the request is approved. Payment shall be made on the first business day

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1 immediately after the inspection, and if such payment is not made, the Department may re-
2 suspend the Sanitary Permit immediately without any advanced notice and assess all other
3 applicable fees. If the re-inspection results in the non-reinstatement of the Sanitary Permit
4 (i.e., failed inspection) and the establishment fails to make the requirement payment, the
5 Department shall not conduct another re-inspection until such time all outstanding fees
6 have been paid by the establishment.

7 (j) Request for a follow-up sanitation inspection, prior to the date noted in the
8 inspection report, may be granted by the Department if resources permit. The fee for early follow-
9 up sanitation inspection shall be One Hundred Dollars (\$100.00), which shall be paid in advance
10 prior to the inspection.

11 (k) An application to renew a Sanitary Permit shall be received by the Department prior
12 to the date of that permit's expiration date, and any application received after the expiration date
13 shall be assessed a penalty fee of Twenty-Five Dollars (\$25.00), in addition to all other applicable
14 fees.

15 (l) Any health-regulated establishment that operated, regardless of the duration,
16 without a Sanitary Permit shall pay the required Sanitary Permit fee for its annual permit,
17 Temporary Food Service Establishment permit, or the Special Village Event permit, retroactively,
18 for that time period, inclusive of the Twenty Dollars (\$20.00) late application submission fee, if
19 applicable.

20 (m) A Temporary Food Service Establishment, or a sponsor of an event with such
21 establishment, that requests, and is granted, a variance pursuant to the Guam Food Code, which
22 causes the Department to increase its inspection frequency or duration so to closely monitor the

EXHIBIT "A"

establishment in ensuring that the approved modification or waiver does not create any health hazard or nuisance shall pay a fee of Three Hundred Dollars (\$300.00).

(n) All fees collected pursuant to these rules and regulations shall be non-refundable.

(o) The fee schedule established pursuant to these rules and regulations shall become effective immediately upon enactment.

~~(a) — The Sanitary Permit fee for the following health-regulated establishments shall be Two Hundred Ninety Dollars (\$290) if the establishment has 1 to 10 employees and Five Dollars (\$5.00) for each additional employee above ten (10) thereafter; for establishments with less than ten (10) employees, the fee shall be One Hundred Fifty Dollars (\$150.00) until January 1, 2012; for establishments with less than ten (10) employees, the fee shall be Two Hundred Twenty Dollars (\$220.00) from January 2, 2012 until January 2, 2014:~~

~~(1) Eating and Drinking Establishments, excluding vending machines and temporary food service establishments;~~

~~(2) Food Establishments;~~

~~(3) Institutional Facilities;~~

~~(4) Hotels;~~

~~(5) Cosmetic Establishments;~~

~~(6) Public Laundry and dry cleaning establishments;~~

~~(7) Public Swimming Pools;~~

~~(8) Mortuaries;~~

~~(9) Edible Garbage Feeding Establishments;~~

~~(10) Commercial animal establishments; and~~

EXHIBIT "A"

~~(11) Any other establishment required to obtain a Sanitary Permit from the Department not explicitly mentioned in these rules and regulations.~~

~~(b) The Sanitary Permit fee for Temporary Food Service Establishments shall be:~~

~~(1) One Hundred Dollars (\$100.00) for those operating for less than six (6) months, but more than three (3) days; and~~

~~(2) Fifty Dollars (\$50.00) for those operation for three (3) days; and~~

~~(3) Twenty Five Dollars (\$25.00) for Special Village Events officially sponsored by a village Municipal Planning Council, provided, however, that the vendor shall be limited to three (3) events per calendar year per permit issued.~~

~~(c) The Sanitary Permit fee for vending machines shall be:~~

~~(1) Two Hundred Ninety Dollars (\$290) per vending machine for each of the first style or model of vending machine; and~~

~~(2) Five Dollars (\$5.00) for each additional vending machine.~~

~~(d) The Sanitary Permit fee for chemical toilet operator shall be Five Hundred Dollars (\$500.00) regardless of the number chemical toilets possessed by the operator.~~

~~(e) Issuance of a duplicate Sanitary Permit shall be Ten Dollars (\$10.00).~~

~~(f) Amendments to an existing Sanitary Permit shall be Ten Dollars (\$10.00).~~

~~(g) An applicant for a Sanitary Permit may request for the permit to be expedited and processed within 24 hours the request is submitted. The Department may grant such request provided the applicant has met all the requirements of the Department to obtain a Sanitary Permit, including the requirement for the Pre-Operational Inspection. The Department shall assess a fee of Seventy Five Dollars (\$75.00) for expedited processing in addition to the regular processing fee. Applications for a Sanitary Permit for Temporary Food Service Establishments which are~~

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submitted one day or less prior to the event will automatically be assessed an expedited processing fee.

(h) ~~The cost of the structural inspection, also known as a pre-operation inspection, is included in the initial payment for the Sanitary Permit. However, a fee of Fifty Dollars (\$50.00) an hour shall be assessed for all subsequent inspections. With the exception of the first hour, fractional hours shall be rounded up to the nearest whole hour if more than one half (0.5) hour, and rounded down if less than one half (0.5) hour.~~

(i) ~~Request for an expedited structural inspection may be granted, as determined by the Director, if such inspection does not cause the disruption of any pre-existing inspections scheduled for other applicants. The fee for expedited Pre-Operational Inspection shall be One Hundred Fifty Dollars (\$150.00) in addition to all other required fees established in these rules and regulations.~~

(j) ~~Any establishment whose Sanitary Permit is suspended under the provisions of Title 10 GCA, Chapter 21, §21109, and who is granted reinstatement by the Department as set out in Title 10 GCA, Chapter 21, §21110, shall first pay a re-opening fee of One Hundred Dollars (\$100.00) before the Sanitary Permit is returned or re-issued.~~

~~(k) The fee schedule established pursuant to this §4506 shall become effective immediately upon enactment for new applications, provided, however, it shall become effective for the renewal of all Sanitary Permits issued prior to the enactment of these rules on June 1, 2012.~~

§4506.1 Advance Notification of Fee Schedule. The Director shall ensure that advance, written notification is provided to all Sanitary Permit licensees relative to the cost for permit renewal upon prior to the expiration of the ~~their current~~ Sanitary Permit. ~~The information shall be~~

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~~immediately provided as a permit renewal notification.~~ The notification may be in a form of a press release to the local news media.

§4507. Administrative Penalty.

(a) Any establishment, ~~which whose~~ had its Sanitary Permit ~~is~~ suspended under the provision of Title 10 GCA, Chapter 21, §21109, ~~is~~ granted reinstatement by the Department as set out in Title 10 GCA, Chapter 21, §21110, shall first pay a re-opening fee of Three Hundred Dollars (\$300.00) ~~One Hundred Dollars (\$100.00)~~, if it has ten or less employees, or Five Hundred Dollars (\$500.00), if it has eleven or more employees, before the Sanitary Permit is returned or re-issued by the Department.

(b) The Department, at its discretion, shall assess monetary fine in accordance with the following:

(1) Operating an establishment without a valid Sanitary Permit shall be a fine of no more than Two Thousand Five Hundred Dollars (\$2,500.00) but no less than Three Hundred Fifty Dollars (\$350.00)

(2) Transferring a Sanitary Permit to another person or to another location, or posting on or using the permit in any way at any other premises other than for which it was issued shall be a fine of no more than Two Thousand Five Hundred Dollars (\$2,500.00), but no less than Three Hundred Fifty Dollars (\$350.00).

(3) Prohibiting the Department from accessing and inspecting its permitted health-regulated establishment shall be a fine of no more than Two Thousand Five Hundred Dollars (\$2,500.00), but no less than Three Hundred Fifty Dollars (\$350.00).

(4) Prohibiting the Department from examining and copying its records that are required to be kept and maintained by the health-regulated establishment shall be a fine of

EXHIBIT "A"

1 no more than One Thousand Dollars (\$1,000.00), but no less than Two Hundred Dollars
2 (\$200.00).

3 (5) Removing, defacing, destroying, or concealing an inspection report, letter
4 grade, or closure notice shall be a fine of no more than One Thousand Dollars (\$1,000.00),
5 but no less than Two Hundred Fifty Dollars (\$250.00).

6 (6) Knowingly authorizing a person to work who has a communicable disease that
7 can potentially be transmitted to the public in the course of that person's employment shall
8 be a fine of no more than Five Thousand Dollars (\$5,000.00), but no less than Five Hundred
9 Dollars (\$500.00).

10 (7) Having a repeat violation of the same critical requirement, with the assigned six
11 (6) demerit points, within a one-year period (365 days) shall be a fine of no more than One
12 Thousand Dollars (\$1,000.00), but no less than One Hundred Dollars (\$100.00) per
13 violation.

14 (8) Operating an eating and drinking establishment or food establishment without
15 a manager who possesses a Certificate of Management Certification shall be a fine of no
16 more than One Thousand Dollars (\$1,000.00), but no less than Two Hundred Dollars
17 (\$200.00).

18 (9) Importing a consumer item regulated by Title 10 Guam Code Annotated,
19 Chapter 32 (Hazardous Substances Act) and Chapter 40 (Guam Food, Drug and Cosmetic
20 Act) that is misbranded, adulterated, or otherwise prohibited by law shall be a fine of no
21 more than Twenty-Five Thousand Dollars (\$25,000.00), but no less than Five Hundred
22 Dollars (\$500.00).

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1 (c) Assessment of monetary penalty may occur concurrently with other administrative,
2 civil, and/or criminal penalty authorized by law.

3 (d) Before imposing an administrative penalty against a person or a health-regulated
4 establishment, the Director shall issue a notice of intent to impose the penalty and provide the
5 individual or business an opportunity to request a hearing on the proposed penalty. The request
6 must be made within fifteen (15) business days of the date the notice of intent is served upon the
7 person or health-regulated establishment. Serving of the notice of intent to the person in charge
8 of the health-regulated establishment, or by certified mail to the last known mailing address of the
9 health-regulated establishment, shall be acceptable means of notification.

10 (e) The administrative penalty hearing shall be held in accordance with the
11 Administrative Adjudication Law (Title 5 GCA, Chapter 9).

12 (f) Any person or health-regulated establishment may seek review of any administrative
13 penalty imposed before the Superior Court of Guam. Such review shall be upon the record
14 established before the Director and not de novo. The Superior Court may sustain, modify, or
15 vacate any administrative penalty it reviews.

16 (g) If any person or health-regulated establishment fails to comply with an administrative
17 penalty order after it has become final:

18 (1) The Director may suspend the Sanitary Permit of the health-regulated
19 establishment until such time that the payment is made in full, but not before a written
20 notice is issued to the establishment notifying it of the action by serving of such notice to
21 the person in charge of the health-regulated establishment, or by certified mail to the last
22 known mailing address of the health-regulated establishment, at least seven (7) calendar
23 days before the suspension takes effect; or

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(2) The Director may forward the matter to the Attorney General of Guam to bring a civil action to enforce the order, or to recover the amount ordered or assessed, in accordance to law.

(3) The Director may pursue both §4507(g)(1) and §4507(g)(2), if he/she so desires.

§4508. Suspension or Revocation of Sanitary Permit.

(a) The Director may suspend or revoke any Sanitary Permit under the provisions of Title 10 GCA, Chapter 21, §§21107(2)(d) and 21109, or upon any violation by a health-regulated establishment or by any of its employees for any environmental health violation under Title 10 of the Guam Code Annotated, Chapters 20 through 33 and 35 through 40, or any rules and regulations promulgated concerning Sanitary Permits.

(b) A health-regulated establishment with a suspended Sanitary Permit, as one of its conditions in having its Sanitary Permit reinstated, shall be required the following:

(1) The staff and management receive applicable training and/or consultation from the Department; and

(2) Submits a corrective action plan and/or other applicable, related documentation to the Department.

The date, time, and venue for the training or consultation shall be coordinated between the Department and the health-regulated establishment.

§4509. Hearing. (a) Any health-regulated establishment whose Sanitary Permit is to be suspended or revoked *shall* be notified by the Director in writing of the Department's intention and the reasons therefore.

EXHIBIT "A"

(b) Any health-regulated establishment that receives a notice of violation with intent to suspend or revoke as described in Subsection (a) of this §4508 and that wishes to contest *shall* request a hearing with the Director in writing *no later than* fifteen (15) calendar days after receipt of the notice, and *shall* state the grounds for objecting to the intended suspension or revocation. The Administrative Adjudication Law's hearing procedure applies.

(c) Upon completion of a hearing, the Director *shall* make a written determination concerning the violation and whether a suspension or revocation is to be imposed.

§45010. Suspension without Hearing. (a) In accordance ~~to~~ with Title 10 GCA, Chapter 21, §§21107(d) and 21109(a) and (b), a Sanitary Permit may be suspended without prior hearing:

- (1) when the demerit score of the establishment is more than forty (40);
- (2) at the discretion of the Director for violating any provisions of Title 10 GCA, Chapters 20 through 40; and
- (3) for twice violating the same requirement deemed critical under the applicable rules and regulations of the Department within any six-month period, in which case, it *shall not* exceed five (5) days.

(b) A suspension without prior hearing may remain in effect until the violation is corrected by the establishment, or resolved after a hearing in accordance with the Administrative Adjudication Law. The Director *shall* have the discretion to decide whether the suspension shall be continued pending a hearing.

§4511. Effective Date. These rules and regulations *shall* become effective immediately upon enactment.

EXHIBIT “A”

1 **§4512. Severability.** *If* any provision or application of any provision of these rules and
2 regulations are held invalid, such invalidity shall *not* affect the other provisions or applications of
3 these rules and regulations.



Vice Speaker

TINA ROSE MUÑA BARNES

CHAIRPERSON, COMMITTEE ON RULES

I Mina'trentai Sais Na Liheslaturan Guåhan

GUAM CONGRESS BUILDING
163 CHALAN SANTO PAPA
HAGÅTÑA, GUAM 96910
TEL 671-472-2461
COR@GUAMLEGISLATURE.ORG

October 19, 2021

MEMO

To: **Rennae Meno**
Clerk of the Legislature

From: **Senator Amanda L. Shelton**
Acting Chairperson, Committee on Rules

Re: **Fiscal Note on Bill No. 209-36 (COR)**

Håfa adai,

Attached, please find the fiscal note for the following bill:

Bill No. 209-36 (COR)

Please forward the same to Management Information Services (MIS) for posting on our website.

If you have any questions or concerns, please feel free to contact Mary Maravilla, Committee on Rules Director at 472-2461.

Thank you for your attention to this important matter.



Bureau of Budget & Management Research
Fiscal Note of Bill No. 209-36 (COR)

AN ACT TO ADOPT THE PROPOSED AMENDMENTS TO ARTICLE 5 OF CHAPTER 4, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, AS TRANSMITTED TO *LIHESLATURAN GUAHAN* PURSUANT TO THE ADMINSTRATIVE ADJUDICATION LAW, ATTACHED HERETO AS EXHIBIT A.

| Department/Agency Appropriation Information | | | |
|---|--|---|--------------|
| Dept./Agency Affected: Department of Public Health and Social Services | | Dept./Agency Head: Arthur I San Agustin, Executive Director | |
| Department's General Fund (GF) appropriation(s) to date: | | | \$24,785,436 |
| Department's Other Fund appropriation(s) to date: Environmental Health Fund (\$1,390,435) Healthy Futures Fund (\$13,142,984), Health Professional Licensing Office Revolving Fund (\$296,921), Office of Vital Statistics Revolving Fund (\$239,948), and DPHSS Sanitary Inspection Revolving Fund (\$167,383). MIPPR (\$11,708,921) | | | \$27,335,736 |
| Total Department/Agency Appropriation(s) to date: | | | \$52,121,172 |

| Fund Source Information of Proposed Appropriation | | | |
|---|---------------|-------------------------|--------|
| | General Fund: | (Specify Special Fund): | Total: |
| FY 2020 Unreserved Fund Balance | | \$0 | \$0 |
| FY 2021 Adopted Revenues | \$0 | \$0 | \$0 |
| FY 2021 Appro. (P.L. 35-99 thru) | \$0 | \$0 | \$0 |
| Sub-total: | \$0 | \$0 | \$0 |
| Less appropriation in Bill | \$0 | \$0 | \$0 |
| Total: | \$0 | \$0 | \$0 |

| Estimated Fiscal Impact of Bill | | | | | | |
|---------------------------------|----------------------|--|-------------|-------------|-------------|-------------|
| | One Full Fiscal Year | For Remainder of FY 2022 (if applicable) | FY 2023 | FY 2024 | FY 2025 | FY 2026 |
| General Fund | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Special Funds | \$1,067,200 | \$0 | \$1,357,200 | \$1,647,200 | \$1,937,000 | \$2,227,200 |
| Total I/ | \$1,067,200 | \$0 | \$1,357,200 | \$1,647,200 | \$1,937,000 | \$2,227,200 |

- Does the bill contain "revenue generating" provisions? / X / Yes / / No
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? / X / N/A / / Yes / / No
If no, what is the additional amount required? \$ / X / N/A
- Does the Bill establish a new program/agency? / / Yes / X / No
If yes, will the program duplicate existing programs/agencies? / X / N/A / / Yes / / No
Is there a federal mandate to establish the program/agency? / / Yes / X / No
- Will the enactment of this Bill require new physical facilities? / / Yes / X / No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: / X / Yes / / No
/ / Requested agency comments not received by due date / / Other:

| | | | |
|---------------------------------------|-----------------------|---|--------------------------|
| Analyst: <u>Tyler Bautista, BMA I</u> | Date: <u>10/15/21</u> | Director: <u>Lester L. Carlson, Jr., Director</u> | Date: <u>OCT 18 2021</u> |
|---------------------------------------|-----------------------|---|--------------------------|

Notes:
 I/ See attached comments.

BUREAU OF BUDGET AND MANAGEMENT RESEARCH
COMMENTS ON BILL NO. 209-36 (COR)

The proposed legislation intends to adopt the proposed amendments to Article 5 of Chapter 4, Title 26, Guam Administrative Rules and Regulations, as transmitted to *I Liheslaturan Guahan* pursuant to the administrative adjudication law, attached hereto as Exhibit A. This bill may be construed to be administrative in nature as it amends the current Rules and Regulations in regards to the issuance of sanitary purposes, however, the increases in fees will generate revenue to address any potential fiscal impact to DPHSS.

In correspondence with DPHSS and their Economic Impact Statement, there will be a direct fiscal impact to approximately 2,900 health-regulated establishments – amounting to \$1,067,200 within the first year of the Bill's implementation (effective October 2022). Annually, the financial impact on these health-regulated establishments will continue to rise over the five (5) year period of increased fees. By 2026, the financial impact to health-regulated establishments is estimated to be \$2,227,200. The revised fee schedule will generate more revenue into the Environmental Health Fund to allow DPHSS to pursue the recruitment of inspectors and supervisors, in hopes of improving the efficiency of inspections and the issuance of Sanitary Permits of the health-regulated establishments.



Office of the Speaker
THERESE M. TERLAJE

I Mina'trentai Sais na Liheslaturan Guåhan | 36th Guam Legislature
Committee on Health, Land, Justice and Culture

COMMITTEE VOTE SHEET

Bill No. 209-36 (COR), As Amended by the Committee on Health, Land, Justice and Culture – “An Act to Adopt the Proposed Amendments to Article 5 of Chapter 4, Title 26, Guam Administrative Rules and Regulations, As Transmitted to *I Liheslaturan Guåhan* Pursuant to the Administrative Adjudication Law, Attached Hereto as Exhibit A.”

| | SIGNATURE | TO DO PASS | TO NOT PASS | TO REPORT OUT ONLY | TO ABSTAIN | TO PLACE IN INACTIVE FILE |
|---|---------------------------------------|---------------|----------------|--------------------------|---------------|------------------------------------|
| Speaker Therese M. Terlaje Chairperson | <i>Therese M. Terlaje</i> 10.19.21 | ✓ | | | | |
| Senator Sabina Flores Perez Vice Chairperson of Health, Land and Culture | E-Vote 10.20.21 | ✓ | | | | |
| Senator Telenia C. Nelson Vice Chairperson of Justice | | | | | | |
| Vice Speaker Tina Muña Barnes Member | | | | | | |
| Senator Joanne M. Brown Member | E-Vote 10.20.21 | ✓ | | | | |
| Senator Christopher M. Dueñas Member | E-Vote 10.20.21 | | | ✓ | | |
| Senator Amanda L. Shelton Member | | | | | | |
| Senator Telo T. Taitague, Member | E-Vote 10.19.21 | | | ✓ | | |
| Senator Jose “Pedro” Terlaje Member | | | | | | |

Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: senatorterlajeguam@gmail.com | www.senatorterlaje.com

**For transmittal of official Messages & Communications to the Guam Legislature to be distributed to all Senators,
please send to: speaker@guamlegislature.org*



Speaker Therese M. Terlaje <senatorterlajeguam@gmail.com>

REQUEST FOR E-VOTE: BILL 209-36 (COR)- AS AMENDED5 messages

Speaker Therese M. Terlaje <senatorterlajeguam@gmail.com> Tue, Oct 19, 2021 at 6:52 PM

To: Sabina Perez <sabina@senatorperez.org>, Senator Sabina Perez <office@senatorperez.org>, "Office of Senator Telen C. Nelson" <senatortcnelson@gmail.com>, Senator Telen Cruz Nelson <senatortcnelson@guamlegislature.org>, Vice Speaker Tina Rose Muña Barnes <senatormunabarnes@guamlegislature.org>, "Honorable Joanne M. Brown" <office@senatorjoannebrown.com>, Chris Duenas <senatorchrisduenas@gmail.com>, "Amanda S. Shelton" <senatorshelton@guamlegislature.org>, Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, Senator Telo Taitague <senatortelot@gmail.com>, Senator Jose Pedro Terlaje <senatorpedo@senatorjpterlaje.com>

Hafa Adai Committee Members,

Please see attached Committee Report on Bill No. 209-36 (COR), As Amended by the Committee on Health, Land, Justice and Culture- *Introduced by Speaker Therese M. Terlaje— "An Act to Adopt the Proposed Amendments to Article 5 of Chapter 4, Title 26, Guam Administrative Rules and Regulations, As Transmitted to I Liheslaturan Guåhan Pursuant to the Administrative Adjudication Law, Attached Hereto as Exhibit A."*

Please indicate your preferred action from the following;

- ☐ TO DO PASS
- ☐ TO DO NOT PASS
- ☐ TO REPORT OUT ONLY
- ☐ TO ABSTAIN;
- ☐ TO PLACE IN INACTIVE FILE

Please submit your vote ASAP. Your vote will be filed with the Committee on Rules.

Should you have any questions, please do not hesitate to contact our office.

Respectfully,
Charissa L. Manibusan
Committee Director

Office of Speaker Therese M. Terlaje
Committee on Health, Land, Justice and Culture

I Mina'trentai Sais na Liheslaturan Guåhan
36th Guam Legislature
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website: www.senatorterlaje.com

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COMMITTEE REPORT_Bill No. 209-36 (COR)-FINAL.pdf
13513K

Senator Telo Taitague <senatortelot@gmail.com>
To: "Speaker Therese M. Terlaje" <senatorterlajeguam@gmail.com>

Tue, Oct 19, 2021 at 9:43 PM

Report out only

Sent from my iPhone

On Oct 19, 2021, at 6:53 PM, Speaker Therese M. Terlaje <senatorterlajeguam@gmail.com> wrote:

[Quoted text hidden]



COMMITTEE REPORT_Bill No. 209-36 (COR)-FINAL.pdf
13513K

Chris Duenas <senatorchrisduenas@gmail.com>
To: "Speaker Therese M. Terlaje" <senatorterlajeguam@gmail.com>

Wed, Oct 20, 2021 at 8:05 AM

Hafa Adai,

To Report Out Only.

Si Yu'os Ma'åse',



Office of Senator Christopher M. Dueñas
36th Guam Legislature
I Mina'trentai Sais Na Liheslaturan Guåhan
(671) 989-9554 - [116 Chalan Santo Papa, Hagatna](http://116.Chalan.Santo.Papa.Hagatna)
senatorchrisduenas@gmail.com
 @senatorduenas

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[Quoted text hidden]

Office of Senator Sabina Perez <office@senatorperez.org>
To: "Speaker Therese M. Terlaje" <senatorterlajeguam@gmail.com>

Wed, Oct 20, 2021 at 9:01 AM

To do pass

On Tue, Oct 19, 2021 at 6:53 PM Speaker Therese M. Terlaje <senatorterlajeguam@gmail.com> wrote:

[Quoted text hidden]

--

Office of Senator Sabina Flores Perez

Committee on the Environment, Revenue & Taxation, Labor, Procurement, and Statistics, Research, and Planning

I Mina'trentai Sais na Liheslaturan Guåhan

36th Guam Legislature

O: 194 Hernan Cortez Avenue, First Floor, Terlaje Professional Building, Hagåtña, Guam 96910

M: Guam Congress Building, [163 Chalan Santo Papa, Hagåtña, Guam 96910](#)

T: (671) 989-2968

E: office@senatorperez.org

www.senatorperez.org

Office of Senator Joanne M. Brown <office@senatorjoannebrown.com>
To: "Speaker Therese M. Terlaje" <senatorterlajeguam@gmail.com>

Thu, Oct 21, 2021 at 4:07 AM

Hafa Adai Speaker Terlaje,
To Do Pass, as per Senator Brown.

Very Respectfully,

Tracey Aguerro

Office Manager

Office of Senator Joanne M. Brown | *I Mina' Trentai Sais Na Liheslaturan Guåhan (36th Guam Legislature)*

[120 Father Dueñas Avenue](#)

Capitol Plaza Building, Suite 103

Hagåtña, Guam 96932

Hafa Adai! Except with respect to public records exempt from disclosure by express provisions of the law, please be advised that, as an official office of the Legislative Branch of the Government of Guam, this electronic communication, is subject to the laws, rules and regulations governing the Sunshine Reform Act, and any other processes and procedures carried out in the spirit of an open and transparent government.

[Quoted text hidden]