



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam.

FEB 03 2016

Honorable Judith T. Won Pat, Ed.D
Speaker, Thirty-Third Guam Legislature
Guam Legislature Building
155 Hesler Street
Hagåtña, GU 96910

Via: Secretary of the Legislature
The Honorable Tina Rose Muna-Barnes

13-10-1325
Office of the Speaker
Judith T. Won Pat, Ed.D

Date: 02-04-16
Time: 9:18 AM
Received By: [Signature]

16 FEB -11 PM 12:41
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Dear Madam Speaker:

Hafa Adai! This is a transmittal to *I Liheslaturan Guåhan* of Proposed Rules and Regulations pursuant to the Administrative Adjudication Law.

The Division of Environmental Health (DEH) of the Department of Public Health and Social Services held a public hearing to receive public comments on DEH's proposed *Rules and Regulations Governing the Issuance of Sanitary Permits*. The hearing was held on June 26, 2015, from 3:00 p.m. to 4:30 p.m. The procedures provided in the Administrative Adjudication Law (Title 5 GCA Chapter 9, Article 3) were followed in notifying and conducting the public hearing. No oral or written testimony was received from the public regarding DEH's proposed regulations governing the issuance of Sanitary Permits.

Prior to the public hearing, on June 17, 2015, the proposed rules and regulations were posted to the DEH webpage, and five copies were available at the DEH office to the public for review.

Enclosed is the Economic Impact Statement that was prepared for these proposed rules and regulations. The proposed fee increases will take place over a three-year period. At the end of that period, the economic impact to the general public will be over \$500,000; however, no single-year increase will exceed that amount.

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The proposed draft of the Sanitary Permit rules and regulations was submitted for review to the Office of the Attorney General on August 10, 2015. Approval as to form of the proposed rules and regulation was received by DPHSS on December 31, 2015 (copy enclosed).

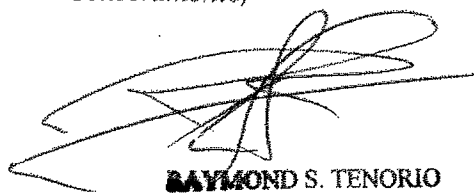
A copy of the letter posted on the webpage of the Compiler of Laws which states, "Compliance with the recommended format will be de facto indication that the submission is in a format approved by the Compiler of Laws." is enclosed. The proposed rules and regulations are in compliance with the recommended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

We have enclosed the following materials for your reference:

1. A copy of the public hearing notice that was printed in the Marianas Variety on June 12 and 25, 2015;
2. A copy and a duplicate of the draft proposed Rules and Regulations Governing the Issuance of Sanitary Permits, as well as an electronic copy;
3. A copy of the memo of approval from the Office of the Attorney General;
4. A copy of the letter regarding format from the Office of the Compiler of Laws;
5. Minutes of the June 26, 2015 public hearing;
6. Recording of the June 26, 2015 public hearing; and
7. A copy of the Economic Impact Statement for these proposed rules and regulations;

Should you have any questions regarding this matter, please contact Mr. James W. Gillan, the Director of the Department of Public Health and Social Services, at 735-7101.

Senseramente,





RAYMOND S. TENORIO
Acting Governor of Guam


Enclosures


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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 of
2 sanitary permits and the assessment of necessary fees for the operation of health-regulated
3 establishments.

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

8 **§4503. Title.** These rules and regulations shall also be known and cited as the *Sanitary*
9 *Permit Rules and Regulations*.

10 **§4504. Definitions.** As used in these rules and regulations (all references are to Chapters
11 in Title 10 GCA):

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 excrement.

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

16 (1) shaving, clipping, trimming, or cutting human hair;

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

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

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

23 (5) manicuring or pedicuring.

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

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

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

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

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

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

19 (i) *Food Establishment* shall mean and includes every establishment or place which is
20 used or occupied as a bakery, confectionary, cannery, dairy, creamery, packing house, grocery,
21 supermarket, meat or poultry market, fruit or vegetable market, delicatessen, beverage plant,
22 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 (j) *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 (11) any other
7 establishment required to possess a Sanitary Permit issued by the Department.

8 (k) *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 (l) *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 (m) *Laundry and Dry Cleaning Establishment* shall mean any place, building, structure,
19 room, establishment, premises or portions thereof, used in the business of making, sorting,
20 washing, drying, drying, starching, ironing, or wearing apparel, household linens and other articles,
21 including any establishment providing laundering equipment for use by customers for a fee, and
22 known by various terms such as laundromat, wash-o-mat, or launderette.

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

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

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

16 (q) *Temporary Food Service Establishment* shall mean any eating and drinking
17 establishment which operates at a fixed location for a period of time *not exceeding* six (6) months
18 in conjunction with a carnival, fair, circus, exhibition, or other transitory gathering not of a
19 permanent structure.

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

1 **§4505. Applications.** (a) All applications for sanitary permits shall be in a form
2 prescribed by the Director.

3 (b) A non-refundable deposit of ~~Twenty~~ Thirty Dollars (\$30.00) shall be made
4 to the 'Treasurer of Guam' at the time the application for Sanitary Permit is submitted to the
5 Department. Upon completion and processing of the application, the deposit amount shall be
6 deducted from the appropriate fee listed in §4506.

7 (c) Any application that remains inactive for sixty (60) consecutive days shall be
8 considered permanently inactive, removed from the file for processing, and then destroyed, and
9 the non-refundable ~~Twenty~~ Thirty Dollars (\$30.00) deposit shall be automatically forfeited.

10 (d) An applicant who wishes to re-apply after his or her application has become
11 permanently inactive under the provision of §4505(c) shall be considered a new applicant and shall
12 re-submit the application and supporting documents and pay all required fees, including the
13 ~~Twenty~~ Thirty Dollars (\$30.00) non-refundable deposit fee.

14 (e) The expiration date of a Sanitary Permit issued for a temporary food service
15 establishment shall be the final date of the temporary event.

16 (f) Any Temporary Food Service Establishment or Special Village Event that meets
17 criteria determined by the Department as to size, expected number of people attending, including
18 highly susceptible populations, expected number of vendors, and types of food to be served or
19 offered for sale, must provide a reserved parking spot and a booth to be utilized by Department
20 staff, for the duration of the event. The booth must have, at a minimum, a table and chair, and be
21 protected from the elements by a canopy or similar covering.

22 **§4506. Fees.** Fees for the issuance of a Sanitary Permit shall be as follows:

1 (a) The Sanitary Permit fee for the following health-regulated establishments shall be
2 ~~Two Hundred Ninety Dollars (\$290)~~ Three Hundred Forty Dollars (\$340.00) until September 30,
3 2016; Four Hundred Thirty-eight Dollars (\$438.00) between October 1, 2016 and September 30,
4 2017; and Five Hundred Forty Dollars (\$540.00) beginning October 1, 2017, if the establishment
5 has 1 to 10 employees, and Five Dollars (\$5.00) for each additional employee above ten (10)
6 thereafter; ~~for establishments with less than ten (10) employees, the fee shall be One Hundred Fifty~~
7 ~~Dollars (\$150.00) until January 1, 2012; for establishments with less than ten (10) employees, the~~
8 ~~fee shall be Two Hundred Twenty Dollars (\$220.00) from January 2, 2012 until January 2, 2014:~~

- 9 (1) Eating and drinking establishments, excluding vending machines and
10 temporary food service establishments;
- 11 (2) Food establishments;
- 12 (3) Institutional facilities;
- 13 (4) Hotels;
- 14 (5) Cosmetic establishments;
- 15 (6) Laundry and dry cleaning establishments;
- 16 (7) Public swimming pools;
- 17 (8) Mortuaries;
- 18 (9) Edible garbage feeding establishments; and
- 19 (10) ~~Commercial animal establishments; and~~
- 20 (10) Any other establishment required to obtain a Sanitary Permit from the
21 Department not explicitly mentioned in these rules and regulations.

22 (b) The Sanitary Permit fee for temporary food service establishments shall be:

- 1 (1) One Hundred Dollars (\$100.00) for those operating for less than six (6)
- 2 months, but more than three (3) days; ~~and~~
- 3 (2) Fifty Dollars (\$50.00) for those operating for three (3) days or less; and
- 4 (3) Twenty-five Dollars (\$25.00) for special village events officially sponsored
- 5 by a village Municipal Planning Council, provided, however, that the vendor
- 6 shall be limited to three (3) events per calendar year per permit issued.
- 7 (c) The Sanitary Permit fee for vending machines shall be:
- 8 (1) ~~Two Hundred Ninety Dollars (\$290)~~ Three Hundred Forty Dollars
- 9 (\$340.00) per vending machine for each of the first style or model of vending machine;
- 10 and
- 11 (2) Five Dollars (\$5.00) for each additional vending machine.
- 12 (d) The Sanitary Permit fee for chemical toilet operator shall be Five Hundred Dollars
- 13 (\$500.00) regardless of the number chemical toilets possessed by the operator.
- 14 (e) Issuance of a duplicate Sanitary Permit shall be Ten Dollars (\$10.00).
- 15 (f) Amendments to an existing Sanitary Permit shall be Ten Dollars (\$10.00).
- 16 (g) An applicant for a Sanitary Permit may request for the permit to be expedited and
- 17 processed on the same day the request is submitted. The Department may grant such requests
- 18 provided the applicant has met all the requirements of the Department to obtain a Sanitary Permit,
- 19 including the requirement for the pre-operation structural inspection. The Department shall assess
- 20 a fee of Seventy-Five Dollars (\$75) for expedited processing in addition to the regular processing
- 21 fee. Applications for a Sanitary Permit for temporary food service establishments which are
- 22 submitted one day or less prior to the event will automatically be assessed an expedited processing
- 23 fee.

1 (h) The cost of the structural inspection, also known as a pre-operation inspection, is
2 included in the initial payment for the Sanitary Permit. However, a fee of Fifty Dollars (\$50) an
3 hour shall be assessed for all subsequent inspections. With the exception of the first hour,
4 fractional hours shall be rounded up to the nearest whole hour if more than one half (0.5) hour,
5 and rounded down if less than one half (0.5) hour.

6 (i) Requests for an expedited structural inspection may be granted as determined by
7 the Director if such inspection does not cause the disruption of any pre-existing inspections
8 scheduled for other applicants. The fee for expedited structural inspections shall be One Hundred
9 Fifty Dollars (\$150) in addition to all other required fees established in these rules and regulations.

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

14 (k) The fee schedule established pursuant to this §4506 *shall* become effective
15 immediately upon enactment for new applications, provided, however, it *shall* become effective
16 for the renewal of all Sanitary Permits issued prior to the enactment of these rules on June 1, ~~2012~~
17 2016.

18 **§4506.1 Advance Notification of Fees Schedule.** The Director shall ensure that advance,
19 written notification is provided to all sanitary permit licensees relative to the cost for permit
20 renewal upon the expiration of their current permit. The information shall be immediately
21 provided as a permit renewal notification.

22 **§4507. Suspension or Revocation of Sanitary Permit.** The Director may suspend or
23 revoke any Sanitary Permit under the provisions of Title 10 GCA, Chapter 21, §§21107(2)(d) and

1 21109, or upon any violation by a health-regulated establishment or by any of its employees for
2 any environmental health violation under Title 10 of the Guam Code Annotated, Chapters 20
3 through 40, or any rules and regulations promulgated concerning Sanitary Permits.

4 **§4508. Hearing.** (a) Any health-regulated establishment whose Sanitary Permit is to be
5 suspended or revoked *shall* be notified by the Director in writing of the Department's intention
6 and the reasons therefore.

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

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

14 **§4509. Suspension without Hearing.** (a) In accordance ~~to~~with Title 10 GCA, Chapter
15 21, §§21107(d) and 21109(a) and (b), a Sanitary Permit may be suspended without prior hearing:

16 (1) when the demerit score of the establishment is more than forty (40);

17 (2) at the discretion of the Director for violating any provisions of Title 10
18 GCA, Chapters 20 through 40; and

19 (3) for twice violating the same requirement deemed critical under the
20 applicable rules and regulations of the Department within any six-month period, in which
21 case, it *shall not* exceed five (5) days.

22 (b) A suspension without prior hearing may remain in effect until the violation is
23 corrected by the establishment, or resolved after a hearing in accordance with the Administrative

1 Adjudication Law. The Director *shall* have the discretion to decide whether the suspension shall
2 be continued pending a hearing.

3 **§4510. Effective Date.** These rules and regulations *shall* become effective immediately
4 upon enactment.

5 **§4511. Severability.** *If* any provision or application of any provision of these rules and
6 regulations are held invalid, such invalidity shall *not* affect the other provisions or applications of
7 these rules and regulations.

8