



Ufisinan Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

APR 29 2011 10:22

April 29, 2011

Honorable Judith T. Won Pat, Ed.D.

Speaker

I Mina'trentai Unu Na Liheslaturan Guåhan

155 Hesler Place

Hagåtña, Guam 96910

VIA: The Honorable Rory J. Respicio
Chairperson, Committee on Rules

RE: Committee Report – Bill No. 137-31(LS), as Substituted

Dear Speaker Won Pat:

Transmitted herewith, for your consideration, is the **Committee Report** on **SUBSTITUTE BILL NO. 137-31(LS)- "An act to establish the Administrative Rules and Regulations of the Department of Public Health & Social Services relative to the issuance of sanitary permits,"** Sponsored by Senator Dennis Rodriguez, Jr, and referred to the Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform. Bill No. 137-31(LS) was publicly heard on April 22, 2011.

Committee votes are as follows:

5 TO PASS
___ NOT TO PASS
___ ABSTAIN
3 TO REPORT OUT ONLY
___ TO PLACE IN INACTIVE FILE

Senseramente,

Senator Dennis G. Rodriguez, Jr.
Chairman

Attachments



Ufisinin Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

**COMMITTEE REPORT
ON**

SUBSTITUTE BILL NO. 137-31 (LS)

Sponsored by Senator Dennis G. Rodriguez Jr.

An act to establish the Administrative Rules and Regulations of the Department of Public Health & Social Services relative to the issuance of sanitary permits, under Article 5 of Chapter 4, Division 1, Title 26, Guam Administrative Rules and Regulations.



Ufisinan Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

April 14, 2011

MEMORANDUM

To: ALL MEMBERS
Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform.

From: Senator Dennis G. Rodriguez, Jr. *DR*
Committee Chairperson

Subject: Committee Report on Bill no. 137-31(LS), as Substituted

Transmitted herewith, for your consideration, is the **Committee Report on SUBSTITUTE BILL NO. 137-31(LS)- "An act to establish the Administrative Rules and Regulations of the Department of Public Health & Social Services relative to the issuance of sanitary permits"**; Sponsored by Senator Dennis G. Rodriguez, Jr.

This report includes the following:

- Committee Voting Sheet
- Committee Report Narrative/Digest
- Copy of Substitute Bill No. 137-31(LS)
- Copy of Bill No. 137-31(LS)
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony and Supporting Documents
- Copy of COR Referral of Bill No. 137-31(LS)
- Notices of Public Hearing (1st and 2nd)
- Copy of the Public Hearing Agenda
- Related News Articles (Public hearing publication of public notice)

Please take the appropriate action on the attached voting 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'!

Attachments



Ufisinan Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

COMMITTEE VOTING SHEET

BILL NO. 137-31(LS), as substituted- An act to establish the Administrative Rules and Regulations of the Department of Public Health & Social Services relative to the issuance of sanitary permits, under Article 5 of Chapter 4, Division 1, Title 26, Guam Administrative Rules and Regulations.

	SIGNATURE	TO PASS	NOT TO PASS	ABSTAIN	REPORT OUT ONLY	PLACE IN INACTIVE FILE
DENNIS G. RODRIGUEZ, Jr. Chairman		✓ 4/27/11				
ADOLPHO B. PALACIOS, Sr. Vice Chairman						
JUDITH T. WON PAT, Ed.D. Speaker						
BENJAMIN J. F. CRUZ Vice-Speaker		4/28/11				
TINA ROSE MUÑA BARNES Legislative Secretary					✓ 4/28/11	
THOMAS C. ADA		4/28/11				
VICENTE C. PANGELINAN						
RORY J. RESPICIO		4/27/11				
JUDITH P. GUTHERTZ, DPA						
FRANK F. BLAS, Jr.						
V. ANTHONY ADA					4/28/11	
ALINE A. YAMASHITA, Ph.D.						
SAM MABINI, Ph.D.					4/28/11	
MANA SILVA TAIJERON						
CHRISTOPHER M. DUENAS		4/28/11				



Ufisinan Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

COMMITTEE REPORT DIGEST

Bill No. 137-31(LS)

I. OVERVIEW: The Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform conducted a public hearing on April 22, 2011. The hearing convened at 3PM in I Liheslatura's Public Hearing Room. Among the items on the agenda was the consideration of **BILL NO. 137-31(LS)- An act to establish the Administrative Rules and Regulations of the Department of Public Health & Social Services relative to the issuance of sanitary permits, under Article 5 of Chapter 4, Division 1, Title 26, Guam Administrative Rules and Regulations.** Introduced by Senator Dennis G. Rodriguez Jr.

II. Public Notice Requirements

Notices were disseminated via hand-delivery/fax and/or email to all senators and all main media broadcasting outlets on April 14, 2011 (5-day notice), and again on April 19, 2011 (48-hour notice). Notice was published *on-line* and in *print* in the Pacific Daily News on April 15, 2011 and April 19, 2011, respectively.

Senators Present

Senator Dennis G. Rodriguez, Jr.	Chairman
Senator Adolpho B. Palacios, Sr.	Vice-Chairman
Senator B.J. Cruz	Committee Member
Senator ben c pangelinan	Committee Member
Senator Aline Yamashita, Ph.D.	Committee Member

The public hearing on agenda item Bill No. 137-31(COR) was called to order at 12:55pm.

II. SUMMARY OF TESTIMONY & DISCUSSION.

Chairman Dennis G. Rodriguez, Jr., convened the Public Hearing on Bill 137-31(LS).

Mr. Chair: Thank you Speaker Ben This bill has been duly heard. Next on the agenda is 137-31 I would like to call on Acting Director James Gillan.

Mr. James Gillan: WRITTEN TESTIMONY.

Chairman Rodriguez: Declared Bill No. 137-31(LS) as having been duly heard.



Ufisinan Todu Guam

SENATOR DENNIS G. RODRIGUEZ, Jr.

I Mina'trentai Unu Na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

III. FINDINGS AND RECOMMENDATIONS

The Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform, hereby **reports out Bill No. 137-31(LS), as SUBSTITUTED**, with the recommendation to

Report out only.

MINA TRENTAI UNU NA LIHESLATURAN GUAHAN
2011 (FIRST) Regular Session

2011 APR -11 PM 1:47
[Handwritten signature]

Bill No. 137-31(LS)

Introduced by:

D. G. RODRIGUEZ, JR.
THOMAS C. ADA *[Handwritten signature]*

**AN ACT TO ESTABLISH THE ADMINISTRATIVE
RULES AND REGULATIONS OF THE DEPARTMENT
OF PUBLIC HEALTH & SOCIAL SERVICES RELATIVE
TO THE ISSUANCE OF SANITARY PERMITS, UNDER
ARTICLE 5 OF CHAPTER 4, DIVISION 1, TITLE 26,
GUAM ADMINISTRATIVE RULES AND REGULATIONS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guahan* finds that the proposed administrative rules and regulations pursuant to this Act for the issuance of sanitary permits, as provided pursuant to §20105 and §21102 of Chapter 20, Division 2, Part 1, Title 10, Guam Code Annotated (GC §9500.2), and as further provided pursuant to §26308 of Chapter 26A, Division 2, Title 10, Guam Code Annotated (P.L. 30-64), which authorizes the Director of the Department of Public Health and Social Services to promulgate rules and regulations necessary to carry out the provisions of the law governing the sanitary operations of health-regulated establishments, is appropriate and necessary.

1 Further, *I Liheslaturan Guahan* takes due note that the Department of Public
2 Health & Social Services, in the development of the proposed guidelines addressed
3 herein, made a good faith effort to be inclusive of the affected stakeholders in the
4 industry.

5 It is the intent of *I Liheslaturan Guahan* to provide for the initial
6 establishment of the administrative rules and regulations for the issuance of
7 sanitary permits, as provided pursuant to §26308 of Chapter 26A, Division 2, Title
8 10, Guam Code Annotated (P.L. 30-64), and applicable law.

9 Further, so as to insure that the rules adopted pursuant to this Act remain
10 pertinent to and consistent with the needs of the community, it is the intent of *I*
11 *Liheslaturan Guahan* to provide an authorization and mandate for the Department
12 of Public Health & Social Services to regularly review the rules adopted pursuant
13 to this Act, and as appropriate promulgate amendments thereto pursuant to Article
14 3 - Rule Making Procedures, of Chapter 9, Title 5, Guam Code Annotated.

15 **Section 2.** The Rules and Regulations provided pursuant to Article 5 of
16 Chapter 4, Division 1, Title 26, Guam Administrative Rules and Regulations, are
17 hereby repealed in its entirety.

18 **Section 3. Adoption of Rules.** Notwithstanding any other provision of law,
19 rule, regulation and Executive Order, the rules and regulations of the Department
20 of Public Health & Social Services for the Issuance of Sanitary Permits, and
21 attached hereto as Exhibit "A", to be codified under Article 5 of Chapter 4,
22 Division 1, Title 26, Guam Administrative Rules and Regulations, **is hereby**
23 **adopted** by *I Mina Trentai Unu Na Liheslaturan Guahan*.

24 **Section 4. Amendment of Rules.** The Department of Public Health &

1 Social Services *shall*, at a minimum of every five years, and pursuant to Article 3-
2 Rule Making Procedures, of Chapter 9, Title 5, Guam Code Annotated, review and
3 amend the administrative rules and regulations adopted pursuant to Section 3 of
4 this Act.

5 **Section 5. Effective Date.** The administrative rules and regulations
6 adopted pursuant to Section 2 of this Act shall become effective upon enactment.

1 **Exhibit “A”**

2 **Title 26 Guam Administrative Rules and Regulations**

3 **Chapter 4**

4 **“Article 5**

5 **“RULES AND REGULATIONS GOVERNING THE ISSUANCE OF**
6 **SANITARY PERMIT”**

7 **DIVISION OF ENVIRONMENTAL HEALTH**

8 **DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES**

9 **123 CHALAN KARETA**

10 **MANGILAO, GUAM 96910-6304**

11

1 of the law governing the sanitary operations of health-regulated establishments.

2 **§4503. Title.** These rules and regulations shall also be known and cited as
3 the *Sanitary Permit Rules and Regulations*.

4 **§4504. Definitions.** As used in these rules and regulations:

5 (a) *Chemical Toilet* shall mean a building or structure housing one (1) or
6 more water-tight containers of liquid chemical disinfectants intended to receive
7 and hold human excrement.

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

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

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

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

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

18 (5) manicuring or pedicuring.

19 (c) *Department* shall mean the Department of Public Health and Social
20 Services of the Government of Guam;

21 (d) *Director* shall mean the Director of the Department of Public Health and
22 Social Services, or his designated representative;

23 (e) *Dry cleaning* shall mean any place, building, structure, room, premises,

1 or portions thereof, used in the business of dry cleaning and dyeing of wearing
2 apparel, house-hold linens and other articles, including coin-operated dry cleaning
3 establishments;

4 (f) *Eating and Drinking Establishment* shall mean any food service
5 establishment, mobile food service establishment, or vending machine;

6 (g) *Edible Garbage Feeding Establishment* shall mean swill or leavings of
7 food or any abandoned, spoiled, condemned meat, fish, fowl, vegetable matter or
8 offal from slaughtered animas, liquid or solid, which is free of toxic, or deleterious
9 substances, and is deemed by the Director as being suitable for use solely as animal
10 feed;

11 (h) *Employee* shall mean any individual, including the owner, operator,
12 manager or other person performing any function in a health-regulated
13 establishment, whether for compensation or otherwise;

14 (i) *Food Establishment* shall mean and includes every establishment or
15 place which is used or occupied as a baker, confectionary, cannery, dairy,
16 creamery, packing house, grocery, supermarket, meat or poultry market, fruit or
17 vegetable market, delicatessen, beverage plant, slaughter house, poultry processing
18 plant, fish processing plant, frozen food processing plant, ice plant, ice cream or
19 frozen dessert plant, public market, food warehouse or for the production,
20 processing, manufacture, preparation for sale, canning, bottling, packing,
21 packaging, storage, sale, or distribution of any food;

22 (j) *Health-Regulated Establishment* shall mean any (1) eating and
23 drinking establishment; (2) food establishment; (3) institutional facilities; (4) hotels;
24 (5) cosmetic establishment; (6) laundry and dry cleaning establishment; (7) public

1 swimming pool; (8) mortuary; (9) edible garbage feeding establishment; (10)
2 chemical toilet; and (11) any other establishment required to possess a Sanitary
3 Permit issued by the Department;

4 (k) *Hotel* shall mean any structure or any portion of any structure,
5 including any lodging house, rooming house, dormitory (including a dormitory
6 housing for contract employees), health spa, bachelor hotel, studio hotel, motel,
7 private club, containing four (4) or more guests, whether rent is paid in money,
8 goods, labor, or otherwise, or whether with or without meals. It does not include
9 any penal institution, hospital, clinic, nursing home, school, laboratory, or child
10 care facility;

11 (l) *Institutional Facility* shall mean any structure or any portion of any
12 structure operating as a child care facility, penal institution, school, hospital, clinic,
13 nursing home, or laboratory as defined Title 10 GCA, Chapter 25;

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

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

23 (o) *Public swimming pool* shall mean any artificial structure, basin,
24 chamber, or tank constructed or impervious material used or intended to be used

1 for swimming, diving, wading, or recreational bathing, except it does not include
2 conventional bath-tubs where the primary purposes is the cleaning of the body or
3 individual therapeutic tubs, and that is available for public use, whether for fee or
4 free of charge; or any business, partnership, corporation or person for the use of
5 their customers, clients, guests or employees including but not limited to a
6 commercial pool, a community pool or a pool at a hotel, motel, resort, auto park,
7 trailer park, apartment house, or other multiple rental unit, private club, public club,
8 public or private school, gymnasium or health establishment;

9 (p) *Sanitary Permit* shall mean the official document issued by the
10 Department of Public Health and Social Services authorizing a health-regulated
11 establishment to operate its business; and

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

16 **§4505. Applications.** (a) All applications for sanitary permits shall be
17 in a form prescribed by the Director.

18 (b) A non-refundable deposit of Twenty Dollars (\$20.00) shall be made
19 to the 'Treasurer of Guam' at the time the application for Sanitary Permit is
20 submitted to the Department. Upon completion and processing of the application,
21 the deposit amount shall be deducted from the appropriate fee listed in §4506.

22 (c) Any application that remains inactive for sixty (60) consecutive days
23 shall be considered permanently inactive, removed from the file for processing,

1 and then destroyed, and the non-refundable Twenty Dollars (\$20.00) deposit shall
2 be automatically forfeited.

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

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

10 **§4506. Fees.** Fees for the issuance of a Sanitary Permit shall be as follows:

11 *(a) The Sanitary Permit fee for the following health-regulated*
12 *establishments shall be Two Hundred Ninety Dollars (\$290) if the*
13 *establishment has 1 to 10 employees, and Five Dollars (\$5.00) for each*
14 *additional employee thereafter.*

15 (1) Eating and drinking establishments, excluding vending
16 machines and temporary food service establishments;

17 (2) Food establishments;

18 (3) Institutional facilities;

19 (4) Hotels;

20 (5) Cosmetic establishments;

21 (6) Laundry and dry cleaning establishments;

22 (7) Public swimming pools;

23 (8) Mortuaries;

24 (9) Edible garbage feeding establishments;

25 (10) Commercial animal establishments; and

1 Applications for a Sanitary Permit for temporary food service establishments which
2 are submitted one day or less prior to the event will automatically be assessed an
3 expedited processing fee.

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

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

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

19 **§4507. Suspension or Revocation of Sanitary Permit.** The Director
20 may suspend or revoke any Sanitary Permit under the provisions of Title 10 GCA,
21 Chapter 21, §21107(2)(d) or upon any violation by a health-regulated
22 establishment or by any of its employees for any environmental health violation
23 under Title 10 of the Guam Code Annotated, Chapters 20 through 40, or any rules
24 and regulations promulgated concerning Sanitary Permits.

1 **§4508. Hearing.** (a) Any health-regulated establishment whose Sanitary
2 Permit is to be suspended or revoked shall be notified by the Director in writing of
3 the Department’s intention and the reasons therefore.

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

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

13 **§4509. Suspension without Hearing.** (a) In accordance to Title 10 GCA,
14 Chapter 21, §§21107(d) and 21109(a) and (b), a Sanitary Permit may be suspended
15 without prior hearing:

16 (1) When the demerit score of the establishment is more than forty
17 (40);

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

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

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

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

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

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

MINA TRENTAI UNU NA LIHESLATURAN GUAHAN

2011 (FIRST) Regular Session

**Bill No. 137-31 (LS), as Substituted
by Committee by Committee on Health &
Human Services, Economic Development,
Senior Citizens, and Election Reform**

Introduced by:

**D. G. RODRIGUEZ, JR.
THOMAS C. ADA**

**AN ACT TO ESTABLISH THE ADMINISTRATIVE
RULES AND REGULATIONS OF THE DEPARTMENT
OF PUBLIC HEALTH & SOCIAL SERVICES RELATIVE
TO THE ISSUANCE OF SANITARY PERMITS, UNDER
ARTICLE 5 OF CHAPTER 4, DIVISION 1, TITLE 26,
GUAM ADMINISTRATIVE RULES AND REGULATIONS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guahan* finds
that the proposed administrative rules and regulations pursuant to this Act for the
issuance of sanitary permits, as provided pursuant to §20105 and §21102 of
Chapter 20, Division 2, Part 1, Title 10, Guam Code Annotated (GC §9500.2), and
as further provided pursuant to §26308 of Chapter 26A, Division 2, Title 10, Guam
Code Annotated (P.L. 30-64), which authorizes the Director of the Department of
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1 Further, *I Liheslaturan Guahan* takes due note that the Department of Public
2 Health & Social Services, in the development of the proposed guidelines addressed
3 herein, made a good faith effort to be inclusive of the affected stakeholders in the
4 industry.

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7 sanitary permits, as provided pursuant to §26308 of Chapter 26A, Division 2, Title
8 10, Guam Code Annotated (P.L. 30-64), and applicable law.

9 Further, so as to insure that the rules adopted pursuant to this Act remain
10 pertinent to and consistent with the needs of the community, it is the intent of *I*
11 *Liheslaturan Guahan* to provide an authorization and mandate for the Department
12 of Public Health & Social Services to regularly review the rules adopted pursuant
13 to this Act, and as appropriate promulgate amendments thereto pursuant to Article
14 3 - Rule Making Procedures, of Chapter 9, Title 5, Guam Code Annotated.

15 **Section 2.** The Rules and Regulations provided pursuant to Article 5 of
16 Chapter 4, Division 1, Title 26, Guam Administrative Rules and Regulations, are
17 hereby repealed in its entirety.

18 **Section 3. Adoption of Rules.** Notwithstanding any other provision of law,
19 rule, regulation and Executive Order, the rules and regulations of the Department
20 of Public Health & Social Services for the Issuance of Sanitary Permits, and
21 attached hereto as Exhibit “A”, to be codified under Article 5 of Chapter 4,
22 Division 1, Title 26, Guam Administrative Rules and Regulations, **is hereby**
23 **adopted** by *I Mina Trentai Unu Na Liheslaturan Guahan*.

24 **Section 4. Amendment of Rules.** The Department of Public Health &

1 Social Services *shall*, at a minimum of every five years, and pursuant to Article 3-
2 Rule Making Procedures, of Chapter 9, Title 5, Guam Code Annotated, review and
3 amend the administrative rules and regulations adopted pursuant to Section 3 of
4 this Act.

5 **Section 5. Effective Date.** The administrative rules and regulations
6 adopted pursuant to Section 2 of this Act shall become effective upon enactment.

1 **Exhibit “A”**

2 **Title 26 Guam Administrative Rules and Regulations**

3 **Chapter 4**

4 **“Article 5**

5 **“RULES AND REGULATIONS GOVERNING THE ISSUANCE OF**
6 **SANITARY PERMIT”**

7 **DIVISION OF ENVIRONMENTAL HEALTH**

8 **DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES**

9 **123 CHALAN KARETA**

10 **MANGILAO, GUAM 96910-6304**

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1 of the law governing the sanitary operations of health-regulated establishments.

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4 **§4504. Definitions.** As used in these rules and regulations:

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6 more water-tight containers of liquid chemical disinfectants intended to receive
7 and hold human excrement.

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

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

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14 oils, creams, lotions, or other preparations either by hand or mechanical
15 appliances;

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17 lotions, or other preparations to scalp, face, neck, or hands; or

18 (5) manicuring or pedicuring.

19 (c) *Department* shall mean the Department of Public Health and Social
20 Services of the Government of Guam;

21 (d) *Director* shall mean the Director of the Department of Public Health and
22 Social Services, or his designated representative;

23 (e) *Dry cleaning* shall mean any place, building, structure, room, premises,

1 or portions thereof, used in the business of dry cleaning and dyeing of wearing
2 apparel, house-hold linens and other articles, including coin-operated dry cleaning
3 establishments;

4 (f) *Eating and Drinking Establishment* shall mean any food service
5 establishment, mobile food service establishment, or vending machine;

6 (g) *Edible Garbage Feeding Establishment* shall mean swill or leavings of
7 food or any abandoned, spoiled, condemned meat, fish, fowl, vegetable matter or
8 offal from slaughtered animals, liquid or solid, which is free of toxic, or deleterious
9 substances, and is deemed by the Director as being suitable for use solely as animal
10 feed;

11 (h) *Employee* shall mean any individual, including the owner, operator,
12 manager or other person performing any function in a health-regulated
13 establishment, whether for compensation or otherwise;

14 (i) *Food Establishment* shall mean and includes every establishment or
15 place which is used or occupied as a baker, confectionary, cannery, dairy,
16 creamery, packing house, grocery, supermarket, meat or poultry market, fruit or
17 vegetable market, delicatessen, beverage plant, slaughter house, poultry processing
18 plant, fish processing plant, frozen food processing plant, ice plant, ice cream or
19 frozen dessert plant, public market, food warehouse or for the production,
20 processing, manufacture, preparation for sale, canning, bottling, packing,
21 packaging, storage, sale, or distribution of any food;

22 (j) *Health-Regulated Establishment* shall mean any (1) eating and
23 drinking establishment; (2) food establishment; (3) institutional facilities; (4) hotels;
24 (5) cosmetic establishment; (6) laundry and dry cleaning establishment; (7) public

1 swimming pool; (8) mortuary; (9) edible garbage feeding establishment; (10)
2 chemical toilet; and (11) any other establishment required to possess a Sanitary
3 Permit issued by the Department;

4 (k) *Hotel* shall mean any structure or any portion of any structure,
5 including any lodging house, rooming house, dormitory (including a dormitory
6 housing for contract employees), health spa, bachelor hotel, studio hotel, motel,
7 private club, containing four (4) or more guests, whether rent is paid in money,
8 goods, labor, or otherwise, or whether with or without meals. It does not include
9 any penal institution, hospital, clinic, nursing home, school, laboratory, or child
10 care facility;

11 (l) *Institutional Facility* shall mean any structure or any portion of any
12 structure operating as a child care facility, penal institution, school, hospital, clinic,
13 nursing home, or laboratory as defined Title 10 GCA, Chapter 25;

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

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

23 (o) *Public swimming pool* shall mean any artificial structure, basin,
24 chamber, or tank constructed or impervious material used or intended to be used

1 for swimming, diving, wading, or recreational bathing, except it does not include
2 conventional bath-tubs where the primary purposes is the cleaning of the body or
3 individual therapeutic tubs, and that is available for public use, whether for fee or
4 free of charge; or any business, partnership, corporation or person for the use of
5 their customers, clients, guests or employees including but not limited to a
6 commercial pool, a community pool or a pool at a hotel, motel, resort, auto park,
7 trailer park, apartment house, or other multiple rental unit, private club, public club,
8 public or private school, gymnasium or health establishment;

9 (p) *Sanitary Permit* shall mean the official document issued by the
10 Department of Public Health and Social Services authorizing a health-regulated
11 establishment to operate its business; and

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

16 **§4505. Applications.** (a) All applications for sanitary permits shall be
17 in a form prescribed by the Director.

18 (b) A non-refundable deposit of Twenty Dollars (\$20.00) shall be made
19 to the 'Treasurer of Guam' at the time the application for Sanitary Permit is
20 submitted to the Department. Upon completion and processing of the application,
21 the deposit amount shall be deducted from the appropriate fee listed in §4506.

22 (c) Any application that remains inactive for sixty (60) consecutive days
23 shall be considered permanently inactive, removed from the file for processing,

1 and then destroyed, and the non-refundable Twenty Dollars (\$20.00) deposit shall
2 be automatically forfeited.

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

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

10 **§4506. Fees.** Fees for the issuance of a Sanitary Permit shall be as follows:

11 *(a) The Sanitary Permit fee for the following health-regulated*
12 *establishments shall be Two Hundred Ninety Dollars (\$290) if the*
13 *establishment has 1 to 10 employees, and Five Dollars (\$5.00) for each*
14 *additional employee thereafter.*

15 (1) Eating and drinking establishments, excluding vending
16 machines and temporary food service establishments;

17 (2) Food establishments;

18 (3) Institutional facilities;

19 (4) Hotels;

20 (5) Cosmetic establishments;

21 (6) Laundry and dry cleaning establishments;

22 (7) Public swimming pools;

23 (8) Mortuaries;

24 (9) Edible garbage feeding establishments;

25 (10) Commercial animal establishments; and

1 Applications for a Sanitary Permit for temporary food service establishments which
2 are submitted one day or less prior to the event will automatically be assessed an
3 expedited processing fee.

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

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

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

19 (k) The fee schedule established pursuant to this §4506 shall become
20 effective immediately upon enactment for new applications, provided, however, it
21 shall become effective for the renewal of all Sanitary Permits issued prior to the
22 enactment of these rules on June 01, 2012.

23 **§4507. Suspension or Revocation of Sanitary Permit.** The Director
24 may suspend or revoke any Sanitary Permit under the provisions of Title 10 GCA,

1 Chapter 21, §21107(2)(d) or upon any violation by a health-regulated
2 establishment or by any of its employees for any environmental health violation
3 under Title 10 of the Guam Code Annotated, Chapters 20 through 40, or any rules
4 and regulations promulgated concerning Sanitary Permits.

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

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

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

17 **§4509. Suspension without Hearing.** (a) In accordance to Title 10 GCA,
18 Chapter 21, §§21107(d) and 21109(a) and (b), a Sanitary Permit may be suspended
19 without prior hearing:

20 (1) When the demerit score of the establishment is more than forty
21 (40);

22 (2) At the discretion of the Director for violating any provisions of
23 Title 10 GCA, Chapters 20 through 40; and

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

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

8 **§4510. Effective Date.** These rules and regulations shall become effective
9 immediately upon enactment.

10 **§4511. Severability.** If any provision or application of any provision of
11 these rules and regulations are held invalid, such invalidity shall not affect the
12 other provisions or applications of these rules and regulations.”



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



APR 14 2011

EDDIE BAZA CALVO
 GOVERNOR

JAMES W. GILLAN
 ACTING DIRECTOR

RAY TENORIO
 LIEUTENANT GOVERNOR

LEO G. CASIL
 DEPUTY DIRECTOR

Testimony on Bill 137-31

Hafa Adai. My name is James W. Gillan, the Acting Director of the Department of Public Health and Social Services. I would like to thank you, Mr. Chairman, for allowing me the opportunity to speak on Bill 137-31 (An act to establish the Administrative Rules and Regulations of the Department of Public Health & Social Services relative to the issuance of sanitary permits, under Article 5 of Chapter 4, Division 1, Title 26, Guam Administrative Rules and Regulations). The Department is in full support of Bill 137-31 with some recommendations.

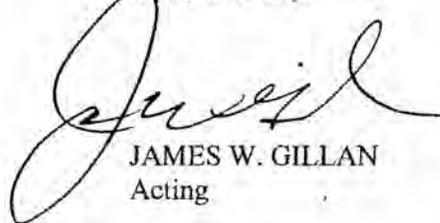
Pursuant to the Administrative Adjudication Law, the Division of Environmental Health (DEH) of this Department, held a public hearing on Feb. 16, 2010 for a proposal to increase the fee schedule for the issuance of Sanitary Permits. The proposed fee increase was based on the cost the Department incurred to issue a Sanitary Permit and to enforce the provisions associated with the permit. Exhibit A of Bill 137-31 is that very proposal. It is our position that Bill 137-31 is necessary to not only recoup the cost of issuing Sanitary Permits but to increase our ability to implement our many environmental health programs. The additional revenue generated from this fee increase, which is deposited into the Environmental Health Fund, will further assist DEH in conducting regulatory inspections, promoting public education, and acquiring needed equipment and training.

Prior to the creation of the Environmental Health Fund (EH Fund) in 2004, the Division of Environmental Health was funded from the General Fund. However, since 2004, there has been a steady reliance on the EH Fund as the General Fund appropriation has diminished. The special fund now contributes to about half of the division's budget. Because of this fund, we have been able to fund personnel and procure equipment and services necessary for division operation; however, much more are needed to provide the environmental health services the community demands and expects from our Department.

Since the Division of Environmental Health is forced to rely more and more on the Environmental Health Fund, we also seek, through Bill 137-31, an insertion of a provision that will improve our ability to access and utilize the fund. Specifically, we seek the amendment of §20121 of Chapter 20, Title 10 GCA so that the EH Fund is a separate bank account with continuing appropriation. The inclusion of such provision will prevent moneys deposited into the EH Fund from commingling with the General Fund, and allow the Division of Environmental Health to readily access and expend the fund without restrictions.

Finally, attached to this testimony are some edits to the proposed rules and regulations which we believe will improve its reading and comprehension. We thank you for your consideration and hopeful support to our comments and recommendations.

Senseramente,



JAMES W. GILLAN
 Acting

Attachment

1 Title 26 Guam Administrative Rules and Regulations, Chapter 4, Article 5 is hereby repealed in
2 its entirety and re-enacted to read as follows:
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14 **“RULES AND REGULATIONS GOVERNING**
15 **THE ISSUANCE OF SANITARY PERMIT”**

16 **DIVISION OF ENVIRONMENTAL HEALTH**
17 **DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES**
18 **123 CHALAN KARETA**
19 **MANGILAO, GUAM 96910-6304**
20

21
22 **ATTACHMENT TO DPHSS WRITTEN TESTIMONY ON BILL 137-31**
23 **SUGGESTED DELETIONS ARE NOTED AS STRIKETHROUGH, WHILE ADDITIONS ARE UNDERLINED.**

Article 5

Sanitary Permit Rules and Regulations

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§4501. Purpose.

§4502. Authority.

§4503. Title.

§4504. Definitions.

§4505. Applications.

§4506. Fees.

§4507. Suspension or Revocation of Sanitary Permit.

§4508. Hearing.

§4509. Suspension without Hearing.

§4510. Effective Date.

§4511. Separability.

§4501. Purpose. The purpose of these rules and regulations is to govern the issuance of sanitary permits and the assessment of necessary fees for the operation of health-regulated establishments.

§4502. Authority. Sections 20105 and 21102 of Title 10 Guam Code Annotated authorizes the Director of the Department of Public Health and Social Services to promulgate

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1 rules and regulations necessary to carry out the provisions of the law governing the sanitary
2 operations of health-regulated establishments.

3

4 **§4503. Title.** These rules and regulations shall also be known and cited as the *Sanitary*
5 *Permit Rules and Regulations*.

6

7 **§4504. Definitions.** As used in these rules and regulations:

8

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

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

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

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

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

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

20 (5) manicuring or pedicuring.

21 (c) *Department* shall mean the Department of Public Health and Social Services of the
22 Government of Guam;

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1 (d) *Director* shall mean the Director of the Department of Public Health and Social
2 Services, or his designated representative;

3 (e) *Dry Cleaning Establishment* shall mean any place, building, structure, room,
4 premises, or portions thereof, used in the business of dry cleaning and dyeing of wearing apparel,
5 house-hold linens and other articles, including coin-operated dry cleaning establishments;

6 (f) *Eating and Drinking Establishment* shall mean any food service establishment,
7 mobile food service establishment, or vending machine;

8 (g) *Edible Garbage Feeding Establishment* shall mean any facility where swill or
9 leavings of food or any abandoned, spoiled, condemned meat, fish, fowl, vegetable matter or
10 offal from slaughtered animals, liquid or solid, which is free of toxic, or deleterious substances,
11 and is deemed by the Director as being suitable for use solely as animal feed is used;

12 (h) *Employee* shall mean any individual, including the owner, operator, manager or
13 other person performing any function in a health-regulated establishment, whether for
14 compensation or otherwise;

15 (i) *Food Establishment* shall mean and includes every establishment or place which
16 is used or occupied as a bakery, confectionary, cannery, dairy, creamery, packing house, grocery,
17 supermarket, meat or poultry market, fruit or vegetable market, delicatessen, beverage plant,
18 slaughter house, poultry processing plant, fish processing plant, frozen food processing plant, ice
19 plant, ice cream or frozen dessert plant, public market, food warehouse or for the production,
20 processing, manufacture, preparation for sale, canning, bottling, packing, packaging, storage,
21 sale, or distribution of any food;

22 (j) *Health-Regulated Establishment* shall mean any (1) eating and drinking
23 establishment; (2) food establishment; (3) institutional facilities; (4) hotels; (5) cosmetic

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1 establishment; (6) laundry and dry cleaning establishment; (7) public swimming pool; (8)
2 mortuary; (9) edible garbage feeding establishment; (10) chemical toilet; and (11) any other
3 establishment required to possess a Sanitary Permit issued by the Department;

4 (k) *Hotel* shall mean any structure or any portion of any structure, including any
5 lodging house, rooming house, dormitory (including a dormitory housing for contract
6 employees), health spa, bachelor hotel, studio hotel, motel, ~~or~~ private club, containing four (4) or
7 more guests, whether rent is paid in money, goods, labor, or otherwise, or whether with or
8 without meals. It does not include any penal institution, hospital, clinic, nursing home, school,
9 laboratory, or child care facility;

10 (l) *Institutional Facility* shall mean any structure or any portion of any structure
11 operating as a child care facility, penal institution, school, hospital, clinic, nursing home, or
12 laboratory as defined Title 10 GCA, Chapter 25;

13 (m) *Laundry and Dry Cleaning Establishment* shall mean any place, building,
14 structure, room establishment premises, or portions thereof, used in the business of making,
15 sorting, washing, drying, starching, or ironing, ~~or~~ wearing apparel, household linens and other
16 articles, including any establishment providing laundering equipment for use by customers for a
17 fee known by various terms such as Laundromat, wash-o-mat, or launderette;

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

21 (o) *Public swimming pool* shall mean any artificial structure, basin, chamber, or tank
22 constructed ~~of~~ impervious material used or intended to be used for swimming, diving, wading,
23 or recreational bathing, except it does not include conventional bath-tubs where the primary

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1 purposes is the cleaning of the body or individual therapeutic tubs, and that is available for
2 public use, whether for fee or free of charge; or by any business, partnership, corporation or
3 person for the use of their customers, clients, guests or employees including but not limited to a
4 commercial pool, a community pool or a pool at a hotel, motel, resort, auto park, trailer park,
5 apartment house, or other multiple rental unit, private club, public club, public or private school,
6 gymnasium or health establishment;

7 (p) *Sanitary Permit* shall mean the official document issued by the Department of
8 Public Health and Social Services authorizing a health-regulated establishment to operate its
9 business; and

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

14

15 **§4505. Applications.** (a) All applications for sanitary permits shall be in a form
16 prescribed by the Director.

17

18 (b) A non-refundable deposit of Twenty Dollars (\$20.00) shall be made to the
19 ‘Treasurer of Guam’ at the time the application for Sanitary Permit is submitted to the
20 Department. Upon completion and processing of the application, the deposit amount shall be
21 deducted from the appropriate fee listed in §4506.

22

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1 (c) Any application that remains inactive for sixty (60) consecutive days shall be
2 considered permanently inactive, removed from the file for processing, and then destroyed, and
3 the non-refundable Twenty Dollars (\$20.00) deposit shall be automatically forfeited.

4
5 (d) An applicant who wishes to re-apply after his or her application has become
6 permanently inactive under the provision of §4505(c) shall be considered a new applicant and
7 shall re-submit the application and supporting documents and pay all required fees, including the
8 Twenty Dollars (\$20.00) non-refundable deposit fee.

9
10 (e) The expiration date of a Sanitary Permit issued for a temporary food service
11 establishment shall be the final date of the temporary event.

12
13 **§4506. Fees.** Fees for the issuance of a Sanitary Permit shall be as follows:

14
15 (a) The Sanitary Permit fee for the following health-regulated establishments shall be
16 Two Hundred Ninety Dollars (\$290) if the establishment has 1 to 10 employees, and Five
17 Dollars (\$5.00) for each additional employee thereafter.

18 (1) Eating and drinking establishments, excluding vending machines and
19 temporary food service establishments;

20 (2) Food establishments;

21 (3) Institutional facilities;

22 (4) Hotels;

23 (5) Cosmetic establishments;

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- 1 (6) Laundry and dry cleaning establishments;
2 (7) Public swimming pools;
3 (8) Mortuaries;
4 (9) Edible garbage feeding establishments;
5 (10) Commercial animal establishments; and
6 (11) Any other establishment required to obtain a Sanitary Permit from the
7 Department not explicitly mentioned in these rules and regulations.

8
9 (b) The Sanitary Permit fee for temporary food service establishments shall be:

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

12 (2) Fifty Dollars (\$50.00) for those operating for three (3) days or less.

13
14 (c) The Sanitary Permit fee for vending machines shall be:

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

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

18
19 (d) The Sanitary Permit fee for chemical toilet operator shall be Five Hundred Dollars
20 (\$500.00) regardless of the number chemical toilets possessed by the operator.

21
22 (e) Issuance of a duplicate Sanitary Permit shall be Ten Dollars (\$10.00).

23

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

2
3 (g) An applicant for a Sanitary Permit may request for the permit to be expedited and
4 processed on the same day the request is submitted. The Department may grant such requests
5 provided the applicant has met all the requirements of the Department to obtain a Sanitary Permit,
6 including the requirement for the pre-operational structural inspection. The Department shall
7 assess a fee of Seventy-Five Dollars (\$75) for expedited processing in addition to the regular
8 processing fee. Applications for a Sanitary Permit for temporary food service establishments
9 which are submitted one day or less prior to the event will automatically be assessed an expedited
10 processing fee.

11
12 (h) The cost of the structural inspection, also known as a pre-operation inspection, is
13 included in the initial payment for the Sanitary Permit. However, a fee of Fifty Dollars (\$50) an
14 hour shall be assessed for all subsequent inspections. With the exception of the first hour,
15 fractional hours shall be rounded up to the nearest whole hour if more than 0.5 hour, and rounded
16 down if less than 0.5 hour.

17
18 (i) Requests for an expedited structural inspection may be granted as determined by
19 the Director if such inspection does not cause the disruption of any pre-existing inspections
20 scheduled for other applicants. The fee for expedited structural inspections shall be One Hundred
21 Fifty Dollars (\$150) in addition to all other required fees established in these rules and
22 regulations.

23

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

5
6 **§4507. Suspension or Revocation of Sanitary Permit.** The Director may suspend or
7 revoke any Sanitary Permit under the provisions of Title 10 GCA, Chapter 21, §21107(2)(d) or
8 upon any violation by a health-regulated establishment or by any of its employees for any
9 environmental health violation under Title 10 of the Guam Code Annotated, Chapters 20 through
10 40, or any rules and regulations promulgated concerning Sanitary Permits.

11
12 **§4508. Hearing.** (a) Any health-regulated establishment whose Sanitary Permit is to be
13 suspended or revoked shall be notified by the Director in writing of the Department's intention
14 and the reasons therefore.

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

21
22 (c) Upon completion of a hearing, the Director shall make a written determination
23 concerning the violation and whether a suspension or revocation is to be imposed.

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§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.

(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.

§4510. Effective Date. These rules and regulations shall become effective immediately after ninety (90) calendar days have elapsed from the date of filing with the Legislative Secretary, pursuant to Title 5 GCA, Chapter 9, Article 3, unless the Legislature takes other action within the ninety-day period. At that time, all other rules and regulations or parts of other rules and regulations that conflict with these rules and regulations are repealed.

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1 **§4511. Separability.** 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
3 of these rules and regulations.”

COST ANALYSIS FOR THE ISSUANCE AND ENFORCEMENT OF SANITARY PERMIT BY THE DIVISION OF ENVIRONMENTAL HEALTH, DPHSS (4 Inspections/Yr.)

FUNCTION	ACTIVITY and (Time)	Total Time to Perform (Hr.)	Labor Cost
One Stop Operation	Provide guidance and consultation to applicants (0.25 Hr)	2.25	\$56.83
	Review application and supporting documents; Review construction plans; Perform administrative tasks (0.5 Hr.)		
	Conduct pre-operational inspection of facility (1.5 Hr)		
Administrative Processing	Record, transfer, and file applications (1 min = 0.017 Hr)	0.134	\$2.71
	Review applications for completeness; Input information into database; and Transmit applications for approval. File inspection reports in respective folder (5 min = 0.083 Hr)		
	Review applications for completeness; weekly database maintenance; troubleshooting of computer program problems (1 min = 0.017 Hr)		
	Provide final review and approval of applications (1 min = 0.017 Hr)		
Fee Processing	Accept payment and issue permit (1.5 min = 0.025 Hr)	0.025	\$0.29
Compliance Inspection	Sanitation: Review inspection and investigation reports; Provide supervisory directions and guidance; Conduct complex inspections and investigations (0.5 Hr)	9.95	\$208.16
	Commodity: Review inspection and investigation reports; Provide supervisory directions and guidance; Conduct complex inspections and investigations (0.25 Hr)		
	Perform FOUR sanitation inspections for compliance and education, inspect food commodities, and investigate complaints and disease outbreaks (2.3 Hr x 4 = 9.2 Hrs.)		
Subtotal =			\$267.99

SITE	SUPPLIES AND MATERIALS	QTY.	UNIT PRICE	COST
DEH	File folder	1	\$1.12	\$1.12
	Binder clip	1	\$0.06	\$0.06
	Pre-operational inspection report	1	\$0.10	\$0.10
	Smoking Policy form	1	\$0.10	\$0.10
	Equipment Specification form	1	\$0.10	\$0.10
	Sanitary Permit	1	\$0.11	\$0.11
	Sanitation Inspection form	1	\$0.10	\$0.10
	Grade Placard	1	\$0.15	\$0.15
Field	Gas @ \$0.30/mi (1 round-trip inspection)	30 mi	\$0.30/mi	\$9.00
Subtotal =				\$10.84

Water and Power	Subtotal =	\$0.11
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DMR Contract for the PH-Pro Software	Subtotal =	\$12
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GRAND TOTAL =	\$291
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**SALARIES AND BENEFITS OF THE STAFF OF THE DIVISION OF ENVIRONMENTAL HEALTH, DPSS
PARTICIPATING IN THE ISSUANCE AND ENFORCEMENT OF SANITARY PERMITS (4 Inspections/Yr.)**

Printed: 4/18/2011 (4:49 PM)

FUNCTION	ACTIVITY	Position Title (Staff Initial)	Annual Salary with Benefits	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	
				Hourly Pay ((A)/26)/80	*S/L, A/L, and Holiday Benefits per Year (B)x(13+10) or (B)x(19.5+10)	Revised Annual Salary (A)+(C)	Revised Hourly Pay ((D)/26)/80	Approx. Total Hours Worked per Week by Staff to perform Activity	Total Hours by Function Sum of (F)	Work Allocation for Processing Permits (F)/(G)	Cost Allocation per Hour per Staff (E)x(H)	Total Cost per Hour Sum (I)	Time to Process S/P (Hr.)	Labor Cost to Issue S/P (J)x(K)		
One-Stop Operation	Provide guidance and consultation to applicants; Review application and supporting documents; Review of construction plans; Conduct pre-operational inspection of facilities; Perform administrative tasks (filing, follow-up calls, creating folders, etc.). (135 min/app = 2.25 hr/app)	Engineer I (JD)	\$48,251	\$23.20	\$684	\$48,935	\$23.53	40	50	80%	\$18.82	\$25.26	2.25	\$56.83		
		EHS III (MB)	\$65,991	\$31.73	\$936	\$66,927	\$32.18	10							20%	\$6.44
Admin. Processing	Record, transfer, and file applications (1 min)	WP Secretary II (TB)	\$47,469	\$22.82	\$673	\$48,142	\$23.15	1	41.5	2.4%	\$0.56	\$20.20	0.134	\$2.71		
	Review applications for completeness; input information into database; and Transmit applications for approval (5 min)	Customer Serv. Rep (TM)	\$37,898	\$18.22	\$419	\$38,317	\$18.42	37.5							90.4%	\$16.65
	Review applications for completeness; weekly database maintenance; troubleshooting of computer program problems	Planner IV	\$89,300	\$42.93	\$1,267	\$90,567	\$43.54	2							4.8%	\$2.10
	Provide final review and approval of applications (1 min)	EHS Administrator (TN)	\$76,115	\$36.59	\$1,080	\$77,195	\$37.11	1							2.4%	\$0.89
Compliance Inspection	Review inspection and investigation reports; Provide supervisory directions and guidance; Conduct complex inspections and investigations (0.5 hr)	EHS Supervisor (RC)	\$81,582	\$29.61	\$873	\$82,455	\$30.03	15	119	12.6%	\$3.78	\$20.92	9.95	\$208.16		
	Perform sanitation inspections for compliance and education, and investigate complaints and disease outbreaks (2.3 hr)	EHS Supervisor (RC)	\$81,582	\$29.61	\$873	\$82,455	\$30.03	8							6.7%	\$2.02
		EHS II (DM)	\$39,604	\$19.18	\$441	\$40,345	\$19.40	24							20.2%	\$3.91
		EHS I (AR)	\$38,374	\$18.45	\$424	\$38,798	\$18.65	24							20.2%	\$3.78
		EHS I (EL)	\$37,556	\$18.06	\$415	\$37,971	\$18.28	24							20.2%	\$3.68
		EHS I (RB)	\$38,374	\$18.45	\$424	\$38,798	\$18.65	24							20.2%	\$3.78
Fee Processing	Accepts payments and prints out Sanitary Permit (1.5 min)	Cashier (Janine P)	\$69,340	\$33.34	\$963	\$70,323	\$33.81	0.04	1.43	2.80%	\$0.95	\$11.76	0.025	\$0.29		
		Cashier (Esther LG)	\$54,072	\$26.00	\$767	\$54,839	\$26.36	0.04							2.80%	\$0.74
		Cashier (Lisa Cruz)	\$21,893	\$10.53	\$311	\$22,204	\$10.67	1.35							94.41%	\$10.08
Labor Cost to Issue and Enforce Sanitary Permit = \$267.99																

*Employees accrue a total of 104 hours (13 days) of Sick Leave (SL) and 104 hours (13 days) of Annual Leave (AL) per annum in their first 4 years of employment, then additional 52 hours (6.5 days) of AL starting their fifth year of employment. There are ten (10) official Government of Guam paid holidays.

Title 5 Guam Code Annotated, Chapter 9, Article 3
 ECONOMIC IMPACT STATEMENT
 SANITARY PERMIT FEE INCREASE

REGULAR
 \$135.00 → \$290
 EXPEDITED
 \$50.00 → \$75 (one-day)
 (incl. TFE)
 PRIORITY FEE
 \$100 → \$150
 Pre-op fee
 25/hr → 50

SUMMARY

The Department of Public Health and Social Services (DPHSS) is proposing to revise the existing fee schedule for the issuance of Sanitary Permit to those establishments regulated by the department. The fee increase will have a direct financial impact of less than \$500,000 to the ~3,000 permitted facilities. Therefore, this proposal may qualify for exemption from the economic impact statement, as provided in Section 9301(i) of Title 5 GCA Chapter 9. However, because the implementation of the proposed fee increase may have an overall financial impact that may exceed \$500,000, an economic impact statement was prepared by DPHSS, pursuant to Article 3 of Title 5 GCA Chapter 9, using available data.

If the proposal is adopted and implemented:

- The existing base fee of \$135.00 for establishments with 1-10 employees will be increased to \$290. The \$5.00 fee for every employee after 10 will remain the same; however, existing cap of \$600.00 will be removed.
- Expedited, one-day processing of completed Sanitary Permit application fee will be raised from \$50.00 to \$75.00. The \$75.00 fee will now be inclusive of those applicants of Temporary Food Service Establishment who submit their applications one day or less prior to the event.
- Priority scheduling of pre-operation inspection will no longer be \$100.00 but \$150.00.
- Follow-up pre-operation inspection rate will be increasing from \$25.00 per hour to \$50.00 per hour.

DPHSS issues an average of 3,000 Sanitary Permits annually. In FY 2009, 3,087 permits were issued to various businesses for the following categories: Eating and Drinking Establishment, Food Establishment, Institutional Facility, Hotel/Motel, Public Swimming Pool, Mortuary, Cosmetic Establishment, and Laundry/Dry Cleaner. The figure includes temporary food service establishments.

The existing fee schedule generated \$418,690 in FY 2009. The implementation of the proposed increase is expected to have a direct monetary impact of additional \$431,690 to the regulated facilities. Thus, summing the revenue from existing fee schedule with the proposed fee increase would result in the combined direct, monetary impact of \$850,380 to the 3,087 health-regulated establishments. Depending on the number of employee(s) employed, each permitted establishment will be assessed an additional \$155 to \$1,800 per year with the new fee schedule. Over 99% of all currently permitted establishments have 103 or fewer employees, thus these facilities will be assessed the minimum increase amount of \$155. The remaining 19 permitted facilities (<1%) will incur more than the minimum fee increase that will range from \$160 to \$1,800.

Increase (add'l revenue)

Sanitary
 3

FIELD (CCP)
 EHS - 1st 1 = 6 (+1)
 2nd 1 = 1 (+1)
 3rd 1 = 1

Total FTE = 20 (+ 3 CCP) → 23
 20 FTE + 3 CCP = 23

The financial cost to the public would be minimal, if at all. The affected establishments would likely absorb the fee increase rather than transmitting the cost down to the consumers. If an establishment chooses to recover the exact \$155 increase by passing down the cost to its consumers, it would be necessary for the business to assess its service or goods so that \$12.92 is recouped monthly, or 42¢ a day.

The cost of living and employment are not expected to be impacted adversely by the fee increase, nor conducting business on island. On the other hand, DPHSS suspects the implementation of the fee increase will have a beneficial impact to the economy as the department anticipates reduction in food-borne disease incidents as more food inspections will be conducted through the recruitment of additional personnel. The funding for additional personnel will derive from the proposed fee increase that will be deposited into the Environmental Health Fund, which was established for the sole use by the division that conducts sanitation inspections.

Preventing the hospitalization of even a single case of salmonellosis, a type of food-borne illness, has been estimated to save \$536 to \$11,072 in treatment costs. For hospitalization that results in the death from the same disease, the treatment cost will have a staggering financial cost of \$5,633,181. Costs for other food-borne diseases are nearly the same. Thus, preventing a single death from food-borne illness will have significant cost benefit to the economy.

I. Purpose and Need

The lawful operation of certain businesses requires the acquisition of a Sanitary Permit from the Department of Public Health and Social Services (DPHSS) pursuant to Title 10 GCA Chapter 21. The issuance of a Sanitary Permit enables DPHSS to regulate the affected establishments to ensure these facilities are sanitary and operate in such manner to prevent the transmission of communicable disease to the public. By obtaining the Sanitary Permit, the businesses are authorizing the access and inspection of its facilities by DPHSS. The inspections are conducted by the Division of Environmental Health of DPHSS. The Division of Environmental Health (DEH) performs such sanitation inspections to confirm the compliance of laws and adopted rules and regulations and to investigate suspected violations. Section 21104 of Chapter 21, Title 10 GCA empowers DPHSS to conduct inspections as often as deemed necessary and at least one every three months.

The establishments requiring a Sanitary Permit are Eating and Drinking Establishment (ex: restaurants, bars, stall stands), Food Establishment (ex: food manufacturers, grocery stores, delicatessens), Institutional Facility (ex: school buildings, childcare facilities), Hotel and Temporary Workforce Housing (includes motels and student dormitories), Cosmetic Establishment (ex: massage establishments, beauty shops), Laundry and/or Dry Cleaner (includes coin-operated machines), Public Swimming Pool (includes pools in condominiums and apartments), and Mortuary. All Sanitary Permits are renewed annually on June 30th.

All fees collected pursuant to laws or rules and regulations enforced by the Division of Environmental Health (DEH) of DPHSS are deposited in the Environmental Health Fund as

mandated by §20199 of Chapter 21, Title 10 GCA. In addition to Sanitary Permit fees, monies collected from the issuance of Health Certificates and vessel sanitation certificates are also deposited into the Environmental Health Fund. The revenue from the Sanitary Permit fee makes up nearly 65% of the entire EH Fund. The monies in the Environmental Health Fund (EH Fund) are legislatively appropriated to DEH for the sole support of the operation of the division. For FY 2010, the EH Fund provides approximately half (\$673,718) of all funding of the Division of Environmental Health, with the remaining half deriving from the General Fund (\$588,026). The EH Fund supports 12 of 23 funded positions in DEH.

The existing fee schedule for Sanitary Permit was established in Fiscal Year 2005 and implemented in the beginning of Fiscal Year 2006. The fee schedule was established to recoup the cost incurred by the Department in the issuance of the permit for that time period based on the salaries of applicable employees, time spent by these employees, cost of materials and supplies utilized, and the adverse impact sustained in the operation of the division for issuing permits for applicants requesting expedited services. The proposed fee increase reflects the current cost to issue the same permit in 2010.

II. Financial Impact

The existing base fee of \$135.00 for regulated establishments with 1 to 10 employees will be increased to the amount of \$290.00; an increase of \$155.00. A fee of \$5.00 for every employee thereafter will remain the same; however, there will be no cap to the maximum amount an establishment may be assessed. Furthermore, the cost for expedited processing of the Sanitary Permit application, in addition to the base fee, will be raised from the current fee of \$50.00 to the new fee of \$75.00. The same will be assessed for applicants of temporary food service establishments that submit their applications one day or less prior to the event. An establishment requiring a follow-up pre-operation inspection will be assessed \$50.00 per hour instead of the current \$25.00 an hour. Priority scheduling of any pre-operation inspection will no longer be \$100.00 but \$150.00.

The significant increase is attributed to the inclusion of the calculated cost to conduct four yearly sanitation inspections of these regulated establishments as required by Title 10 GCA, Chapter 21, §21104. The existing fee schedule did not incorporate such mandated inspections.

In assessing the direct financial impact the proposed increase will have on the affected establishments, FY 2009 data was utilized. The total cost to all regulated establishments would be approximately \$850,380 if the proposal is adopted. The figure is based on the following:

- In Fiscal Year 2009, DPHSS generated \$418,690 from the issuance of renewal Sanitary Permits. The cost of each individual establishment's permit was determined by the number of employees in each establishment.
- A listing of each Sanitary Permit renewal issued during FY 2009 and new Sanitary Permits issued during FY 2010, up to February 5, 2010, was generated (**Attachment 1**).

- The proposed fee was applied to each permitted establishment on this list, based on the number of employees listed on the applications of the permitted establishments. The implementation of the proposal was thus calculated to be \$431,690 in additional fee.

The cost to each permitted establishment with 1 to 10 employees is an additional \$155 per year to the existing base fee of \$135. Of the 3,133 establishments on the list generated above, including temporary food service establishments, 3,114 had 10 or fewer employees. Therefore, 99.4% of affected establishments would be assessed the minimum fee increase of \$155 for a total of \$290 annually. The remaining 19 establishments with more than 10 employees, which comprised less than 1% of the total, would be assessed an additional cost of \$160 to \$1,800 per year depending of the actual number of employees.

The financial impact to the public from the proposed fee increase can occur if the affected establishments decide to pass on the fee increase to the consumers by raising the cost of the services or goods they provide. The department suspects this may not occur; the establishments would likely absorb the cost of the increase. An establishment's attempt to recoup the cost of the \$155 annual increase, when distributed over the entire year, would equate to \$12.92 a month, or 42¢ a day. When this amount is distributed among all the establishment's customers, it would be even much less per customer. The impact could be significant if the increase was applied to Temporary Food Service Establishments (TFSE) since these businesses operate for a period of less than 4 days; however, such increase to TFSE is not included in the proposal. In the most extreme situation, the fee increase could possibly force few establishments to not renew its permit and operate unlawfully, or cease its business altogether. However, such scenario would likely apply to only those businesses already enduring financial difficulties with our without the fee increase.

The most significant impact to the public is the likely decrease in the incidences of food-borne illness, which should subsequently (1) reduce costs expended by the community in the treatment of food diseases; (2) increase work production and wages from decrease of absenteeism that results from food disease; and (3) decrease the pain and suffering attributed to the illness. This will occur as DEH will be able to conduct more compliance inspections of retail food establishments and food manufacturers, better regulate imported food commodities, and conduct more food safety education. The increase in such activities would arise from the recruitment of more personnel with the ensuing increase of the fee that will be deposited into the EH Fund.

Six entry-level Environmental Health Specialists (EHS) can be recruited utilizing half of the anticipated, additional revenue generated from the fee increase:

- 50% of anticipated revenue from fee increase = $\$431,690 \div 2 = \$215,845$
- Salary to recruit 1 entry-level Environmental Health Specialist = \$36,100
- Number of EHS recruitment = $\$215,845 \div \$36,100 = 5.97 \approx 6$

If half of all inspections by the 6 newly recruited EHS are focused on food-related establishments, then additional 2,625 sanitation inspections can be conducted a year:

- Average number of inspections conducted per day per inspector = 3.5
- Number of GovGuam work days per year = 250

- Total number of sanitation inspections per year per inspector = $3.5 \times 250 = 875$
- Total number of annual inspections by 6 inspectors = $875 \times 6 = 5,250$
- Total number of food inspections by 6 inspectors per year = $5,250 \div 2 = \mathbf{2,625}$

The number of inspections can be doubled to 5,250 if the EHS are to conduct sanitation inspections full-time or if the entire amount of the fee increase is utilized for recruitment. Assuming the latter, and all 12 EHS conduct sanitation inspections full-time, the inspection number can be as much as 10,500 a year.

According to the U.S. Centers for Disease Control and Prevention (CDC), it is estimated that there are 76 million cases of food-borne disease in the U.S. annually, with over 325,000 hospitalizations and about 5,000 deaths (Mead et al., 2000). In the 1996 report by Buzby et al., the cost of human illness, through food consumption, caused by six bacterial pathogens found in animal products was estimated to be \$2.9 billion - \$6.7 billion annually. For Guam, the University of Guam estimated that the annual impact of food-borne illness on island to be approximately 39,000 incidences, 3 deaths, and 167 hospitalizations, with an economic cost of \$5.1 to \$42.6 million dollars (Yang, 2010).

The Economic Research Service (ERS) of the U.S. Department of Agriculture has estimated the economic cost of five significant food pathogens in the U.S. based on assumptions of disease incidence, outcome of severity, and the level of medical, productivity, and disutility costs. One pathogen in particular, *Salmonella*, which is estimated by CDC to cause nearly 1.4 million illnesses a year in the U.S., has been determined by ERS to cost approximately \$536 and \$11,072 per case for physician visits and hospitalization, respectively. Hospital visits that ultimately result in death would cost a staggering \$5,633,181 per case.

From the period of 2000-2009, there have been 90 food-borne illness outbreaks reported on Guam (DPHSS, 2010). These outbreaks, involving multiple individuals per event, were cases that were documented as result of medical treatments they had received; it did not include cases which were not seen by local clinic or hospital and thus never reported. It is not uncommon for food-borne illnesses to have gone unreported if the symptoms were not severe enough for the afflicted individuals to seek medical treatment. Therefore, the figure provided above is believed to be significantly less than the actual number of cases on island.

In one of the largest food-borne illness outbreaks documented on Guam, over 100 elementary school students became ill at a local school in 2006. The investigation alone cost DEH several hundred man-hours of work and the loss of 1-2 instructional days for over 200 students. The school cafeteria, regulated by DEH, which served lunch at the school, was implicated as the source of the outbreak.

Although increasing food inspections does not guarantee the prevention of salmonellosis, or any other food-borne illness, it can enable DEH to more readily inspect facilities or food items that can potentially cause serious food-borne disease. The 2,625 additional food inspections that can possibly be performed by DEH with additional 6 personnel funded by the proposed fee increase will more than double the current output of the division. In addition to the positive financial impact the fee increase could have to the public by

potentially reducing medical costs and increasing productivity from decreased absenteeism, the emotional toll of a food-borne illness can be minimized as well.

III. Potential Increase or Decrease to Cost of Living or Price of good or service

The direct cost to the majority of individual businesses will be an additional \$155 a year, or \$12.92 a month, if the proposal is adopted. It is unlikely the fee increase will be passed down to the employees, or customers as noted above. Businesses with larger number of employees will incur greater cost than those with fewer numbers of employees. However, such cost is equitably distributed since number of employees at a business should be directly proportional to the revenues generated.

Any reduction in the cost of living that may result because of the fee increase could be attributed to the decrease in the incidences of food-borne illness, or other diseases, caused by increased compliance inspections of regulated facilities. However, the confirmation of such consideration may require more thorough analysis.

IV. Direct or Indirect Impact of Employment

The fee increase is nominal when considering the dollar amount covering a 12 month period, which should not adversely impact the employment of staff of various impacted establishments.

Additional revenue collected from the fee increase for the issuance of Sanitary Permit will be deposited into the Environmental Health Fund, which was established for the use and access by the Division of Environmental (DEH) of the Department of Public Health and Social Services. DEH conducts sanitation inspections of these facilities obtaining Sanitary Permits. Therefore, it is expected that there would be additional staff to DEH as a result of staff recruitment utilizing the increased revenue generated from the fee increase.

V. Increase or decrease in cost of business

Any increase in cost of business of those facilities directly impacted by the fee increase should be minimal, if at all.

VI. Adverse or beneficial economic impact

The increase of fees for the issuance of Sanitary Permit should have beneficial impact to the economy and the population of Guam from the anticipated reduction in the number of foodborne illness incidents on the island. Based on existing national figure and calculation model, the cost of treating food-borne illness can be enormous. Preventing even a single hospitalization from the disease will be significant. The Division of Environmental Health hopes to have a beneficial economic impact with the fee increase so that it may prevent injuries, diseases, disabilities, and deaths through implementation of governing laws and providing education to empower the public from protecting themselves from environmental hazards.

REFERENCE

Buzby, J.C., T. Roberts, C.T. J. Lin, and J.M. MacDonald. *Bacterial Foodborne Disease: Medical Costs and Productivity Losses*. Agricultural Economics Report No. (AER741) 100 pp, August 1996.

Haddock, R. 2010. *Recorded outbreaks of Foodborne Illness, 2000-2009*. DPHSS Office of Epidemiology and Research, Government of Guam.

Mead, P.S., L. Slutsker, V. Dietz, L.F. McCaig, J.S. Bresee, C. Shapiro, P.M. Griffin, and R.V. Tauxe. 2000. *Food-Related Illness and Death in the United States*. Centers for Disease Control and Prevention, Atlanta, Georgia, USA.

Yang, J. 2010. Written testimony submitted for public hearing held on Feb. 11, 2010 in support of Bill 272.

Foodborne Illness Cost Calculator. U.S. Department of Agriculture, Economic Research Service <http://www.ers.usda.gov/data/foodborneillness>.



COMMITTEE ON RULES

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CHAIRPERSON
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Senator
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VICE CHAIRPERSON
ASST. MAJORITY LEADER

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Senator
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Senator
vicente c. pangelinan

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Senator
Aline A. Yamashita
ASST. MINORITY LEADER

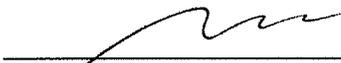
Senator
Christopher M. Duenas

Certification of Waiver of Fiscal Note Requirement

This is to certify that the Committee on Rules submitted to the Bureau of Budget and Management Research (BBMR) a request for a fiscal note, or applicable waiver, on **Bill No. 137-31 (LS) – “AN ACT TO ESTABLISH THE ADMINISTRATIVE RULES AND REGULATIONS OF THE DEPARTMENT OF PUBLIC HEALTH& SOCIAL SERVICES RELATIVE TO THE ISSUANCE OF SANITARY PERMITS, UNDER ARTICLE 5 OF CHAPTER 4, DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS.”** – on April 5, 2011. COR hereby certifies that BBMR confirmed receipt of this request on April 5, 2011.

COR further certifies that a response to this request was not received by 5:00 P.M. on April 25, 2011, the fourteenth day after the request was received by BBMR. **Therefore, pursuant to 2 GCA §9105, the requirement for a fiscal note, or waiver thereof, on Bill 487 to be included in the committee report on said bill, is hereby waived.**

Certified by:



Senator Rory J. Respicio
Chairperson, Committee on Rules

5/2/11

Date



COMMITTEE ON RULES

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Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

April 5, 2011

VIA FACSIMILE
(671) 472-2825

Ms. Benita Manglona
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Note -
Bill Nos. 132-31 (LS) through 138-31 (LS)

Hafa Adai Ms. Manglona:

Transmitted herewith is a listing of *I Mina'trentai Unu na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Rory J. Respicio

Attachments

Cc: Clerk of the Legislature

2011 APR - 6 AM 8:55

(Handwritten initials)

MESSAGE CONFIRMATION

APR-05-2011 04:59 PM TUE

FAX NUMBER : 4772240
NAME : GNF

NAME/NUMBER : 4722825
PAGE : 8
START TIME : APR-05-2011 04:57PM TUE
ELAPSED TIME : 01' 18"
MODE : STD ECM
RESULTS : [O. K.]



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Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

April 5, 2011

Senator
Judith P. Guthertz
VICE CHAIRPERSON
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VIA FACSIMILE
(671) 472-2825

MAJORITY MEMBERS:

Speaker
Judith T. Won Pat

Ms. Benita Manglona
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

Vice Speaker
Benjamin J. F. Cruz

RE: Request for Fiscal Note -
Bill Nos. 132-31 (LS) through 138-31 (LS)

Senator
Tina Rose Muña Barnes
LEGISLATIVE SECRETARY
MAJORITY WHIP

Hafa Adai Ms. Manglona:

Senator
Dennis G. Rodriguez, Jr.
ASST. MAJORITY WHIP

Transmitted herewith is a listing of *I Mina'trentai Unu na Libeslaturan Guahan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Senator
Thomas C. Ada

Si Yu'os ma'ise' for your attention to this matter.

Senator
Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

Very Truly Yours.

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Rory J. Respicio

Senator
Christopher M. Ducnas

Attachments
Cc: Clerk of the Legislature

Rec'd by: Jackie
date: 4-6-11
time: 8:51 am



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APR 5 5:04 PM
KLU

Senator
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ASST. MAJORITY LEADER

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MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

April 5, 2011

MEMORANDUM

To: Pat Santos
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio
Chairperson, Committee on Rules

Subject: Referral of Bill Nos. 132-31 (LS) through 138-31 (LS)

As Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 132-31 (LS) through 138-31 (LS).

Please ensure that the subject bills are referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all Senators of *I Mina'trentai Unu na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os ma'åse!

(7) Attachments

I Mina'Trentai Unu Na Liheslaturan Guåhan

Bill Log Sheet

April 04 2011

Page 1 of 1

Bill No.	Sponsor(s)	Title	Date Introduced	Date Referred	120 Day Deadline	Committee Referred	Public Hearing Date	Date Committee Report Filed	Status (Date) Passed? Failed? Vetoed? Overridden? Public Law?
137-31 (LS)	D. G. Rodriguez, Jr., Thomas C. Ada.	AN ACT TO ESTABLISH THE ADMINISTRATIVE RULES AND REGULATIONS OF THE DEPARTMENT OF PUBLIC HEALTH& SOCIAL SERVICES RELATIVE TO THE ISSUANCE OF SANITARY PERMITS, UNDER ARTICLE 5 OF CHAPTER 4, DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS.	04/04/11 1:47 p.m.	4/5/11		Committee on Health & Human Services Senior Citizens, Economic Development and Election Reform			



SENATOR DENNIS G. RODRIGUEZ, JR.

TO: ALL SENATORS

FROM: SENATOR DENNIS G. RODRIGUEZ, JR. CHAIRPERSON

SUBJECT: FIRST NOTICE OF CONFIRMATION HEARING

FIRST NOTICE OF PUBLIC HEARING
Friday, April 22, 2011 1:00PM-5:00PM

In accordance with the Open Government Law, Public Law 24-109, relative to notice for Public Meetings. Please be advised that the Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform will be conducting Confirmations as well as a Public Hearing on, April 22, 2011, at *I Liheslaturan Guåhån's* Public Hearing Room in Hagåtña, on the following:

1:00PM

- **Bill 132-31 (COR)- An act to repeal §58128.7 of Title 12 Guam Code Annotated, relative to assistance in military outsourcing and downsizing. (V.C.Pangelinan)**
- **Bill 137-31 (COR)- An act to establish the Administrative Rules and Regulations of the Department of Public Health & Social Services relative to the issuance of sanitary permits, under Article 5 of Chapter 4, Division 1, Title 26, Guam Administrative Rules and Regulations. (D.G. Rodriguez, Jr.)**
- **The Executive Appointment of James W. Gillan to be the Director of the Department of Public Health and Social Services**
- **The Executive Appointment of Wilfred G. Aflague to be the Director of the Department of Mental Health and Substance Abuse**
- **The Executive Appointment of Christine M. Rosario to serve as a member on the Council for Mental Health and Substance Abuse**
- **The Executive Appointment of Michael T. Limtiaco to serve as a member of the Guam Memorial Hospital Board of Trustees**
- **The Executive Appointment of Dr. Ricardo M. Terlaje to serve as a member of the Guam Memorial Hospital Board of Trustees**

Testimony should be addressed to Senator Dennis Rodriguez, Jr., Chairman, and may be submitted via- hand delivery to our office at 176 Serenu Avenue Suite 107 Tamuning, Guam 96931 or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96910, or via email to senatordrodriguez@gmail.com.

We comply with Title II of the Americans with Disabilities Act (ADA). Individuals who require an auxiliary aid or service (i.e. qualified sign language interpreters, documents in Braille, large print, etc.) for effective communication, or a modification of policies or procedures to participate in a program service, or activity of Senator Dennis Rodriguez, Jr. should contact Clifton Herbert at 649-8638 (TODU) as soon as possible but no later than 48 hours before this scheduled event. We look forward to your attendance and participation.

For further information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638 (TODU)

###

Chairman,
Committee on
Health & Human
Services,
Senior Citizens,
Economic
Development,
& Election Reform

Member,
Committee on
Public Safety, Law
Enforcement,
& Judiciary

Member,
Committee on
Youth, Cultural Affairs,
Procurement, General
Government
Operations, & Public
Broadcasting

Member,
Committee on
Municipal Affairs,
Tourism,
Housing & Recreation

Member,
Committee on Rules,
Federal, Foreign &
Micronesia
Affairs, & Human &
Natural Resources

Member,
Committee on the
Guam Military Buildup
& Homeland Security

Member,
Committee on
Appropriations,
Taxation,
Public Debt, Banking,
Insurance,
Retirement, & Land

Member,
Committee on Utilities,
Transportation, Public
Works,
& Veterans Affairs

Assistant Majority Whip

Ufisinan Todu Guam • 31st Guam Legislature

176 Serenu Avenue, Suite 107, Tamuning, Guam 96931 / Telephone: 671-649-TODU (8638) / Facsimile: 671-649-0520
E-mail: senatordrodriguez@gmail.com



Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

All Senators 1st Notice of Public Hearing Apr. 22, 2011

2 messages

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Thu, Apr 14, 2011 at 9:15 PM

To: "Adolpho B. Palacios" <senabpalacios@gmail.com>, Aline Yamashita <aliney74@gmail.com>, Ben Pangelinan <senbenp@guam.net>, Benjamin JF Cruz <senadotbjcruz@gmail.com>, Chris Duenas <duenasenator@gmail.com>, "Dr. Sam Mabini" <senatorsam@senatormabini.com>, "Frank Blas Jr." <frank.blasjr@gmail.com>, Judi Guthertz <judiguthertz@pticom.com>, Judi Won Pat <info@judiwonpat.com>, Mana Silva Taijeron <manasilva@hotmail.com>, "Rory J. Respicio" <roryforguam@gmail.com>, Tina Muna Barnes <tinamunabarnes@gmail.com>, Tom Ada <tom@senatorada.org>, Tony Ada <senatorTonyada@guamlegislature.org>

Cc: vparriola@teleguam.net, mis@guamlegislature.org, "Patti C. Santos" <psantos@guamlegislature.org>, sgtarms@guamlegislature.org, tterlaje@guam.net

Bcc: Joseph Mesngon <jmesngon.senatorrodriguez@gmail.com>

Ufisinan Todu Guam
 SENATOR DENNIS G. RODRIGUEZ, Jr.
 I Mina'trentai Unu Na Liheslaturan Guåhan
 CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
 ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

TO: ALL SENATORS

FROM: SENATOR DENNIS G. RODRIGUEZ, JR.
CHAIRPERSON

SUBJECT: FIRST NOTICE OF CONFIRMATION HEARING

FIRST NOTICE OF PUBLIC HEARING
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For further information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638 (TODU)

###

Clifton Herbert

176 Serenu Avenue Suite 107 Tamuning, Guam 96931

Telephone: 671.649.8638

Email: Cherbert.senatordrodriguez@gmail.com

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 Senators 1st Notice Public Hearing Apr 22, 2011.pdf
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MAILER-DAEMON@bekko.teleguam.net <MAILER-DAEMON@bekko.teleguam.net>

Thu, Apr 14, 2011 at 9:16 PM



Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Press Release Public Hearing Apr 22, 2011

1 message

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Thu, Apr 14, 2011 at
9:04 PM

To: action@weareguahan.com, admin@weareguahan.com, chrisu@marianasmedia.com, clynt@spbguam.com, dcristostomo@guampdn.com, dmgeorge@guampdn.com, dtamondong@guampdn.com, gdumat-ol@guampdn.com, gerry@mvguam.com, hottips@kuam.com, jason@kuam.com, john@kuam.com, jtyquiengco@spbguam.com, marvic@mvguam.com, mindy@kuam.com, mpieper@guampdn.com, mvariety@pticom.com, news@spbguam.com, nick.delgado@kuam.com, parroyo@k57.com, reporter3@glimpsesofguam.com, rgibson@k57.com, ricknauta@hitradio100.com, sabrina@kuam.com, slimtiaco@guampdn.com, thebigshow@k57.com, therese.hart.writer@gmail.com, zita@mvguam.com, Bill Phillips <phillipsguam@gmail.com>, Cindy Hanson <cmhanson@guam.net>, Elaine Tajalle <etajalle@guamlegislature.org>, James <officemanager@hitradio100.com>, Jesse Lujan <jesselujan27@yahoo.com>, Joseph Mesngon <jmesngon.senatorrodriguez@gmail.com>, Katrina <life@guampdn.com>, Kevin Kerrigan <kevin@spbguam.com>, Kevin Kerrigan <news@k57.com>, Lannie Walker <lannie@kuam.com>, Laura Matthews <lmatthews@guampdn.com>, Olivia Palacios <oliviampalacios@gmail.com>, Pacific Daily News <news@guampdn.com>, Stephanie Mendiola <sem@guamlegislature.org>, Telo Taitague <telo.taitague@guam.gov>, Tina Okada <tinaokada@gmail.com>, William Gibson <breakfastshowk57@gmail.com>

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Ufisinan Todu Guam
 SENATOR DENNIS G. RODRIGUEZ, Jr.
 I Mina'trentai Unu Na Liheslaturan Guáhan
 CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
 ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

PRESS RELEASE

FIRST NOTICE OF PUBLIC HEARING

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For further information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638 (TODU)

###

Clifton Herbert

176 Serenu Avenue Suite 107 Tamuning, Guam 96931

Telephone: 671.649.8638

Email: Cherbert.senatordrodriguez@gmail.com

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 **First Notice Public Hearing Apr 22, 2011.pdf**
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**Committee on Health and Human Services,
Economic Development, Senior Citizens and
Election Reform**

Hagatna, 132 983101
Phone: (671)649-8638

Committee on Health and Human Services, Economic Development, Senior Citizens and Election Reform: Public hearing 1 to 5 p.m. April 22, Legislature's public hearing room, Hagatna. Bill 132-31, relative to assistance in military outsourcing and downsizing; Bill 137-31 (cor), to establish administrative rules and regulations of Department of Public Health and Social Services relative to issuance of sanitary permits; executive appointments of James W. Gillan to be Director of DPHSS, Wilfred G. Aflague, to be Director of Department of Mental Health and Substance Abuse, Christine M. Rosano to serve as member of Council for Mental Health and Substance Abuse, Michael T. Limtiaco, Dr. Ricardo M. Terlaje to serve as members of Guam Memorial Hospital Board of Trustees. Email testimony to senator@rodriguez@gmail.com. For special accommodations, call 649-8638.



SENATOR DENNIS G. RODRIGUEZ, JR.

April 19, 2011

TO: ALL SENATORS

FROM: SENATOR DENNIS G. RODRIGUEZ, JR. *[Signature]*
CHAIRPERSON

SUBJECT: SECOND NOTICE OF PUBLIC HEARING

SECOND NOTICE OF PUBLIC HEARING
Friday, April 22, 2011 1:00PM-5:00PM

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Chairman,
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Tourism,
Housing & Recreation

Member,
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Federal, Foreign &
Micronesian
Affairs, & Human &
Natural Resources

Member,
Committee on the
Guam Military Buildup
& Homeland Security

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Committee on
Appropriations,
Taxation,
Public Debt, Banking,
Insurance,
Retirement, & Land

Member,
Committee on Utilities,
Transportation, Public
Works,
& Veterans Affairs

Assistant Majority Whip



Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Senators 2nd Notice of Public Hearing April 22, 2011 with Agenda

2 messages

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Tue, Apr 19, 2011 at 1:56 PM

To: "Dennis Rodriguez Jr." <senatorrodriguez@gmail.com>, "Adolpho B. Palacios" <senabpalacios@gmail.com>, Aline Yamashita <aliney74@gmail.com>, Ben Pangelinan <senbenp@guam.net>, Benjamin JF Cruz <senadotbjacruz@gmail.com>, Chris Duenas <duenasenator@gmail.com>, "Dr. Sam Mabini" <senatorsam@senatormabini.com>, "Frank Blas Jr." <frank.blasjr@gmail.com>, Judi Guthertz <judiguthertz@pticom.com>, Judi Won Pat <info@judiwonpat.com>, Mana Silva Taijeron <manasilva@hotmail.com>, "Rory J. Respicio" <roryforguam@gmail.com>, Tina Muna Barnes <tinamunabarnes@gmail.com>, Tom Ada <tom@senatorada.org>, Tony Ada <senatorTonyada@guamlegislature.org>

Cc: Joseph Mesngon <jmesngon.senatorrodriguez@gmail.com>, Angela Leon Guerrero <leonguerrero.angela@gmail.com>, Chelsa Muna-Brecht <chelsa@tinamunabarnes.com>, Cyrus Luhr <cyrus@senatorada.org>, Elaine Tajalle <etajalle@guamlegislature.org>, Frank Torres <fbtorres@judiwonpat.com>, Jason Tedtaotao <jason@senatorpalacios.com>, Joshua Tenorio <joshua.tenorio@senatorbjacruz.com>, Leslie Gatan <leslie.g@senatormabini.com>, Lisa Cipollone <cipo@guamlegislature.org>, "Mary C. Fejeran" <maryfejeran@gmail.com>, Peter J Leon Guerrero <peterlg@gmail.com>, Robert Tupaz <rob.tupaz@gmail.com>, "Tanya M.C. Mendiola" <tanya4families@gmail.com>, "Therese C. Santos" <chechsantos@gmail.com>

—

Ufisinan Todu Guam
 SENATOR DENNIS G. RODRIGUEZ, Jr.
 I Mina'trentai Unu Na Liheslaturan Guåhan
 CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
 ECONOMIC DEVELOPMENT, SENIOR CITIZENS AND ELECTION REFORM

Senators,

Please find attached 2nd Notice of Public Hearing for April 22, 2011. Thanks and have a great day!

Sincerely,

Clifton Herbert

176 Serenu Avenue Suite 107 Tamuning, Guam 96931

Telephone: 671.649.8638

Email: Cherbert.senatorrodriguez@gmail.com

This e-mail may contain data that is confidential, proprietary or non-public personal information, as that term is defined in the Gramm-Leach-Bliley Act (collectively, Confidential Information).

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2 attachments

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 **Public Hearing Agenda April 22,2011.pdf**
390K

noreply@boxbe.com <noreply@boxbe.com>
Reply-To: maryfejeran@gmail.com
To: Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Tue, Apr 19, 2011 at 1:56 PM

Hello Clifton Herbert,

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Thank you,
Mary C. Fejeran

boxbe

Powered by Boxbe -- "End Email Overload"

Final-Recipient: rfc822; maryfejeran@gmail.com
Diagnostic-Code: X-Boxbe-Notice; Sender not pre-approved. Follow instructions in above notice
Status: 4.7.0

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

From: Clifton Herbert <cherbert.senatorrodriguez@gmail.com>
To: "Dennis Rodriguez Jr." <senatorrodriguez@gmail.com>, "Adolpho B. Palacios" <senabpalacios@gmail.com>, Aline Yamashita <aliney74@gmail.com>, Ben Pangelinan <senbenp@guam.net>, Benjamin JF Cruz <senadotbjcruz@gmail.com>, Chris Duenas <duenasenator@gmail.com>, "Dr. Sam Mabini" <senatorsam@senatormabini.com>, "Frank Blas Jr." <frank.blasjr@gmail.com>, Judi Guthertz <judiguthertz@pticom.com>, Judi Won Pat <info@judiwonpat.com>, Mana Silva Taijeron <manasilva@hotmail.com>, "Rory J. Respicio" <roryfor Guam@gmail.com>, Tina Muna Barnes <tinamunabarnes@gmail.com>, Tom Ada <tom@senatorada.org>, Tony Ada <senatortonyada@guamlegislature.org>
Date: Tue, 19 Apr 2011 13:56:09 +1000

Subject: Senators 2nd Notice of Public Hearing April 22, 2011 with Agenda

 **noname**
OK



Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

2nd Notice Public Hearing April 22

1 message

Clifton Herbert <cherbert.senatorrodriguez@gmail.com>

Tue, Apr 19, 2011 at 1:52 PM

To: action@weareguahan.com, admin@weareguahan.com, chrisu@marianasmedia.com, clynt@spbguam.com, dcristostomo@guampdn.com, dmgeorge@guampdn.com, dtamondong@guampdn.com, gdumat-ol@guampdn.com, gerry@mvguam.com, hottips@kuam.com, jason@kuam.com, john@kuam.com, jtyquiengco@spbguam.com, marvic@mvguam.com, mindy@kuam.com, mpieper@guampdn.com, mvariety@pticom.com, news@spbguam.com, nick.delgado@kuam.com, parroyo@k57.com, reporter3@glimpsesofguam.com, rgibson@k57.com, ricknauta@hitradio100.com, sabrina@kuam.com, slimtiaco@guampdn.com, thebigshow@k57.com, therese.hart.writer@gmail.com, zita@mvguam.com, Bill Phillips <phillipsguam@gmail.com>, Cindy Hanson <cmhanson@guam.net>, Elaine Tajalle <etajalle@guamlegislature.org>, James <officemanager@hitradio100.com>, Jesse Lujan <jesselujan27@yahoo.com>, Joseph Mesngon <jmesngon.senatorrodriguez@gmail.com>, Katrina <life@guampdn.com>, Kevin Kerrigan <kevin@spbguam.com>, Kevin Kerrigan <news@k57.com>, Lannie Walker <lannie@kuam.com>, Laura Matthews <lmatthews@guampdn.com>, Olivia Palacios <oliviampalacios@gmail.com>, Pacific Daily News <news@guampdn.com>, Stephanie Mendiola <sem@guamlegislature.org>, Telo Taitague <telo.taitague@guam.gov>, Tina Okada <tinaokada@gmail.com>, William Gibson <breakfastshowk57@gmail.com>

Ufisinan Todu Guam
SENATOR DENNIS G. RODRIGUEZ, Jr.
 I Mina'trentai Unu Na Liheslaturan Guåhan
 CHAIRMAN, COMMITTEE ON HEALTH & HUMAN SERVICES,
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1:00PM

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- **Bill 137-31 (COR)- An act to establish the Administrative Rules and Regulations of the Department of Public Health & Social Services relative to the issuance of sanitary permits, under Article 5 of Chapter 4, Division 1, Title 26, Guam Administrative Rules and Regulations. (D.G. Rodriguez, Jr.)**

- **The Executive Appointment of James W. Gillan to be the Director of the Department of Public Health and Social Services**
- **The Executive Appointment of Wilfred G. Aflague to be the Director of the Department of Mental Health and Substance Abuse**
- **The Executive Appointment of Christine M. Rosario to serve as a member on the Council for Mental Health and Substance Abuse**
- **The Executive Appointment of Michael T. Lintiaco to serve as a member of the Guam Memorial Hospital Board of Trustees**
- **The Executive Appointment of Dr. Ricardo M. Terlaje to serve as a member of the Guam Memorial Hospital Board of Trustees**

Testimony should be addressed to Senator Dennis Rodriguez, Jr., Chairman, and may be submitted via- hand delivery to our office at 176 Serenu Avenue Suite 107 Tamuning, Guam 96931 or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96910, or via email to senatordrodriguez@gmail.com.

We comply with Title II of the Americans with Disabilities Act (ADA). Individuals who require an auxiliary aid or service (i.e. qualified sign language interpreters, documents in Braille, large print, etc.) for effective communication, or a modification of policies or procedures to participate in a program service, or activity of Senator Dennis Rodriguez, Jr. should contact Clifton Herbert at 649-8638 (TODU) as soon as possible but no later than 48 hours before this scheduled event. We look forward to your attendance and participation.

For further information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638 (TODU)

###

Clifton Herbert

176 Serenu Avenue Suite 107 Tamuning, Guam 96931

Telephone: 671.649.8638

Email: Cherbert.senatordrodriguez@gmail.com

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2 attachments

 **Public Hearing 2nd Notice April 22, 2011.pdf**
386K

 **Public Hearing Agenda April 22,2011.pdf**
390K



UPDATE: Health Committee to host confirmation hearings and accept testimonies

8:52 AM. Apr. 19, 2011|

The Committee on Health & Human Services will conduct public hearings and confirmation hearings between 1 p.m. and 5 p.m. April 22 at the Legislature's public hearing room on several bills, agency directors and board appointees.

Lawmakers will hear:

Bill 132, which will repeal a section of the law to assist military outsourcing and downsizing.

Bill 137, which will establish the administrative rules and regulations of the Department of Public Health & Social Services to issue sanitary permits.

There will also be the executive appointment of James W. Gillan as Public Health director.

Additionally, there will be the executive appointment of Wilfred G. Aflagueas director of the Department of Mental Health and Substance Abuse; and Christine M. Rosario to serve as a member on the Council for Mental Health and Substance

Abuse.

There also be the executive appointment of Michael T. Limtiaco and Dr. Ricardo M. Terlaje to serve as members of the Guam Memorial Hospital Board of Trustees.

All testimonies should be addressed to Sen.Dennis Rodriguez Jr., chairman of the committee. Testimonies can be delivered by hand to the senator's office at 176 Serenu Avenue Suite 107 Tamuning, Guam 96931 or placed in his mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96910.

You can also email your testimonies to senatorrodriguez@gmail.com.

People who need an auxiliary aid or service should call Clifton Herbert at 649-8638 as soon as possible but no later than 48 hours before this scheduled event.

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SENATOR DENNIS G. RODRIGUEZ, JR.

PRESS RELEASE
PUBLIC HEARING AGENDA

Friday April 22, 2011

1:00pm- 5:00pm

Public Hearing Room, / Liheslaturan Guåhan, Hagåtña, Guam

Chairman,
Committee on
Health &
Human
Services,
Senior Citizens,
Economic
Development,
& Election
Reform

Member,
Committee on
Public Safety, Law
Enforcement,
& Judiciary

Member,
Committee on
Youth, Cultural
Affairs,
Procurement,
General
Government
Operations, &
Public
Broadcasting

Member,
Committee on
Municipal Affairs,
Tourism,
Housing &
Recreation

Member,
Committee on
Rules,
Federal, Foreign &
Micronesian
Affairs, & Human &
Natural Resources

Member,
Committee on the
Guam Military
Buildup &
Homeland Security

Member,
Committee on
Appropriations,
Taxation,
Public Debt,
Banking, Insurance,
Retirement, & Land

Member,
Committee on
Utilities,
Transportation,
Public Works,
& Veterans Affairs

Assistant Majority
Whip

- I. Call to Order
- II. Announcements
- III. Items for Public Consideration

1:00PM

Public Hearing Agenda
Friday, April 22, 2011 1:00PM-5:00PM

In accordance with the Open Government Law, Public Law 24-109, relative to notice for Public Meetings. Please be advised that the Committee on Health & Human Services, Economic Development, Senior Citizens and Election Reform will be conducting Confirmations as well as a Public Hearing on, April 22, 2011, at / Liheslaturan Guåhan's Public Hearing Room in Hagåtña, on the following:

1:00PM

- **Bill 132-31 (COR)- An act to repeal §58128.7 of Title 12 Guam Code Annotated, relative to assistance in military outsourcing and downsizing. (V.C.Pangelinan)**
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- **The Executive Appointment of Christine M. Rosario to serve as a member on the Council for Mental Health and Substance Abuse**

V. Announcements

VI. Adjournment

Testimony should be addressed to Senator Dennis Rodriguez, Jr., Chairman, and may be submitted via- hand delivery to our office at 176 Serenu Avenue Suite 107 Tamuning, Guam 96931 or our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96910, or via email to senatordrodriguez@gmail.com.

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For further information, please contact the Office of Senator Dennis Rodriguez, Jr. at 649-8638 (TODU)

Ufisinan Todu Guam • 31st Guam Legislature

176 Serenu Avenue, Suite 107, Tamuning, Guam 96931 / Telephone: 671-649-TODU (8638) / Facsimile: 671-649-0520

E-mail: senatordrodriguez@gmail.com

MINA TRENTAI UNU NA LIHESLATURAN GUAHAN

2011 (FIRST) Regular Session

Bill No. 137-31(LS)

Introduced by:

D. G. RODRIGUEZ, JR.
THOMAS C. ADA

2011 APR -11 PM 1:47
D.G.R.

**AN ACT TO ESTABLISH THE ADMINISTRATIVE
RULES AND REGULATIONS OF THE DEPARTMENT
OF PUBLIC HEALTH & SOCIAL SERVICES RELATIVE
TO THE ISSUANCE OF SANITARY PERMITS, UNDER
ARTICLE 5 OF CHAPTER 4, DIVISION 1, TITLE 26,
GUAM ADMINISTRATIVE RULES AND REGULATIONS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guahan* finds that the proposed administrative rules and regulations pursuant to this Act for the issuance of sanitary permits, as provided pursuant to §20105 and §21102 of Chapter 20, Division 2, Part 1, Title 10, Guam Code Annotated (GC §9500.2), and as further provided pursuant to §26308 of Chapter 26A, Division 2, Title 10, Guam Code Annotated (P.L. 30-64), which authorizes the Director of the Department of Public Health and Social Services to promulgate rules and regulations necessary to carry out the provisions of the law governing the sanitary operations of health-regulated establishments, is appropriate and necessary.

1 Further, *I Liheslaturan Guahan* takes due note that the Department of Public
2 Health & Social Services, in the development of the proposed guidelines addressed
3 herein, made a good faith effort to be inclusive of the affected stakeholders in the
4 industry.

5 It is the intent of *I Liheslaturan Guahan* to provide for the initial
6 establishment of the administrative rules and regulations for the issuance of
7 sanitary permits, as provided pursuant to §26308 of Chapter 26A, Division 2, Title
8 10, Guam Code Annotated (P.L. 30-64), and applicable law.

9 Further, so as to insure that the rules adopted pursuant to this Act remain
10 pertinent to and consistent with the needs of the community, it is the intent of *I*
11 *Liheslaturan Guahan* to provide an authorization and mandate for the Department
12 of Public Health & Social Services to regularly review the rules adopted pursuant
13 to this Act, and as appropriate promulgate amendments thereto pursuant to Article
14 3 - Rule Making Procedures, of Chapter 9, Title 5, Guam Code Annotated.

15 **Section 2.** The Rules and Regulations provided pursuant to Article 5 of
16 Chapter 4, Division 1, Title 26, Guam Administrative Rules and Regulations, are
17 hereby repealed in its entirety.

18 **Section 3. Adoption of Rules.** Notwithstanding any other provision of law,
19 rule, regulation and Executive Order, the rules and regulations of the Department
20 of Public Health & Social Services for the Issuance of Sanitary Permits, and
21 attached hereto as Exhibit “A”, to be codified under Article 5 of Chapter 4,
22 Division 1, Title 26, Guam Administrative Rules and Regulations, **is hereby**
23 **adopted** by *I Mina Trentai Unu Na Liheslaturan Guahan*.

24 **Section 4. Amendment of Rules.** The Department of Public Health &

1 Social Services *shall*, at a minimum of every five years, and pursuant to Article 3-
2 Rule Making Procedures, of Chapter 9, Title 5, Guam Code Annotated, review and
3 amend the administrative rules and regulations adopted pursuant to Section 3 of
4 this Act.

5 **Section 5. Effective Date.** The administrative rules and regulations
6 adopted pursuant to Section 2 of this Act shall become effective upon enactment.

1 **Exhibit “A”**

2 **Title 26 Guam Administrative Rules and Regulations**

3 **Chapter 4**

4 **“Article 5**

5 **“RULES AND REGULATIONS GOVERNING THE ISSUANCE OF**
6 **SANITARY PERMIT”**

7 **DIVISION OF ENVIRONMENTAL HEALTH**

8 **DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES**

9 **123 CHALAN KARETA**

10 **MANGILAO, GUAM 96910-6304**

11

1 of the law governing the sanitary operations of health-regulated establishments.

2 **§4503. Title.** These rules and regulations shall also be known and cited as
3 the *Sanitary Permit Rules and Regulations*.

4 **§4504. Definitions.** As used in these rules and regulations:

5 (a) *Chemical Toilet* shall mean a building or structure housing one (1) or
6 more water-tight containers of liquid chemical disinfectants intended to receive
7 and hold human excrement.

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

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

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

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

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

18 (5) manicuring or pedicuring.

19 (c) *Department* shall mean the Department of Public Health and Social
20 Services of the Government of Guam;

21 (d) *Director* shall mean the Director of the Department of Public Health and
22 Social Services, or his designated representative;

23 (e) *Dry cleaning* shall mean any place, building, structure, room, premises,

1 or portions thereof, used in the business of dry cleaning and dyeing of wearing
2 apparel, house-hold linens and other articles, including coin-operated dry cleaning
3 establishments;

4 (f) *Eating and Drinking Establishment* shall mean any food service
5 establishment, mobile food service establishment, or vending machine;

6 (g) *Edible Garbage Feeding Establishment* shall mean swill or leavings of
7 food or any abandoned, spoiled, condemned meat, fish, fowl, vegetable matter or
8 offal from slaughtered animals, liquid or solid, which is free of toxic, or deleterious
9 substances, and is deemed by the Director as being suitable for use solely as animal
10 feed;

11 (h) *Employee* shall mean any individual, including the owner, operator,
12 manager or other person performing any function in a health-regulated
13 establishment, whether for compensation or otherwise;

14 (i) *Food Establishment* shall mean and includes every establishment or
15 place which is used or occupied as a baker, confectionary, cannery, dairy,
16 creamery, packing house, grocery, supermarket, meat or poultry market, fruit or
17 vegetable market, delicatessen, beverage plant, slaughter house, poultry processing
18 plant, fish processing plant, frozen food processing plant, ice plant, ice cream or
19 frozen dessert plant, public market, food warehouse or for the production,
20 processing, manufacture, preparation for sale, canning, bottling, packing,
21 packaging, storage, sale, or distribution of any food;

22 (j) *Health-Regulated Establishment* shall mean any (1) eating and
23 drinking establishment; (2) food establishment; (3) institutional facilities; (4) hotels;
24 (5) cosmetic establishment; (6) laundry and dry cleaning establishment; (7) public

1 swimming pool; (8) mortuary; (9) edible garbage feeding establishment; (10)
2 chemical toilet; and (11) any other establishment required to possess a Sanitary
3 Permit issued by the Department;

4 (k) *Hotel* shall mean any structure or any portion of any structure,
5 including any lodging house, rooming house, dormitory (including a dormitory
6 housing for contract employees), health spa, bachelor hotel, studio hotel, motel,
7 private club, containing four (4) or more guests, whether rent is paid in money,
8 goods, labor, or otherwise, or whether with or without meals. It does not include
9 any penal institution, hospital, clinic, nursing home, school, laboratory, or child
10 care facility;

11 (l) *Institutional Facility* shall mean any structure or any portion of any
12 structure operating as a child care facility, penal institution, school, hospital, clinic,
13 nursing home, or laboratory as defined Title 10 GCA, Chapter 25;

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

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

23 (o) *Public swimming pool* shall mean any artificial structure, basin,
24 chamber, or tank constructed or impervious material used or intended to be used

1 for swimming, diving, wading, or recreational bathing, except it does not include
2 conventional bath-tubs where the primary purposes is the cleaning of the body or
3 individual therapeutic tubs, and that is available for public use, whether for fee or
4 free of charge; or any business, partnership, corporation or person for the use of
5 their customers, clients, guests or employees including but not limited to a
6 commercial pool, a community pool or a pool at a hotel, motel, resort, auto park,
7 trailer park, apartment house, or other multiple rental unit, private club, public club,
8 public or private school, gymnasium or health establishment;

9 (p) *Sanitary Permit* shall mean the official document issued by the
10 Department of Public Health and Social Services authorizing a health-regulated
11 establishment to operate its business; and

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

16 **§4505. Applications.** (a) All applications for sanitary permits shall be
17 in a form prescribed by the Director.

18 (b) A non-refundable deposit of Twenty Dollars (\$20.00) shall be made
19 to the ‘Treasurer of Guam’ at the time the application for Sanitary Permit is
20 submitted to the Department. Upon completion and processing of the application,
21 the deposit amount shall be deducted from the appropriate fee listed in §4506.

22 (c) Any application that remains inactive for sixty (60) consecutive days
23 shall be considered permanently inactive, removed from the file for processing,

1 and then destroyed, and the non-refundable Twenty Dollars (\$20.00) deposit shall
2 be automatically forfeited.

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

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

10 **§4506. Fees.** Fees for the issuance of a Sanitary Permit shall be as follows:

11 *(a) The Sanitary Permit fee for the following health-regulated*
12 *establishments shall be Two Hundred Ninety Dollars (\$290) if the*
13 *establishment has 1 to 10 employees, and Five Dollars (\$5.00) for each*
14 *additional employee thereafter.*

15 (1) Eating and drinking establishments, excluding vending
16 machines and temporary food service establishments;

17 (2) Food establishments;

18 (3) Institutional facilities;

19 (4) Hotels;

20 (5) Cosmetic establishments;

21 (6) Laundry and dry cleaning establishments;

22 (7) Public swimming pools;

23 (8) Mortuaries;

24 (9) Edible garbage feeding establishments;

25 (10) Commercial animal establishments; and

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

3 (b) *The Sanitary Permit fee for temporary food service establishments*
4 *shall be:*

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

7 (2) *Fifty Dollars (\$50.00) for those operating for three (3) days or*
8 *less.*

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

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

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

13 (d) The Sanitary Permit fee for chemical toilet operator shall be Five
14 Hundred Dollars (\$500.00) regardless of the number chemical toilets possessed by
15 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
18 (\$10.00).

19 (g) An applicant for a Sanitary Permit may request for the permit to be
20 expedited and processed on the same day the request is submitted. The Department
21 may grant such requests provided the applicant has met all the requirements of the
22 Department to obtain a Sanitary Permit, including the requirement for the pre-
23 operational structural inspection. The Department shall assess a fee of Seventy-
24 Five Dollars (\$75) for expedited processing in addition to the regular processing fee.

1 Applications for a Sanitary Permit for temporary food service establishments which
2 are submitted one day or less prior to the event will automatically be assessed an
3 expedited processing fee.

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

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

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

19 **§4507. Suspension or Revocation of Sanitary Permit.** The Director
20 may suspend or revoke any Sanitary Permit under the provisions of Title 10 GCA,
21 Chapter 21, §21107(2)(d) or upon any violation by a health-regulated
22 establishment or by any of its employees for any environmental health violation
23 under Title 10 of the Guam Code Annotated, Chapters 20 through 40, or any rules
24 and regulations promulgated concerning Sanitary Permits.

1 **§4508. Hearing.** (a) Any health-regulated establishment whose Sanitary
2 Permit is to be suspended or revoked shall be notified by the Director in writing of
3 the Department’s intention and the reasons therefore.

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

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

13 **§4509. Suspension without Hearing.** (a) In accordance to Title 10 GCA,
14 Chapter 21, §§21107(d) and 21109(a) and (b), a Sanitary Permit may be suspended
15 without prior hearing:

16 (1) When the demerit score of the establishment is more than forty
17 (40);

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

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

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

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

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

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