



EDDIE BAZA CALVO  
Governor

RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam.*

MAY 11 2015

33-15-0435  
Office of the Speaker  
Judith T. Won Pat, Ed.D

Honorable Judith T. Won Pat, Ed.D.  
Speaker  
*I Mina'trentai Tres Na Liheslaturan Guåhan*  
155 Hesler Street  
Hagåtña, Guam 96910

Date: 05-12-15  
Time: 8:30 AM  
Received By: [Signature]

Dear Madame Speaker:

Transmitted herewith is Bill No. 45-33 (COR) "AN ACT TO ADOPT THE RULES AND REGULATIONS GOVERNING THE ISSUANCE OF HEALTH CERTIFICATES, BY AMENDING ARTICLE 4 OF DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS" which I signed into law on May 7, 2015, as Public Law 33-20.

*Senseramente,*

  
EDDIE BAZA CALVO

2015 MAY 12 AM 9:59  


0435



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*Senseramente,*

  
EDDIE BAZA CALVO



*I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN*  
2015 (FIRST) Regular Session

**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN**

This is to certify that **Substitute Bill No. 45-33 (COR)**, "AN ACT TO ADOPT THE RULES AND REGULATIONS GOVERNING THE ISSUANCE OF HEALTH CERTIFICATES, BY AMENDING ARTICLE 4 OF DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS," was on the 1<sup>st</sup> day of May 2015, duly and regularly passed.



Judith T. Won Pat, Ed.D.  
Speaker

Attested:



Tina Rose Muña Barnes  
Legislative Secretary

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This Act was received by *I Maga'lahaen Guåhan* this \_\_\_\_\_ day of \_\_\_\_\_, 2015, at \_\_\_\_\_ o'clock \_\_\_\_ .M.

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

APPROVED:



EDWARD J.B. CALVO  
*I Maga'lahaen Guåhan*

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

MAY 07 2015

Public Law No. 33-20

*I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN*  
2015 (FIRST) Regular Session

**Bill No. 45-33 (COR)**

As substituted by the Committee on Health,  
Economic Development, Homeland Security  
and Senior Citizens; and amended on the Floor.

Introduced by:

Dennis G. Rodriguez, Jr.  
T. C. Ada  
V. Anthony Ada  
Frank F. Blas, Jr.  
FRANK B. AGUON, JR.  
B. J.F. Cruz  
James V. Espaldon  
Brant T. McCreadie  
Tommy Morrison  
T. R. Muña Barnes  
R. J. Respicio  
Michael F.Q. San Nicolas  
Mary Camacho Torres  
N. B. Underwood, Ph.D.  
Judith T. Won Pat, Ed.D.

**AN ACT TO ADOPT THE RULES AND REGULATIONS  
GOVERNING THE ISSUANCE OF HEALTH  
CERTIFICATES, BY AMENDING ARTICLE 4 OF  
DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE  
RULES AND REGULATIONS.**

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

2        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that the proposed amending of the “Rules and Regulations Governing the Issuance  
4 of Health Certificates,” as provided pursuant to Article 4 of Division 1, Title 26,

1 Guam Administrative Rules and Regulations, has gone through the Administrative  
2 Adjudication Law process.

3 It is the intent of *I Liheslaturan Guåhan* to adopt these rules and regulations.

4 **Section 2. Adoption of Rules.** Notwithstanding any other provision of  
5 law, rule, regulation and executive order, the Rules and Regulations Governing the  
6 Issuance of Health Certificates, as provided in this Act, are hereby adopted by *I*  
7 *Mina'Trentai Tres Na Liheslaturan Guåhan*, and *shall* be codified under Article 4  
8 of Division 1, Title 26, Guam Administrative Rules and Regulations.

9 **Section 3. Amendment of Rules.** The Director, Department of Public  
10 Health and Social Services, Division of Environmental Health *shall*, in keeping  
11 with the provisions of §20105 of Chapter 20, and §22104 of Chapter 22, Title 10,  
12 Guam Code Annotated, and pursuant to Article 3 – Rule-Making Procedures, of  
13 Chapter 9, Title 5, Guam Code Annotated, review and amend, as may be  
14 necessary, the Rules and Regulations adopted pursuant to this Act.

15 **Section 4. Severability.** If any provision of this Act or its application to  
16 any person or circumstance is found to be invalid or contrary to law, such  
17 invalidity *shall not* affect other provisions or applications of this Act which can be  
18 given effect without the invalid provisions or application, and to this end the  
19 provisions of this Act are severable.

20 **Section 5. Effective Date.** This Act *shall* become effective upon  
21 enactment.

22

1 **Exhibit A**

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

3 **Article 4 of Chapter 4**

4 [NOTE: Rule-making authority cited for formulation of Health Certificate  
5 Regulations by the Director of Public Health and Social Services, 10 GCA §29195  
6 and §22104]

7 **RULES AND REGULATIONS GOVERNING**  
8 **THE ISSUANCE OF HEALTH CERTIFICATES**

9 §4401. Short Title.

10 §4402. Authority.

11 §4403. Purpose.

12 §4404. Definitions.

13 §4405. Health Certificate Required.

14 §4406. Exemption of Health Certificate.

15 §4407. Application for Health Certificate and Temporary Health  
16 Certificate.

17 §4408. General Requirements for Health Certificate.

18 §4409. Training Course and Examination Requirements for Health  
19 Certificate.

20 §4410. Specific Requirements by Category.

21 §4411. Requirements for Temporary Health Certificate.

22 §4412. Single Health Certificate for Multiple Locations per Category.

23 §4413. Additional Health Certificates.

24 §4414. Interim Health Certificate.

25 §4415. Certificate of Management Certification and Health Certificate.

26 §4416. Fees.

27 §4417. Effective Date of Health Certificate.

1 §4418. Presentation of Health Certificate, Temporary Health Certificate,  
2 Interim Health Certificate, and Certificate of Management  
3 Certification.

4 §4419. Suspension or Revocation of Health Certificate and Certificate of  
5 Management Certification.

6 §4420. Administrative Penalties.

7 §4421. Right to Notice, Hearing, and Administrative Process.

8 §4422. Variances.

9 §4423. Effective Date.

10 §4424. Severability.

11 ANNEX I

12 ANNEX II

13 ANNEX III

#### 14 **General Provisions and Definitions**

15 **§4401. Short Title.** These rules and regulations may also be cited as  
16 the “Health Certificate Regulations.”

17 **§4402. Authority.** §22104, Chapter 22 of Title 10, Guam Code  
18 Annotated, authorizes the Director of the Department of Public Health and Social  
19 Services to establish, by rules and regulations, the requirements and fees for the  
20 issuance of a Health Certificate.

21 **§4403. Purpose.** These rules and regulations are established to ensure  
22 that the holder of a health certificate is free of communicable diseases that could  
23 potentially spread to fellow employees or their clients as a result of the holder's  
24 work activities and/or possesses the minimum knowledge in preventing the spread  
25 of communicable diseases at the health-regulated establishment where the holder is  
26 employed. Upon adoption, these rules and regulations will repeal and replace the

1 previously adopted regulations entitled, Rules and Regulations Governing the  
2 Issuance of Health Certificates.

3 **§4404. Definitions.** Wherever in these rules and regulations the  
4 following words appear, they *shall* have the following definition:

5 (a) *Category* shall mean the following types of establishments and  
6 their activities that are regulated by the Department by these rules and  
7 regulations, and other rules and regulations of the Department, which require  
8 a Health Certificate:

- 9 (1) eating and drinking establishment;
- 10 (2) food establishment;
- 11 (3) cosmetic establishment;
- 12 (4) institutional facility;
- 13 (5) laundry and dry cleaning establishment;
- 14 (6) swimming pool;
- 15 (7) hotel; and
- 16 (8) tattoo shop.

17 (b) *Certificate of Management Certification* shall mean a  
18 certification issued by the Department or any authorized institution, as  
19 determined by the Director, to a person employed, or designated, as a  
20 manager or supervisor within any health-regulated establishment who has  
21 demonstrated his or her knowledge of applicable governing rules and  
22 regulations, including, but not limited to, sanitation, employee hygiene,  
23 cleaning and sanitizing procedures, and rodent and insect control, as  
24 determined by the Director.

25 (c) *Cosmetic Establishment.* (1) Cosmetic establishment shall  
26 mean any premises or portions thereof, wherein any of the following is  
27 practiced for compensation:



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

4 (B) shaving, clipping, trimming or cutting human hair;

5 (C) giving facial, scalp, neck or body massages or treatments  
6 with oils, creams, lotions, or other preparations to the hands, scalp,  
7 face, or neck by hand or mechanical appliance; and

8 (D) manicuring or pedicuring.

9 (2) As used in these rules and regulations, cosmetic establishment  
10 shall include:

11 (A) "shop," which shall mean any establishment or  
12 facility where cosmetology is practiced for fee or charge for  
13 hire. The term includes, but is not limited to, barber shops,  
14 beauty shops, beauty salons, beauty parlors, hair styling salons,  
15 nail salons, or other establishments where cosmetology is  
16 practiced for reimbursement;

17 (B) "school of cosmetology," which shall mean any  
18 establishment or facility where the practice of cosmetology is  
19 taught for a fee. The term includes, but is not limited to, barber  
20 colleges or other closely related institutions or establishments  
21 teaching cosmetology for reimbursement;

22 (C) "massage parlor," which shall mean any  
23 establishment or facility occupied and used for the purpose of  
24 practicing massage for compensation, provided that when any  
25 massage parlor is situated in any building for residential or  
26 sleeping purposes, the massage parlor shall be set apart and  
27 shall not be used for any other purpose; and

1 (D) "therapeutic massage establishment," which shall  
2 mean a business which performs the manipulation of the issues  
3 of the human body with the hand, foot, arm, or elbow by a  
4 massage therapist licensed by the applicable professional  
5 licensing board of Guam whether or not such manipulation is  
6 aided by hydrotherapy, including colonic irrigation, or thermal  
7 therapy that includes the use of any electrical or mechanical  
8 device; or the application to the human body of a chemical or  
9 herbal preparation for compensation.

10 (d) *Department* shall mean the Department of Public Health and  
11 Social Services.

12 (e) *Director* shall mean the Director of the Department of Public  
13 Health and Social Services or his designated and authorized representative.

14 (f) *Eating and drinking establishment* shall mean any mobile food  
15 service establishment; vending machine; restaurant; coffee shop; public or  
16 private school cafeteria; lunchroom; luncheonette; lunch-stand; lunch-  
17 counter; in-plant or employee eating establishment; soda fountain; bar; cafe;  
18 tavern; short order cafe; sandwich stand; drink stand; cafeteria or similar  
19 facility connected with an institution; any other eating establishment within  
20 an organization, club, veteran's club, boarding house, guest house, political  
21 subdivision, stall, stand, and booth; and a concession within any public  
22 market which gives, sells, or offers for sale, or promotes food to the public,  
23 guests, patrons, or employees; and as well as kitchens in which food is  
24 prepared on the premises for serving elsewhere, including catering functions.

25 (g) *Food establishment* shall mean every establishment or place  
26 which is used or occupied as a bakery; confectionery; cannery; dairy;  
27 creamery; packing house; grocery; supermarket; meat or poultry market;

1 fruit or vegetable market; delicatessen; beverage plant; slaughter house;  
2 poultry processing plant; fish processing plant; frozen food processing plant;  
3 bottling plant; food refrigeration locker plant; ice plant; ice cream or frozen  
4 dessert plant; public market; food warehouse; or any structure used for the  
5 production, processing, manufacture, preparation for sale, canning, bottling,  
6 packing, packaging, storage, sale or distribution, of any food.

7 (h) *Health Certificate* shall mean a certificate issued by the  
8 Department to a person employed within any eating and drinking  
9 establishment, food establishment, institutional facility, cosmetic  
10 establishment, tattoo shop, laundry or dry cleaning establishment, hotel,  
11 swimming pool, or any other establishment under the provisions of any other  
12 rules and regulations promulgated by the Director to properly carry out the  
13 laws of Guam relating to environmental health.

14 (i) *Health-regulated establishment* shall mean any of the  
15 following: eating and drinking establishment, cosmetic establishment, food  
16 establishment, institutional facility, laundry and dry cleaning establishment,  
17 swimming pool, hotel, therapeutic massage establishment, massage parlor,  
18 tattoo shop, temporary food service establishment, and any other facilities  
19 governed by the Department pursuant to law.

20 (j) *Highly susceptible population* shall mean individuals who are  
21 more likely than other people in the general population to experience food  
22 borne disease because they are immunocompromised, children age nine (9)  
23 and below, or older adults.

24 (k) *Hotel* shall mean any structure or any portion of any structure,  
25 including any lodging house, rooming house, dormitory (including a  
26 dormitory housing for contract employees), health spa, bachelor hotel, studio  
27 hotel, motel, private club, containing four (4) or more guest rooms and

1 which is occupied or is intended or designed for occupancy, by four (4) or  
2 more guests, whether rent is paid in money, goods, labor, or otherwise, and  
3 whether with or without meals. It does not include any penal institution,  
4 hospital, clinic, nursing home, school, laboratory, or child care facility.

5 (1) *Institutional facility* as used in these rules and regulations, shall  
6 include:

7 (1) "Adult Group Day Care Center," which shall mean a  
8 place maintained and operated by an individual, organization, or  
9 agency whether for profit or not for the purpose of providing  
10 protective and supportive care for two (2) or more elderly and/or  
11 disabled adults, not related to the facility's owner/operator by blood or  
12 marriage within the third degree of consanguinity, for a specified time  
13 period of ten (10) hours or less in each twenty-four (24) hour day. At  
14 the end of the specified time period, the participant is discharged to  
15 the custody of his/her family, guardian, or sponsor;

16 (2) "Child Care Facility," which shall mean any person or  
17 place which receives or arranges placement of one or more children  
18 who are not related to such person, whether for gain or otherwise,  
19 apart from the parents or guardian, with or without the transfer of the  
20 right of custody for the purpose of providing regular care or training  
21 for such child or children during either the day or night, or both.  
22 Except as otherwise provided, the term "Child Care Facility" includes,  
23 but is not limited to, all facilities defined by the Department as  
24 "family day care homes," "foster family homes," "group day care  
25 homes," "residential treatment facilities," "day care center," "day  
26 nurseries," "nursery school," "kindergarten school," "day care  
27 homes," or similar institutions or units regardless of name;

1           (3) “Penal Institution,” which shall mean any jail, detention  
2 center, prison camp, home, juvenile detention home or cottages, or  
3 other facility used as a holding facility, jail, or residential custodial  
4 facility. This definition does not include hospitals or childcare  
5 facilities or adult group day care center;

6           (4) “School,” which shall mean any establishment that  
7 provides care and education to students from pre-kindergarten through  
8 grade 12; and any college, trade school, university, or any other  
9 educational institutional of higher learning;

10          (5) “Hospital,” which shall mean any building, structure,  
11 institution or place whether organized for profit or not, devoted  
12 primarily to the maintenance and operation of facilities for the  
13 diagnosis, evaluation, treatment, and provision of medical or surgical  
14 care for three (3) or more non-related individuals admitted for  
15 overnight stay or longer in order to obtain medical services; including  
16 obstetric, psychiatric, and nursing care of illness, disease, injury, or  
17 deformity, whether physical or mental; and regularly making available  
18 at least clinical laboratory service, diagnostic radiology services, and  
19 treatment facilities, or surgery, obstetrical care or other definitive  
20 medical treatment;

21          (6) “Clinic,” which shall mean any building; structure;  
22 institution or place; public or private; whether organized for profit or  
23 not, devoted primarily to the maintenance and operation of facilities  
24 for the medical or dental evaluation, diagnosis, or treatment of human  
25 illness, injury or deformity; or the veterinary medical or veterinary  
26 dental evaluation, diagnosis, or treatment of animal illness, injury or  
27 deformity;

1           (7) “Nursing Home,” which shall mean any facility  
2 established, for profit or non-profit, which provides nursing care and  
3 related medical services twenty-four (24) hours per day for two (2) or  
4 more individuals because of illness, disease, or mental or physical  
5 infirmity. It provides care for these persons not in need of hospital  
6 care but requiring nursing care or related medical services, which  
7 medical services shall be administered by a professional nurse, a  
8 physical therapist, or an occupational therapist; or other licensed  
9 medical practitioners, depending upon the service required; and

10           (8) “Laboratory,” which shall mean any building, structure,  
11 institution or place, whether organized for profit or not, devoted  
12 primarily to the maintenance and operation of facilities for the  
13 examination or testing of humans or animals, living or dead, or any  
14 parts or physiologic products thereof, for the purpose of detecting or  
15 confirming the presence of illness or infirmity.

16           (m) *Interim Health Certificate* shall mean a provisional certificate  
17 issued by the Director to a person employed within any health-regulated  
18 establishment or any other establishment under the provisions of any other  
19 rules and regulations promulgated by the Director to properly carry out  
20 Division 2 of Title 10 GCA relating to environmental health, who is waiting  
21 to attend a training course offered by the Department or another entity  
22 authorized by the Department.

23           (n) *Laundry or dry cleaning establishment* shall mean any place, building,  
24 structure, room, or partition thereof, used in the business of dyeing; washing;  
25 starching; ironing; or dry cleaning apparels, household linens, and other  
26 fabric articles, including any establishment providing laundering equipment

1 for use by customers for a fee such as a laundromat, wash-o-mat,  
2 launderette, or coin operated laundromat.

3 (o) *Massage parlor* shall mean premises occupied and used for the  
4 purpose of practicing massage, provided that when any massage  
5 establishment is situated in any building used for residential or sleeping  
6 purposes, the massage establishment premises shall be set apart and shall not  
7 be used for any other purpose.

8 (p) *Person employed* shall mean the following:

9 (1) in an “eating and drinking establishment,” any person  
10 employed for compensation or otherwise who transports food or food  
11 containers, engages in food preparation or service, or comes in contact  
12 with any food and food utensils or equipment;

13 (2) in a “food establishment,” any person employed for  
14 compensation or otherwise who transports, stocks, stores, packs,  
15 packages, processes, manufactures, cans, bottles, or otherwise handles  
16 raw or processed foods;

17 (3) in an “institutional facility,” any person employed for  
18 compensation or otherwise at that facility;

19 (4) in a “cosmetic establishment,” any person employed for  
20 compensation or otherwise who sings, shampoos, arranges, adorns,  
21 dresses, curls, waves, permanent waves, tints, applies tonics, dyes,  
22 shaves, clips, trims or cuts human hair, gives facial, scalp, neck or  
23 body massages or treatments with oils, creams, lotions, or other  
24 preparations to the hands, scalp, face, or neck by hand or mechanical  
25 appliance, and manicures and pedicures;

26 (5) in a “hotel,” any person employed for compensation or  
27 otherwise who cleans and handles pre-packaged food (i.e., bottled

1 water, coffee, tea), food contact equipment (i.e., coffee makers, ice  
2 buckets, and refrigerator/freezers), soiled or cleaned linens or other  
3 laundry items, and who maintains the sanitary condition and operation  
4 of the facility during the course of their duties and responsibilities;

5 (6) in a “laundry or dry cleaning establishment,” any person  
6 employed for compensation or otherwise who handles soiled or  
7 cleaned linens or other laundry items;

8 (7) in a “swimming pool,” any person employed for  
9 compensation or otherwise at the facility who is in charge of its  
10 operation and/or maintenance; and

11 (8) in a “tattoo shop,” any person employed for  
12 compensation or otherwise at that facility who performs or assists in  
13 performing tattooing.

14 (q) *Swimming pool* shall mean any artificial structure, basin,  
15 chamber or tank constructed or impervious material used or intended to be  
16 used for swimming, diving, wading or recreational bathing. It does not  
17 include conventional bathtubs where the primary purpose is the cleaning of  
18 the body or individual therapeutic tubs. A “public swimming pool” shall  
19 mean any swimming or wading pool that is available for public use, whether  
20 for a fee or free of charge; or any swimming or wading pool owned or used  
21 by any business, partnership, corporation, or person for the use of their  
22 customers, clients, guest or employees including, but not limited to, a  
23 commercial pool, a community pool or a pool at a hotel, motel, resort, auto  
24 park, trailer park, apartment house or other multiple rental unit, private club,  
25 public club, public or private school, gymnasium or health establishment.



1 (r) *Tattooing* shall mean to mark or color the skin by pricking and  
2 introducing subcutaneously, non-toxic dyes, pigments, or by the production  
3 of scars to form indelible marks and figures.

4 (s) *Tattoo shop* shall mean any premises where a tattoo artist does  
5 tattooing for a fee or other consideration.

6 (t) *Temporary food service establishment* shall mean any eating  
7 and drinking establishment which operates at a fixed location for a period of  
8 time not exceeding six (6) months in conjunction with a carnival, fair, circus,  
9 exhibition, or other transitory gathering not of a permanent nature, and shall  
10 include catering.

11 (u) *Temporary Health Certificate* shall mean a certificate issued to  
12 a person employed within any temporary food service establishment under  
13 the provisions of these rules and regulations.

14 **§4405. Health Certificate Required.** Unless otherwise stated within  
15 these rules and regulations, or any other rules and regulations promulgated by the  
16 Department relating to environmental health, every person employed within an  
17 eating and drinking establishment, food establishment, institutional facility,  
18 cosmetic establishment, tattoo shop, laundry or dry cleaning establishment, hotel,  
19 swimming pool, or any other establishments under the provisions of any other rules  
20 and regulations promulgated by the Director to properly carry out Division 2 of  
21 Title 10 GCA relating to environmental health, shall be required to obtain a Health  
22 Certificate.

23 **§4406. Exemption of Health Certificate.** The selling of the following  
24 articles shall not require the obtaining of a Health Certificate:

25 (a) fresh, unprocessed fruits, vegetables, nuts, eggs, live poultry or  
26 live pigs;

1 (b) canned or bottled drinks, including alcoholic beverages, in the  
2 original container of their manufacturer; or

3 (c) candies or other confections in the original container of their  
4 manufacturer.

5 **§4407. Application for Health Certificate and Temporary Health**

6 **Certificate.** (a) Any person desiring to engage in employment requiring a Health  
7 Certificate or Temporary Health Certificate under these rules and regulations shall  
8 submit an application for a Health Certificate or Temporary Health Certificate to  
9 the Department. The applicant shall be required to show a current and valid photo  
10 identification or other evidence attesting to the applicant's true identity. The  
11 applicant shall also be required to show documentation that attests to the  
12 applicant's United States citizenship, permanent resident alien, or non-immigrant  
13 status, that authorizes the applicant to work in the United States by the U.S. federal  
14 government. The following are acceptable forms of photo identification:

- 15 (1) Government of Guam Identification Card;
- 16 (2) Guam Driver's License;
- 17 (3) United States Military Identification Card;
- 18 (4) Passport; and
- 19 (5) any other photo identification acceptable by the Department.

20 (b) The following are acceptable forms of identification for permanent  
21 resident aliens or non-immigrant applicants who are authorized to work in  
22 the United States:

- 23 (1) Passport; and
- 24 (2) Alien Registration Receipt Card (Green Card).

25 (c) Whenever an applicant is unable to apply to renew a Health  
26 Certificate in person, the applicant may designate an authorized

1 representative to make an application for the applicant, provided the  
2 representative has the following information available:

3 (1) a signed and dated authorization letter from the applicant,  
4 along with an explanation of the applicant's relation to the  
5 representative;

6 (2) a completed, original application; and

7 (3) a copy of the representative's and the applicant's  
8 acceptable photo identification cards.

9 (d) An applicant applying for a Health Certificate shall complete all  
10 application requirements and submit all necessary information at any time,  
11 but not more than one (1) month before commencement of employment. An  
12 applicant, applying for a Temporary Health Certificate shall complete all  
13 application requirements and submit all necessary information, not more  
14 than twenty (20) and not less than five (5) working days, before  
15 commencement of employment, unless approved by the Director.

16 (e) A person applying for an additional Health Certificate for another  
17 category, or under the conditions stated in Subsections (a) and (b) of §4411  
18 of these rules and regulations, shall submit a separate application and pay the  
19 appropriate fee for each additional Health Certificate.

20 **§4408. General Requirements for Health Certificate.** (a) Unless stated  
21 otherwise in these rules and regulations, all new Health Certificate applicants,  
22 including Temporary Health Certificate applicants, shall submit an application  
23 approved by the Department, pay all applicable fees, and shall:

24 (1) be tested, or screened, and be free of infectious tuberculosis,  
25 and any other communicable diseases as determined by the Director, within  
26 six (6) months prior to its submission, except applicants of Temporary  
27 Health Certificate; and

1           (2) take and pass a training course provided by the Department, or  
2 an authorized entity approved by the Department, specific to the category of  
3 the Health Certificate the applicant is seeking under the provisions of this  
4 and any other rules and regulations promulgated by the Director to properly  
5 carry out Division 2 of Title 10 GCA relating to environmental health.

6           (b) Renewing applicants, when applicable or as determined by the  
7 Director, shall be required to be tested or screened for infectious tuberculosis and  
8 other communicable diseases, and pass a written examination.

9           **§4409. Training Course and Examination Requirements for Health**  
10 **Certificate.**

11           (a) Unless otherwise stated in these rules or regulations or any other  
12 separate rules and regulations promulgated by the Director to properly carry out  
13 Division 2 of Title 10 GCA relating to environmental health, the following are  
14 further and specific requirements for any person desiring to engage in employment  
15 requiring a Health Certificate under these and other rules and regulations of the  
16 Department, and must be complied with to qualify for, and hold, a Health  
17 Certificate:

18           (1) Any applicant who has not previously been issued a Health  
19 Certificate by the Department, or whose previous Health Certificate has  
20 expired for more than thirty (30) calendar days, shall attend and pass a  
21 training course conducted by the Department, or any other entity approved  
22 by the Department, before a Health Certificate is issued.

23           (2) Any applicant who fails to pass the training course shall be  
24 scheduled to attend another training course at a later date, pay the re-testing  
25 fee and the Health Certificate fee, and have the Interim Health Certificate  
26 issued with a new expiration date.

1           (3) Any applicant who fails to pass his second consecutive training  
2 course for any category, after failing the first training course, may be  
3 provided a Health Certificate at the discretion of the Director. However,  
4 prior to the issuance of the Health Certificate by the Director, the applicant's  
5 supervisor, who must be certified in accordance with §4415 if for eating and  
6 drinking establishment and food establishment categories, shall be required  
7 to enter into a written agreement with the Department (Annex I) if the  
8 supervisor agrees to do so. The same shall apply for Health Certificate  
9 applicants for non-food facilities governed by these rules and regulations  
10 (Annex II). A Health Certificate issued under such condition shall have a  
11 distinguishing mark or symbol printed on the certificate.

12           (4) There shall be no limit to the number of times an applicant may  
13 take the training course.

14           (5) At the discretion of the Director, the requirement for taking the  
15 training course may be waived if the applicant shows proof of disability, but  
16 shall be required to enter into the written agreement in Annex I or Annex II.

17           (b) The Director shall identify Health Certificate categories which will  
18 require the renewing applicant to attend and pass a refresher training course.

19           (1) Any renewing applicant who attends the training course and  
20 does not pass the examination shall be scheduled to attend a training course  
21 at a later date, pay the retesting fee and the Health Certificate fee, and be  
22 issued an Interim Health Certificate with a new expiration date.

23           (2) Any renewing applicant who fails to pass his/her second  
24 consecutive training course, after failing the first training course, may be  
25 provided a Health Certificate at the discretion of the Director in the same  
26 manner and condition as §4409(a)(3).

1           (3) As determined by the Director, a renewing applicant may forgo  
2 the training course and take the examination only; however, if such applicant  
3 fails the examination, he/she shall be required to take the training course.

4           (c) [Reserved.]

5           (d) The Director may revoke any Health Certificate issued in §4409(a)(3)  
6 or §4409(b)(2), upon reasonable belief that the written agreement has been  
7 breached.

8           (e) Any person in possession of a valid and current Certificate of  
9 Management Certification shall be exempt from its respective training course;  
10 however, he/she shall still be required to obtain a Health Certificate.

11           (f) The Department, if it wishes, may authorize another government of  
12 Guam entity to provide or supplement the training courses required pursuant to  
13 these rules and regulations, provided a written memorandum of agreement between  
14 the Department and the other entity is formally established.

15           (g) In the event an entity authorized by the Department to provide a  
16 training course is unable to provide the minimum standard of training that is  
17 acceptable to the Department in the issuance of Health Certificates, or fails to  
18 timely provide the required training course, the Department may seek the  
19 assistance of another approved entity in carrying out the provisions of this Section.

20           **§4410. Specific Requirements by Category.** Any person required to  
21 attend and pass a training course as indicated in this Section may be waived from  
22 such course if he or she possesses an applicable current and valid certification that  
23 is recognized by the Department that attests to the individual's adequate  
24 knowledge of disease prevention in the respective establishment category.  
25 However, the individual must still submit the application and all supporting  
26 documents and obtain a Health Certificate.

1 (a) Eating and Drinking Establishment and Food Establishment. The  
2 following individuals shall obtain a Health Certificate:

3 (1) An employee of the establishment who regularly enters the food  
4 preparation area, regardless of his/her position and duty, whose presence  
5 may likely contaminate food directly or indirectly without the training; and

6 (2) Any employee of the establishment who may come in contact  
7 with food during the course of that individual's work, including, but not  
8 limited to, a cashier.

9 (b) Cosmetic Establishment. No Health Certificate shall be issued or  
10 renewed unless the applicant has undergone a physical examination performed by a  
11 healthcare professional using report forms provided by the Department.

12 (c) Institutional Facility. No Health Certificate shall be issued or  
13 renewed unless the applicant has undergone a physical examination performed by a  
14 healthcare professional using report forms provided by the Department.

15 (d) Hotel Sanitation. All persons employed at a hotel, as defined in these  
16 rules and regulations, who are tasked to clean food-contact surfaces, and maintain  
17 the sanitary condition and operation of such facility, shall be required to obtain a  
18 Health Certificate and attend and pass the training course provided by the  
19 Department. However, that person shall not be required to be tested or screened  
20 for infectious tuberculosis or other communicable diseases.

21 (e) Swimming Pool. Every person responsible for the operation of a  
22 regulated swimming pool shall be required to obtain a Health Certificate and attend  
23 and pass the training course provided by the Department. However, that person  
24 shall not be required to be tested or screened for infectious tuberculosis or other  
25 communicable diseases. A responsible operator of a regulated swimming pool will  
26 not be required to attend and pass the training course provided by the Department  
27 if such operator possesses and shows proof of a valid Certified Pool/Spa Operator

1 certification with the National Swimming Pool Foundation, or its successor, or any  
2 other nationally recognized certification approved by the Department; however, the  
3 responsible operator shall still be required to obtain the required Health Certificate.

4 (f) Tattoo Shop.

5 (1) All persons employed at a tattoo facility that clean, handle,  
6 operate, or otherwise touch any tattoo equipment; or prepare, or assist in the  
7 preparation of the client; shall be required to possess a Health Certificate and  
8 pass the training course provided by the Department.

9 (2) In addition to the test or screening for active tuberculosis, an  
10 individual required to obtain a Health Certificate shall also undergo a  
11 physical examination performed by a healthcare professional using report  
12 forms provided by the Department.

13 (g) Laundry or Dry Cleaning Establishment. A Health Certificate shall  
14 not be issued or renewed unless the applicant has undergone a physical  
15 examination performed by a healthcare professional using report forms provided  
16 by the Department and passes a training course provided by the Department.

17 **§4411. Requirements for Temporary Health Certificate.** (a) All  
18 persons applying for a Temporary Health Certificate to work in a carnival, fair, or  
19 other temporary food service establishment shall be required to submit to the  
20 Department a signed and completed written contract (Annex III) between the  
21 Department and the applicant's supervisor who possesses the required Certificate  
22 of Management Certification. Prior to the issuance of a Temporary Health  
23 Certificate, the employee shall, as determined by the Director, attend and  
24 participate in a short briefing provided by the Department, before the start of the  
25 event, which discusses the food safety responsibilities and expectations for  
26 possessing a Temporary Health Certificate.



1 (b) A recipient of a Temporary Health Certificate who fails to attend the  
2 short briefing provided by the Department in this Section shall cause that  
3 certificate to become invalid.

4 (c) Temporary Health Certificates shall not be issued for any event where  
5 many of the consumers are members of a highly susceptible population.

6 **§4412. Single Health Certificate for Multiple Locations Per**  
7 **Category.**

8 (a) Each person may possess only one Health Certificate per category,  
9 regardless of the number of different employed locations or businesses within that  
10 same category. The Health Certificate shall state the category the holder is  
11 authorized to work in, and shall be valid at all locations within that category.

12 (b) The Department may issue a single Health Certificate for categories of  
13 both eating and drinking establishment and food establishment if the Department  
14 determines that the application, training, fee, and other applicable requirements are  
15 the same and issuing a single certificate will not compromise the spirit and intent  
16 of these rules and regulations.

17 **§4413. Additional Health Certificate.** Any person employed within  
18 an eating and drinking establishment, food establishment, hotel, institutional  
19 facility, cosmetic establishment, swimming pool, laundry and dry cleaning  
20 establishment, or tattoo shop, or any other health-regulated establishments, who  
21 holds a Health Certificate within such category shall not be issued, upon  
22 submission of a separate application with appropriate fee, a Health Certificate for  
23 other categories without meeting the qualifications enumerated under each  
24 category. An exception to this requirement could occur for eating and drinking  
25 establishment and food establishment, which may be a single Health Certificate in  
26 accordance to §4412(b).

1           **§4414. Interim Health Certificate.** (a) After submitting the  
2 application, payment, and meeting all other requirements, an applicant who is  
3 required to attend and pass a training course shall be issued an Interim Health  
4 Certificate for employment until the applicant's completion and passage of the  
5 training course, whereupon he or she shall receive a Health Certificate.

6           (b) An Interim Health Certificate shall indicate the name of the applicant;  
7 the category of the Health-Regulated Establishment the certificate is for; the date,  
8 time, and location of the training course; the expiration date; and any other  
9 information as determined by the Director. The expiration date shall not exceed  
10 more than three (3) working days after the date of the training course.

11           (c) An applicant in possession of an Interim Health Certificate who fails  
12 to attend the training course shall be scheduled for another training course and  
13 granted an extension of the expiration date, provided that no more than ten (10)  
14 working days have elapsed from the date of the original training course. The  
15 extension of the new expiration date shall not exceed beyond more than three (3)  
16 working days after the date of the rescheduled training course date.

17           (d) An applicant who fails to attend the rescheduled training course or  
18 whose Interim Health Certificate has expired more than fourteen (14) working days  
19 from the date of the original training course shall be considered a new applicant  
20 and shall be required to apply as a new applicant. Such applicant may submit  
21 his/her initial physical test and/or tuberculosis test results with the application,  
22 provided the testing or screening was within the six (6) months of submission of  
23 the new application.

24           (e) An Interim Health Certificate does not exempt the applicant from all  
25 other requirements of these rules and regulations or any other rules and regulations  
26 promulgated by the Director relevant to Health Certificates.

1           **§4415. Certificate of Management Certification and Health**

2 **Certificate.** (a) Unless otherwise stated within these rules and regulations, or any  
3 other rules and regulations promulgated by the Department relating to  
4 environmental health, every eating and drinking establishment and food  
5 establishment, excluding those facilities that do not provide food directly to  
6 consumers, such as manufacturers, wholesalers, and distributors, and any other  
7 food facilities specifically exempted through separate rules and regulations  
8 promulgated by the Director, shall have a designated manager or supervisor who  
9 shall be certified under the provisions of these rules and regulations.

10           (b) Any person employed or designated as a manager or supervisor within  
11 an eating and drinking establishment and food establishment, excluding  
12 manufacturers, wholesalers, and distributors, and any other food facilities  
13 specifically exempted, shall be required to take and pass a prescribed course  
14 provided by the Department, or any other course approved by the Department,  
15 before a Certificate of Management Certification, or an equivalent certification as  
16 approved by the Director, is issued by the institution administering the course. The  
17 course shall require the candidate for managerial certification to show evidence by  
18 examination of satisfactory knowledge (scoring seventy percent (70%) or higher)  
19 of rules and regulations governing food facilities, including, but not limited to,  
20 microbiology, food-borne diseases, food storage, food preparation and service,  
21 equipment design and construction, employee hygiene, cleaning and sanitary  
22 procedures, and rodent and insect control. Those candidates who fail to show  
23 evidence by examination of satisfactory knowledge (scoring sixty-nine percent  
24 (69%) or lower) shall repeat the course until the required minimum passing score  
25 of seventy percent (70%) or higher is met. No restrictions are placed on the  
26 number of times a designated manager or supervisor may take the course to obtain  
27 a passing score.

1 (c) The acquisition of the Certificate of Management Certification, or its  
2 equivalent as approved by the Director, by a designated manager or supervisor is a  
3 requirement in addition to, and not in lieu of, a Health Certificate.

4 (d) The Certificate of Management Certification shall be renewed every  
5 five (5) years.

6 (e) Any person renewing the Certificate of Management Certification  
7 may waive the prescribed course in Subsection (b) of this Section, and promptly  
8 take the examination to obtain the certification. However, any person who waives  
9 the course and fails to show evidence by examination of satisfactory knowledge  
10 (scoring sixty-nine percent (69%) or lower) shall be required to attend the course,  
11 and not permitted to waive the course again, and shall meet the required minimum  
12 passing score of seventy percent (70%) or higher, before certification is granted.

13 (f) Any person waiting to take the course in Subsection (b) of this Section  
14 to renew his or her Certificate of Management Certification shall not be penalized  
15 if his or her Certificate of Management Certification expires prior to the date of the  
16 scheduled course, provided:

17 (1) that the course the person is waiting to attend is the most  
18 immediate course available after the expiration of his Certificate of  
19 Management Certification, and

20 (2) he or she has taken the necessary steps to properly register for  
21 the course.

22 Any person with an expired Certificate of Management Certification in a  
23 situation described in this Section shall be considered to have a current and valid  
24 certification up until the date of the scheduled course.

25 (g) The Department, if it wishes, may authorize another government of  
26 Guam entity to provide or supplement the Certificate of Management Certification

1 course, provided a written memorandum of agreement between the Department  
2 and the other entity is formally established.

3 (h) At the discretion of the Department, and in the manner determined by  
4 the Director, a nationally recognized food safety certification may be recognized  
5 and accepted in lieu of the Certificate of Management Certification, provided its  
6 curriculum meets or exceeds the Department's requirements.

7 **§4416. Fees.** A non-refundable fee shall be required of applicants at  
8 the time of application for Health Certificates. In the event of a failure to qualify  
9 for a Health Certificate, non-fulfillment, or termination of employment, the fee  
10 shall not be refunded to the applicant.

11 (a) The annual fee for a Health Certificate for a person employed within  
12 an eating and drinking establishment, food establishment, institutional facility,  
13 cosmetic establishment, hotel, swimming pool, tattoo shop, laundry and dry  
14 cleaning, or any other establishment where an employee is required to obtain a  
15 Health Certificate, shall be Ten Dollars (\$10.00).

16 (b) The fee for the training workshop for a person employed within an  
17 eating and drinking establishment, food establishment, institutional facility,  
18 cosmetic establishment, hotel, laundry and dry cleaning, swimming pool, tattoo  
19 shop, or any other establishment where an employee is required to obtain a Health  
20 Certificate, shall be Fifteen Dollars (\$15.00).

21 (c) The fee for the re-issuance of a Health Certificate for any amendments  
22 made to the Health Certificate shall be Five Dollars (\$5.00).

23 (d) The fee for any re-issuance (i.e., duplicate) of a Health Certificate and  
24 Temporary Health Certificate due to loss or damage shall be Two Dollars (\$2.00).

25 (e) An applicant who has failed to pass the training course and is required  
26 to attend another training course for re-testing shall pay a fee of Ten Dollars  
27 (\$10.00) for such re-testing, and a fee of Five Dollars (\$5.00) for a new Interim

1 Health Certificate, provided he/she returns within ten (10) working days of the  
2 expiration date; otherwise, the fee for a new Interim Health Certificate reverts back  
3 to Ten Dollars (\$10.00).

4 (f) An establishment desiring and requesting for a training course and  
5 testing for its employees at its own facility or another location during regular  
6 government hours (8:00 a.m. – 5:00 p.m.) shall obtain the approval of the Director,  
7 comply with the criteria established by the Department, and pay the onsite training  
8 workshop fee of Three Hundred Dollars (\$300.00) in addition to the Ten Dollar  
9 (\$10.00) fee for the Health Certificate per employee attending the onsite workshop.

10 (g) An establishment desiring and requesting for a training course and  
11 testing for its employees at its own facility or another location outside regular  
12 government hours (8:00 a.m. – 5:00 p.m.) during the weekend shall obtain the  
13 approval of the Director, comply with the criteria established by the Department,  
14 and pay the special onsite training workshop fee of Five Hundred Dollars  
15 (\$500.00) in addition to the Ten Dollar (\$10.00) fee for the Health Certificate per  
16 employee attending the special onsite workshop.

17 (h) The fee for a Temporary Health Certificate for a person employed  
18 within a Temporary Food Service Establishment shall be Fifteen Dollars (\$15.00).  
19 An expedited processing fee of Ten Dollars (\$10.00) shall be assessed for every  
20 applicant of a Temporary Health Certificate when such application is received less  
21 than three (3) days before the start of the event.

22 **§4417. Effective Date of Health Certificate.** Unless indicated  
23 elsewhere in these rules and regulations, or any other rules and regulations  
24 promulgated by the Director under Guam law relevant to environmental health, all  
25 Health Certificates shall expire one (1) year after the date of application and for the  
26 category indicated on the certificate. Applications for renewal of a Health

1 Certificate shall not be accepted more than thirty (30) days prior to its expiration,  
2 unless authorized by the Director.

3 (b) All Temporary Health Certificates shall be valid for only the period of  
4 the temporary event for which the certificate was issued, and its expiration date  
5 cannot exceed sixty (60) days; and the Temporary Health Certificate cannot be  
6 renewed. A person may not possess two (2) consecutive Temporary Health  
7 Certificates within any six (6) month period.

8 **§4418. Presentation of Health Certificate, Interim Health**  
9 **Certificate, Temporary Health Certificate, and Certificate of Management**  
10 **Certification.** (a) Every person required to have a Health Certificate under  
11 §22101 of Title 10 GCA, shall have the Health Certificate in that person's personal  
12 possession at all times during his or her working hours.

13 (b) Unless exempted elsewhere in these rules and regulations, or any  
14 other rules and regulations promulgated by the Department, all valid copies of  
15 Health Certificates, Interim Health Certificates, and Certificates of Management  
16 Certification shall be conspicuously posted at the facility where the employee is  
17 working. The location within the establishment where the Health Certificates are  
18 to be posted is at the discretion of the establishment; however, it shall be readily  
19 available when requested by the Director during inspection of the establishment.  
20 "Readily available" shall mean that the documents are separated from all other  
21 records and made available for inspection in a reasonable amount of time.

22 **§4419. Suspension or Revocation of Health Certificate and**  
23 **Certificate of Management Certification.** (a) The Director may suspend or  
24 revoke any Health Certificate, Temporary Health Certificate, or Interim Health  
25 Certificate issued under these rules and regulations, or any other rules and  
26 regulations promulgated by the Director requiring a Health Certificate, for  
27 providing false information in his or her application, violation of the provisions of

1 these or any other related rules and regulations, or in the event the holder of any  
2 Health Certificate has been determined to be harboring a communicable disease.  
3 The holder of the suspended or revoked Health Certificate shall return the said  
4 certificate to the Department.

5 (b) The Director may suspend or revoke any Certificate of Management  
6 Certification issued under these rules and regulations when the holder or the  
7 persons under his/her supervision repeatedly fails to comply with the rules and  
8 regulations for eating and drinking establishments, and food establishments.

9 (c) Before any Health Certificate, Interim Health Certificate, Temporary  
10 Health Certificate, or Certificate of Management Certification is suspended or  
11 revoked, the person shall have the right to a written notice of the action to be taken,  
12 and other administrative remedies in accordance with §4421 of these Rules and  
13 Regulations.

14 (d) Before imposing an administrative penalty against a person or a  
15 health-regulated establishment, the Director shall issue a notice of intent to impose  
16 the penalty and provide the person or health-regulated establishment an  
17 opportunity to request a hearing on the proposed penalty. The request for a hearing  
18 must be made within ten (10) days of the date that the notice is served upon the  
19 person or health-regulated establishment. The hearing shall be conducted in  
20 accordance with §4421 of these rules and regulations.

21 **§4420. Administrative Penalties.** (a) In accordance with Title 10  
22 GCA, Chapter 22, §22106, the Director may impose a fine for any health-regulated  
23 establishment that permits a person to perform services without having in their  
24 possession a valid Health Certificate at the time the services are performed. The  
25 monetary fine for the administrative violation is not to exceed Three Hundred  
26 Dollars (\$300.00) for the first offense, and shall impose a fine of One Thousand



1 Dollars (\$1,000.00) for a second offense involving the same person occurring  
2 within one (1) year of the first offense.

3 (b) Any person who is required to obtain a Health Certificate under §4405  
4 of these rules and regulations shall be cited for administrative violation if they are  
5 found working at a health-regulated establishment without a valid Health  
6 Certificate or not having the valid Health Certificate in the person's personal  
7 possession during working hours. The Director shall assess the monetary fine in  
8 accordance to law.

9 (c) When more than one person is cited within the same health-regulated  
10 establishment, at the same time, for not possessing valid Health Certificates, each  
11 citation shall be considered a separate administrative violation and the Director  
12 shall assess the required monetary fines to the establishment.

13 (d) Before imposing an administrative penalty against a person or a  
14 health-regulated establishment, the Director shall issue a notice of intent to impose  
15 the penalty and provide the person or health-regulated establishment an  
16 opportunity to request a hearing on the proposed penalty. The request must be  
17 made within ten (10) days of the date that the notice is served upon the person or  
18 health-regulated establishment.

19 (e) Any person or health-regulated establishment may seek review of any  
20 administrative penalty imposed before the Superior Court of Guam. Such review  
21 shall be upon the record established before the Director and not *de novo*. The  
22 Superior Court may sustain, modify or vacate any administrative penalty it  
23 reviews.

24 (f) If any person, or a health-regulated establishment, fails to comply  
25 with an administrative penalty order after it has become final, the Attorney General  
26 shall bring a civil action to enforce the order and to recover the amount ordered or

1 assessed, plus current interest from the date of the final order or decision. To  
2 prevail in such an action, the Director need establish only that:

3 (1) notice was given as required;

4 (2) a hearing was granted to the defendant or that the defendant  
5 requested no hearing; and

6 (3) the penalty was imposed and has become final either because  
7 the administrative order was not appealed to the Superior Court, or that after  
8 judicial review the administrative order remains an unsatisfied obligation.

9 **§4421. Right to Notice, Hearing, and Administrative Process.** (a)

10 Any person who has been denied a Health Certificate, Interim Health Certificate,  
11 Temporary Health Certificate, or Certificate of Management Certification under  
12 these Rules and Regulations, or whose Health Certificate, Interim Health  
13 Certificate, Temporary Health Certificate, or Certificate of Management  
14 Certification is to be suspended or revoked under these Rules and Regulations, or  
15 any person or health-regulated establishment that is subject to an Administrative  
16 Penalty under these Rules and Regulations has the right to a notice in writing from  
17 the Director stating the action to be taken by the Department, has the right to  
18 request in writing for an administrative hearing, has the right to an administrative  
19 hearing, and has the right to an appeal of an administrative hearing decision. Any  
20 written notice given pursuant to §§4419 and 4420 of these Rules and Regulations  
21 shall advise that the right to notice, hearing, and appeal is available as provided in  
22 these rules and regulations, and to the extent consistent herewith, pursuant to the  
23 Administrative Adjudication Law, Title 5, Guam Code Annotated, §§ 9200  
24 through 9242, as amended.

25 (b) The procedures and requirements set out in these Rules and  
26 Regulations, and to the extent consistent herewith, in the Administrative  
27 Adjudication Law at Title 5, Guam Code Annotated, §§ 9200 through 9242, as

1 amended, shall be followed by the Director, and by any person or health-regulated  
2 establishment adversely affected by decisions of the Department pursuant to these  
3 Rules and Regulations.

4 (c) Upon an administrative adjudication the Director shall make the final  
5 determination whether to issue a Health Certificate, Interim Health Certificate, or  
6 Certificate of Management Certification, to suspend or revoke a Health Certificate,  
7 Interim Health Certificate, or Certificate of Management Certification, or to uphold  
8 an Administrative Penalty.

9 **§4422. Variances.** (a) The Director of the Department may grant a  
10 variance to a requirement only if doing so will not endanger the health and welfare  
11 of the public and does not contradict the spirit and intent of these rules and  
12 regulations.

13 (b) Any variance issued by the Director of the Department shall be put  
14 forth in writing providing an explanation for the variance and its approval, with the  
15 signature of the Director, and date and filed accordingly for records.

16 **§4423. Effective Date.** These rules and regulations shall be effective  
17 upon enactment. At that time, all other rules and regulations or parts of other rules  
18 and regulations that conflict with these rules and regulations are repealed. The  
19 adoption of these rules and regulations shall not prohibit the Department from  
20 delaying the implementation of all or certain sections of these rules and regulations  
21 if the Department believes doing so would better effectuate its purpose; provided,  
22 such delay shall not exceed three hundred sixty-five (365) days of its effective  
23 date.

24 **§4424. Severability.** If any provision or application of any provision  
25 of these regulations is held invalid, that invalidity shall not affect the other  
26 provisions or applications of these rules and regulations.

27

1 I, \_\_\_\_\_, a holder of "Certificate of Management  
2 Certification" and the supervisor of \_\_\_\_\_ at  
3 \_\_\_\_\_ enter into this voluntary agreement with the  
4 Department of Public Health and Social Services, in accordance with §4409(a)(3) of the  
5 Health Certificate Regulations, to provide the basic knowledge and skill in the proper  
6 sanitary handling, preparing, and/or cooking of foods at the establishment to the above  
7 employee. In a cooperative effort with the Department of Public Health and Social  
8 Services, along with my responsibility and obligation to practice and promote food safety  
9 at the work place, I will ensure that the employee is taught the following so that the food  
10 commodity made available by this establishment for human consumption may not  
11 endanger the health and welfare of the public:

12 (To be determined by DPHSS.)

13  
14 I understand that any failing on my part to fulfill the agreement in properly  
15 training the above employee may lead to the revocation of the employee's Health  
16 Certificate in accordance to §4419 of the Health Certificate Regulations.

17 \_\_\_\_\_  
18 EMPLOYEE-Print SIGNATURE DATE

19  
20 \_\_\_\_\_  
21 SUPERVISOR-Print SIGNATURE DATE

22  
23 \_\_\_\_\_  
24 DPHSS REPRESENTATIVE-Print SIGNATURE DATE

25  
26 ANNEX I

1 I, \_\_\_\_\_, the immediate supervisor of  
2 \_\_\_\_\_ at \_\_\_\_\_ enter  
3 into this voluntary agreement with the Department of Public Health and Social Services,  
4 in accordance with §4409(a)(3) of the Health Certificate Regulations, to provide basic  
5 sanitation knowledge and skill in the operation of my business.

6 In a cooperative effort with the Department of Public Health and Social Services,  
7 along with my responsibility and obligation to practice and promote proper sanitation and  
8 safety at the work place, I will ensure that the employee is taught the following so that the  
9 activities of my employee identified in this agreement may not endanger the health and  
10 welfare of the public:

11 (To be determined by DPHSS.)

12 I understand that any failing on my part to fulfill the agreement in properly  
13 training the above employee may lead to the revocation of the employee's Health  
14 Certificate in accordance to §4419 of the Health Certificate Regulations.

15  
16 \_\_\_\_\_  
17 EMPLOYEE-Print SIGNATURE DATE

18  
19 \_\_\_\_\_  
20 SUPERVISOR-Print SIGNATURE DATE

21  
22 \_\_\_\_\_  
23 DPHSS REPRESENTATIVE-Print SIGNATURE DATE

24 ANNEX II

25

**TEMPORARY HEALTH CERTIFICATE CONTRACT**

I, \_\_\_\_\_, a holder of "Certificate of Management Certification" and the operator of the food establishment, \_\_\_\_\_, during \_\_\_\_\_ the \_\_\_\_\_ temporary \_\_\_\_\_ event, \_\_\_\_\_, enter into this written contract with the Department of Public Health and Social Services, in accordance with §4411(a) of the Health Certificate Regulations, to ensure that my employee, \_\_\_\_\_, who was issued a Temporary Health Certificate to work in my food establishment, will be supervised by me to ensure the employee abides by the requirements of the Guam Food Code. Such supervision will include the following:

- Prohibit the employee from working if he/she is infected with Norovirus, Shigella spp., Shiga toxin-producing E. coli; symptomatic with vomiting, jaundice, and/or diarrhea; and possesses health conditions that would cause the employee to be excluded from a food establishment pursuant to 2-201.12 of the Guam Food Code;
- Effective washing of hands when required pursuant to 2-301.12(b) and 2-301.14 of the Guam Food Code; and
- Proper use of barriers when handling ready-to-eat meals pursuant to 3-301.11 and 3-304.15 of the Guam Food;

I understand that failure on my part to fulfill this contract will cause the employee's Temporary Health Certificate to become invalid, thereby prohibiting the said employee from working at my food establishment.

EMPLOYEE-Print	SIGNATURE	DATE
SUPERVISOR-Print	SIGNATURE	DATE
DPHSS REPRESENTATIVE-Print	SIGNATURE	DATE

**ANNEX III**