

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

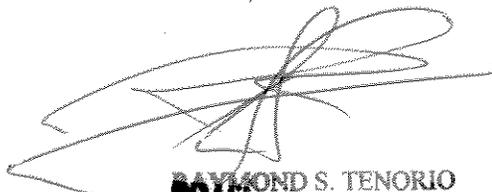
A copy of the letter posted on the webpage of the Compiler of Laws which states, "Compliance with the recommended format will be de facto indication that the submission is in a format approved by the Compiler of Laws." is enclosed. The proposed rules and regulations are in compliance with the recommended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

We have enclosed the following materials for your reference:

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

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

Senseramente,



RAYMOND S. TENORIO
Acting Governor of Guam

Enclosures

GOVERNOR CENTRAL FILES	
ROUTED TO:	INFO (I) ACTION (A)
GOV	I
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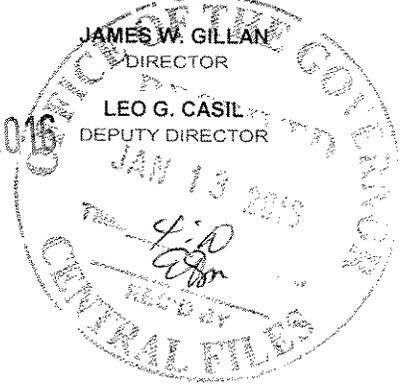
GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT



JAMES W. GILLAN
DIRECTOR

LEO G. CASIL
DEPUTY DIRECTOR

JAN 11 2016



MEMORANDUM

TO: The Governor

FROM: Director, Department of Public Health and Social Services

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

Pursuant to §9303, Division 1, Chapter 9 of Title 5 GCA, the Division of Environmental Health (DEH) of this Department is submitting the proposed draft *Rules and Regulations Governing the Issuance of Sanitary Permits* for your review and approval, and its onward transmittance to the Legislative Secretary.

The major changes made to the existing rules and regulations are: an increase in the fee schedule for the Sanitary Permits, corrections to definitions contained in the regulations, and the addition of a requirement for large temporary events which will be serving or selling food to reserve a parking space and booth for the use of DEH inspectors.

The proposed rules and regulations were posted to the website of the Guam Department of Public Health and Social Services (www.dphss.guam.gov) on June 17, 2015. Five copies of the proposed rules and regulations have been continuously on file at the Division of Environmental Health (DEH) since June 12, 2015.

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

A Public Hearing was held on June 26, 2015, on these proposed rules and regulations. Announcements were printed in the Marianas Variety on June 12 and 25, 2015 (copies attached). No members of the public attended the hearing, nor were there any written testimonies submitted to our office after the Public Hearing. The minutes of the Public Hearing are attached.

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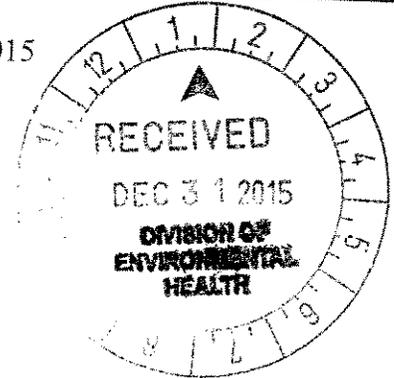
Office of the Attorney General of Guam

590 S. Marine Corps Dr., Ste. 706, Tamuning, Guam 96913



Elizabeth Barrett-Anderson
Attorney General
Phone: (671) 475-3324
ext. 5015/ 5030
Fax: 477-4703
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December 29, 2015



Jacqueline Z. Cruz
Chief of Staff
Administration
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jzcruz@guamag.org

Mr. James W. Gillan
Director
Department of Public Health and Social Services
123 Chalan Kareta,
Mangilao, Guam 96913

Phillip J. Tydingco
Chief Prosecutor
Prosecution
ext. 2410
ptydingco@guamag.org

**Re: Attorney General Approval of Proposed Rules and Regulations
Governing the Issuance of Sanitary Permits (Ref: DPHSS 15-0479)**

Dear Mr. Gillan:

The Office of the Attorney General has completed its review of the Proposed Rules and Regulations Governing the Issuance of Sanitary Permits submitted to this office on August 17, 2015.

Pursuant to the Administrative Adjudication Law (AAL), 5 GCA §9303, I hereby approve the attached version of the proposed Rules as to form and as to compliance with the applicable requirements of the AAL.

The current rule-making procedures provide that no rule shall become effective until after ninety (90) calendar days have elapsed from the date of filing with the Legislature Secretary. However, within this 90-day time period, the Legislature may approve, disapprove, or amend these proposed rules.

To: *Initial Date*

<i>TCM</i>	<i>JK</i>	<i>1/4/16</i>
<i>CINDY</i>		
<i>FILE</i>		
<i>FILE</i>		

Sincerely,

E. Barrett-Anderson
ELIZABETH BARRET-ANDERSON
Attorney General of Guam

Attachment:
Proposed Rules and Regulations Governing
the Issuance of Sanitary Permits (with correction to §4507)

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Shipping carriers to pay invasive species inspection fees

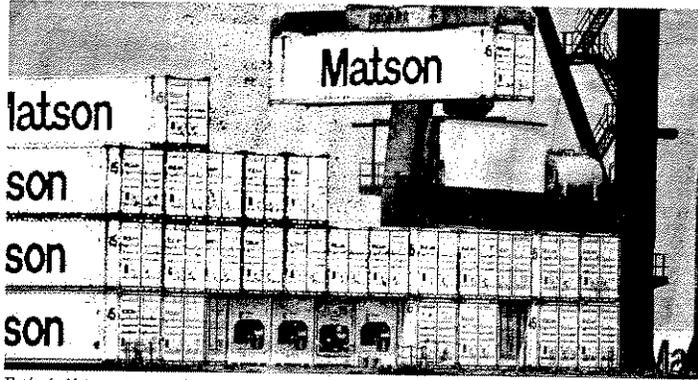
By Jasmine Stole
jasmine@mvguam.com
Variety News Staff

THE Department of Agriculture will soon implement an invasive species inspection fee to "prepare for the implementation of requirements" of Guam law established in 2014.

According to a memo from Department of Agriculture acting Director Matthew Sablan, collections for invasive species inspection fees will apply to all maritime transportation companies beginning July 1. The memo was sent to companies last month on May 11.

Maritime companies will make deposits at least on a monthly basis to the government, according to the memo.

Matson Inc. also informed its customers of the extra fees last month. Because of the new fees from the Department of



The fee for Matson customers will depend on the gross weight of total shipments, according to the Matson memo. Variety News Staff

Agriculture, Matson customers can expect to see an increase in their freight charges. Matson officials said in a memo to customers. The fee for Matson customers will depend on the

gross weight of total shipments. According to the law, for every 1,000 pounds of freight brought to Guam, 75 cents will be charged to the person responsible for paying the

freight charges. For example, for a 38,000-pound total gross weight shipment, an additional \$28.87 will be charged to Matson customers for the inspection fee.

The fees will be deposited into the Guam's Invasive Species Inspection Fee Fund.

According to Guam law, the fee is for inspections, quarantine and eradicating invasive species contained in foreign or domestic marine commercial shipments and it applies to all cargo imported to Guam.

Sablan said yesterday the fees are necessary to develop bio-security measures.

According to the law, companies or individuals who do not pay the invasive species inspection fee have 45 days to pay the original fees and an additional fee that is either twice the original payment amount or \$50, whichever is greater.

Certain items are exempt from the imported freight fee including bulk sand, quarried product freight, cement, coal and liquid shipped in bulk.

GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPARTAMENTUN SAGUT PUPLELU YIN SETRISON SAGUT
123 Chalan Kanda Manglao, Guam 96913-6344

NOTICE OF PUBLIC HEARING

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

SANITARY PERMIT (3:00 P.M.)
GUAM CONTROLLED SUBSTANCE REGISTRATION CERTIFICATE (4:30 P.M.)

DATE: Friday, June 26, 2015
TIME: 3:00 P.M. TO 6:00 P.M.
PLACE: PUBLIC CONFERENCE ROOM, CENTRAL PUBLIC HEALTH FACILITY, MANGILAO

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

/s/ JAMES W. GILLIAN
Director, Department of Public Health and Social Services

GSA General Services Agency
Agencia Serbisios Henerales
Department of Administrative Services
Government of Guam

148 Route 1 Marine Drive, P.O. Box 98816
Tel: 474-1707-13 Fax: 472-4217/478-1727

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Bid No.: GSA-071-15
FOR: 36-MONTH LEASE AGREEMENT-MULTIFUNCTIONAL DEVICE/PRINT/COPY/SCAN/FAX
OPENING DATE: JUNE 29, 2015 TIME: 10:00 A.M.

PLACE: GENERAL SERVICES AGENCY, P.O. BOX 98816
Note: GSA recommends that prospective bidders register current contact information with GSA to ensure they receive any notices regarding any changes or updates to the IFB. The procuring agency and GSA will not be liable for failure to provide notice to any party who did not register current contact information.

INTERESTED PARTY MAY PICK UP FORMS/SPECIFICATIONS AT SAID PLACE

/s/ CLAUDIA S. ACFALLE
Chief Procurement Officer

GFD ends search for fisherman



John Bamba, of the Guam Police Department, scans the ocean near Agat yesterday for any sign of missing spear fisherman Tsutomu Hancox who was reported missing Tuesday. Matt Weiss / Variety

By Ansel Mero
ansel@mvguam.com
Variety News Staff

THE Guam Fire Department announced that it ended its search efforts last night at 6 p.m. to find missing spearfisherman, 51-year old Tsutomu Hancox.

Acting GFD spokesman Capt. Andy Arcoo said the search for the missing man concluded last night at 6 p.m. and that GFD will no longer be conducting searches.

Guam Police Department spokesman Officer A.J. Bala-jadia said more information would be released in the

coming days as to the circumstances leading to the man's disappearance.

Hancox was reported missing on Tuesday. He was last seen wearing blue shorts with yellow fins last Monday while he was fishing behind the village cemetery in Agat.

The search continued yesterday morning at 6 a.m. and involved the Guam Fire Department Rescue Units 1 and 3, GFD Southern Command, the Guam Police Department anchor boats 3 and 4, and the U.S. Coast Guard Cutter Washington.

For the past two days, patrol boats performed an exhaustive search which included teams of jet skis patrolling the shoreline. According to the Coast Guard, a helicopter from the Naval Helicopter Sea Combat Squadron Two-Five and a 45-foot rescue boat from Coast Guard Station Apra Harbor were also involved in the search.

Individuals with information regarding Hancox's whereabouts are being requested to contact the Guam Police Department, Guam Fire Department or Coast Guard Sector Guam.

Marianas Variety-Guam Edition is circulated by home and office delivery, assignments, and vending machines throughout Guam, as well delivery to the Federated States of Micronesia, the Marshall Islands, South Pacific, Hawaii, Japan and the continental U.S. Daily coverage can also be read from our website www.mvguam.com.

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Exxon Mobil halts 3 platforms

After oil spill, crippled pipeline

LOS ANGELES (AP) — The shutdown of a pipeline that spilled up to 101,000 gallons of crude on the Santa Barbara coast forced Exxon Mobil Corp. to halt operations at three offshore platforms because it couldn't deliver oil to refineries, the company said Tuesday.

The company temporarily ceased operations last week because Santa Barbara County rejected its emergency application to truck oil to refineries, spokesman Richard Keil said.

A Santa Barbara County official said the company's problem did not constitute an emergency and it could go through the normal procedure, which requires extensive environmental review, to get a permit to truck the oil.

The shutdown is not expected to have an impact on oil prices, but it does harm Exxon Mobil's bottom line even though production from the platforms is small compared to the company's overall output, said Tom Kloza,



In this May 21 file photo, an oil-covered bird flaps its wings amid at Refugio State Beach, north of Goleta and the Calif. Plains All American Pipeline. The shutdown of the pipeline that spilled up to 101,000 gallons of crude on the Santa Barbara coast forced Exxon Mobil Corp. to halt operations at three offshore platforms. AP

global head of energy at the Oil Price Information Service.

Crude was selling last week for \$60 to \$64 a barrel and could fetch more than \$91 when refined for automobile gas, he said. That provided a lot of incentive for Exxon-Mobil.

"I'm sure it's a royal pain for them," Kloza said. "Given the profit margins for gasoline, whether you have to (deliver) it by wheelbarrow or rickshaw, you're very motivated."

Exxon-Mobil had cut production from the rigs by two-thirds after Plains All American Pipe-

line's conduit was shut down by a May 19 spill that soiled pristine coastline and spread tar balls as far as Los Angeles County, some 100 miles away. Nearly 200 birds and more than 100 marine mammals have been found dead in the waters.

Federal regulators investigating the cause of the spill have revealed the 2-foot-wide pipe was severely corroded where it ruptured but have not issued any findings or penalties.

The pipeline carried oil to refineries from an Exxon Mobil facility in Las Flores Canyon that separates crude, water and natural gas about 15 miles west of Santa Barbara.

Before the shutdown, daily production from the Honda, Harmony and Heritage rigs that sit 5 to 8 miles offshore had been cut from 30,000 barrels to 10,000 barrels. That production is just a sliver of the more than 4 million barrels per day Exxon-Mobil reported in the first quarter of the year. There are 42 gallons in a barrel.

Senate vote moves Obama's trade agenda to brink of enactment

WASHINGTON (AP) — President Barack Obama's long-pursued trade agenda took a giant step toward becoming law on Tuesday, and opponents grudgingly conceded they now must fight on less-favorable terrain.

A key Senate vote greatly brightened Obama's hopes for a 12-nation Pacific-rim trade agreement, a keystone of his effort to expand U.S. influence in Asia. The trade pact would be a high point in a foreign policy that has otherwise been consumed by crisis management, and would give Obama a rare legislative achievement in the Republican-controlled Congress.

The Senate voted 60-37 to advance his bid for "fast track" negotiating authority. That was the minimum number of votes needed on the procedural question. But final passage, expected no later than Wednesday, needs only a simple majority, which would let Obama sign fast track into law.

The president also wants to continue a retraining program for workers displaced by international trade. House and Senate support appears adequate, but even if that measure stumbles, the long-coveted fast track bill will be on Obama's desk.

"This is a very important day for our country," Senate Majority Leader Mitch McConnell, R-Ky., said. In the strange-bedfellows politics of trade, he was among the Republican congressional leaders vital in pushing the agenda forward, with only modest help from Democrats.

Opposed

The big majority of Democrats, especially in the House, oppose free-trade agreements, as do the labor unions that play important roles in Democratic primaries. They say free-trade agreements ship U.S. jobs overseas.

Obama, major corporate groups, GOP leaders and others say U.S. products must reach more global markets. They say anti-trade forces have exaggerated the harm done by the 1994 North America Free Trade Agreement, or NAFTA.

Previous presidents have enjoyed fast track authority. It lets them propose trade pacts that Congress can reject or ratify, but not change or filibuster.

Obama wants to complete negotiations for the 12-nation Trans-Pacific Partnership, or TPP. Members include Japan, Mexico and Canada.

He would ask Congress to ratify it, following weeks or months of public scrutiny that will give opponents another shot.

Several such organizations said they will regroup and fight on.

Fast track

The liberal group MoveOn.org said fast track "puts the interests of massive, multinational corporations over those of American workers, consumers, and voters." When the Pacific-rim proposal becomes public, the group said, "MoveOn members and our allies nationwide will hold our elected officials accountable and urge them to vote down any deal that's bad for the American economy."

Contractor's credential used to breach system

WASHINGTON (AP) — The head of the government agency that suffered two massive cyberattacks said Tuesday that a hacker gained access to its records with a credential used by a federal contractor.

Despite calls for her ouster, the director of the Office of Personnel Management said if anyone is responsible for the breaches, it's the hackers.

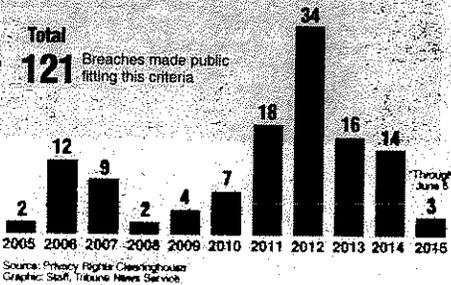
Katherine Archuleta told a Senate hearing that old computer networks were to blame for the cyberbreak-ins that exposed private information on nearly every federal employee and personal histories of millions with security clearances.

"If there is anyone to blame, it's the perpetrators," she said.

Sen. John Boozman, R-Ark., the chairman of the Senate Appropriations Committee panel where she testified, said OPM officials are blaming antiquated systems, but not all the breaches occurred exclusively on older networks.

U.S. government hacks

Here is a look at data breaches by an outside party on the U.S. government or military using malware or spyware from 2005-2015.



"I still don't think we know exactly what's gone on," Boozman said later in the afternoon on his way out of a classified briefing on cybersecurity.

Archuleta told a House oversight committee last week that many of the agency's systems were too old to support encryption, which would have made the data harder to steal. But the

agency's independent watchdog is challenging that assessment in written testimony to be delivered Wednesday to the same committee.

OPM Inspector General Patrick McFarland says some of the systems involved in the data breach were modern, so encryption could have been used.

GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPARTAMENTU SALUD PUBLIKU IAN SERBISIDON SUSAET
123 Chalan Kanan Mangilao, Guam 96913-6304

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/s/ JAMES W. GILLAM
Director, Department of Public Health and Social Services

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F. PHILIP CARBULLIDO
Chief Justice

GERALDINE AMPARO CEPEDA
Compiler of Laws

GUIDANCE FOR FORMATTING RULES AND REGULATIONS (GAR)

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

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

Recommendation 1

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

Title (mandatory)

Division (if necessary)

Part (if necessary)

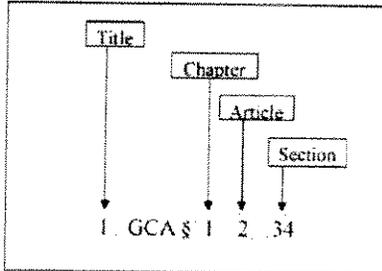
Chapter (mandatory)

Article (if necessary)

Section (mandatory)

Subsection (if necessary)

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



Recommendation 2

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

§ 1101. Name or Title of Section.

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

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

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

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

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

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

(1) Sixth subsection.

(AA) Seventh subsection.

(i) Eighth subsection.

Recommendation 3

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

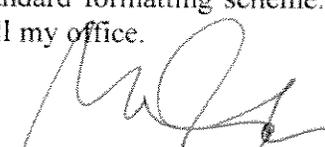
Recommendation 4

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

Recommendation 5

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

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



GERALDINE A. CEPEDA



GOVERNMENT OF GUAM

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



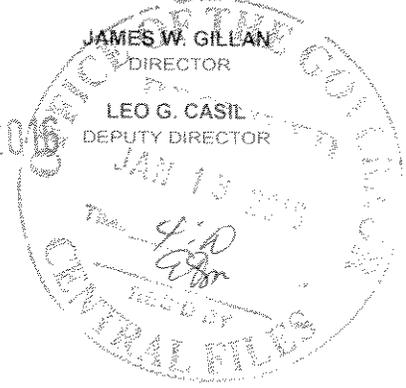
EDDIE BAZA CALVO
GOVERNOR

RAY TENORIO
LIEUTENANT GOVERNOR

JAMES W. GILLAN
DIRECTOR

LEO G. CASIL
DEPUTY DIRECTOR

JAN 11 2016



MEMORANDUM

TO: The Governor
FROM: Director, Department of Public Health and Social Services
SUBJECT: Proposed Rules and Regulations Governing the Issuance of Sanitary Permits

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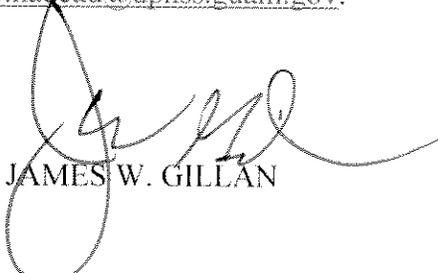
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5. Memo of approval from the Office of the Attorney General;
6. Letter posted at the Compiler of Laws website regarding approval of rules and regulations;
7. A copy of the Economic Impact Statement for these proposed rules and regulations;
8. Draft transmittance letter to Speaker Judith T. Won Pat of the 33rd Guam Legislature via the Legislative Secretary; and
9. CD with an electronic copy of the draft transmittance letter to Speaker Won Pat and the recording of the Public Hearing.

For any questions you may have in this matter, please contact Mr. M. Thomas Nadeau, Chief Environmental Public Health Officer of the Division of Environmental Health, at 735-7221. You may also contact him via email at Masatomo.nadeau@dphss.guam.gov.



JAMES W. GILLAN

Attachments

1 I MINA' TRENTAI TRES NA LIHESLATURAN GUAHAN
2 2016 (SECOND) REGULAR SESSION
3

4 **Bill No.** _____
5

6 **Introduced by:**
7
8

9 **AN ACT TO ADOPT THE RULES AND REGULATIONS GOVERNING THE**
10 **ISSUANCE OF SANITARY PERMITS**
11

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

13 **Section 1. Adoption of Rules and Regulations.** The Rules and Regulations Governing
14 the Issuance of Sanitary Permits as contained in Appendix "A."
15
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PUBLIC HEARING
Proposed Changes to the *Rules and Regulations Governing the Issuance of Sanitary Permits*
June 26, 2015 3:00 PM to 4:30 PM
Public Health Incident Command Center (PHICC)
Central Public Health Facility, Mangilao

TOPICS	DISCUSSIONS	REMARKS AND ACTIONS TO BE TAKEN
I. Attendance	There were 3 representatives from the Department of Public Health & Social Services, Division of Environmental Health present.	<u>DPHSS Representative Present:</u> Cynthia Naval, Planner IV, DEH Rosanna Rabago, Environmental Public Health Officer Administrator, DEH Michelle Lastimoza, Environmental Public Health Officer III, DEH
II. Opening Remarks	Ms. Cynthia L. Naval, Planner IV, provided opening remarks.	<p>Hafa Adai. My name is Cynthia Naval; I am the Planner IV of the Division of Environmental Health of the Department of Public Health & Social Services and present today we have Ms. Rosanna Rabago, Environmental Public Health Officer Administrator, and Ms. Michelle Lastimoza, Environmental Public Health Officer III, of the Division of Environmental Health. On behalf of the Director of this Department, Mr. James Gillan, I welcome you all to this public hearing where we will be accepting and hearing comments on the proposed changes to the <i>Rules and Regulations Governing the Issuance of Sanitary Permits</i></p> <p>The promulgation of rules and regulations is governed by the Administrative Adjudication Law (Title 5, Chapter 9), and Section 9301 of that law requires that 10 days before the public hearing, a notice must appear in the newspaper of general circulation in Guam announcing the date, time, and place of the public hearing. The Department did comply with that provision by publishing the announcement in the <i>Marianas Variety</i> on June 12, 2015. The Department published a second announcement on June 25, 2015.</p> <p>A Sanitary Permit is required of all establishments regulated by the Division of Environmental Health, such as Eating & Drinking Establishments, Food Establishments, Institutional Facilities, Hotels, Cosmetic Establishments, Laundries and Dry Cleaners, Swimming Pools, and Mortuaries as defined in Chapters 23-30 of Title 10 GCA.</p> <p>Section 21103 of Title 10 GCA, Chapter 21</p>

	<p>authorizes the Department of Public Health and Social Services to promulgate regulations to assess fees for the issuance of the Sanitary Permit. The fee schedule for the Sanitary Permit was established through the adoption of "Rules and Regulations Governing the Issuance of Sanitary Permit" via Public Law 31-41 on May 16, 2011. The fee schedule is established to recoup the cost incurred by the Department in the issuance of the permit based on the salaries of applicable employees, time spent by these employees, cost of materials and supplies utilized, and adverse impact sustained in the operation of the division issuing the permit for applicants requesting expedited services. The proposed changes to the Sanitary Permit rules and regulations include a fee increase that reflects the cost to issue the same permit in 2016 and onward.</p> <p>The existing base fee of \$290.00 for regulated establishments with 1 to 10 employees will be increased to the amount of \$340.00 in 2016, to \$438 in 2017, and to \$540 in 2018. A fee of \$5.00 for every employee thereafter will remain the same. Furthermore, the cost for the initial deposit for the Sanitary Permit will be raised from \$20 to \$30.</p> <p>The significant increase is attributed to the inclusion of the calculated cost to conduct two, three, and four yearly sanitation inspections of these regulated establishments as required by Title 10 GCA, Chapter 21, §21104, as well as the implementation of the Competitive Wage Act of 2014.</p> <p>The total overall financial impact over the three-year period is over \$500,000, and it is likely that these costs will be passed to the general public in the form of increased process for goods or services. An Economic Impact Statement was prepared, and uploaded to the Department's website on June 15, 2015. Copies of the document are also available here for the public's review.</p> <p>In addition to the increase in the fee for the Sanitary Permit, other changes proposed in these rules and regulations include the correction of some definitions in the current version that differ from those in statute, such as for Edible Garbage Feeding Establishment and Hotel, and a new requirement for certain Temporary Food Service Establishment or</p>
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		<p>Special Village Events. If the event meets criteria determined by the Department as to size, expected number of attendees, expected number of vendors, and types of food served, the event organizers must provide a reserved parking spot and a booth to be utilized by Department staff for the duration of the event. This will allow the frequent inspection of the food establishments at the event, to ensure that appropriate food safety actions are being practiced.</p> <p>We will now formally accept any written or oral testimonies on the proposed fee schedule for the Sanitary Permit. Dangkolo Na Si Yu'os Ma'ase!</p>
III. Written or Oral Testimonies		No written or oral testimonies were given due to no public audience.
IV. Adjournment		Ms. Naval adjourned the hearing at 4:30 P.M.

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

The Department of Public Health and Social Services anticipates an economic impact of over \$500,000 at the end of the three-year period, as a result of the proposed fee increase for the issuance of Sanitary Permit. As a result, pursuant to Title 5 Guam Code Annotated, Chapter 9, Article 3, an economic impact statement is provided below.

I. Purpose and Need

All entities in need of a Sanitary Permit for the lawful operation of an Eating and Drinking Establishment (Title 10 GCA, Chapter 23), Food Establishment (Title 10 GCA, Chapter 24), Institutional Facility (Title 10 GCA, Chapter 25), Hotel and Temporary Workforce Housing (Title 10 GCA, Chapter 26 and Chapter 26A), Cosmetic Establishment (Title 10 GCA, Chapter 27), Laundry and/or Dry Cleaner (Title 10 GCA, Chapter 28), Public Swimming Pool (Title 10 GCA, Chapter 29), and Mortuary (Title 10 GCA, Chapter 30) will be assessed a yearly fee.

The existing base fee of \$290.00 for regulated establishments with 1 to 10 employees will be increased to the amount of \$340.00 in the first phase; to \$438 in the second phase, and \$540 in the third and final phase. The fee of \$5.00 for every employee thereafter will remain the same. The non-refundable deposit will be increased from \$20 to \$30. No other fees will be changed.

The establishment of fees for the issuance of Sanitary Permit by the Department of Public Health and Social Services is required by legislative mandate of Title 10 GCA, Chapter 21, §21103. The fee schedule is established to recoup the cost incurred by the Department in the issuance of the Sanitary Permit based on the salaries of applicable employees, time spent by these employees, cost of materials and supplies utilized, and adverse impact sustained in the operation of the division issuing the permit for applicants requesting expedited services. The existing fee schedule for the issuance of a Sanitary Permit was established, adopted, and implemented in Fiscal Year 2011; the proposed increases reflect the costs to issue the same permit in 2016, 2017, and 2018. The significant increase is attributed to the inclusion of the calculated cost to conduct two to four yearly sanitation inspections of these regulated establishments as required by Title 10 GCA, Chapter 21, §21104, as well as the recent increases in staff pay from the implementation of the new General Pay Plan.

II. Financial Impact

Collectively, the cost to all regulated establishments by the final phase in 2018 would be approximately \$1,487,145. The figure is based on the following:

- In the last fiscal year (2014), the Department generated \$828,395 in the issuance of renewal Sanitary Permits. The cost of each individual establishment's permit was based on the number of employees, or vending machines, in each establishment.
- A listing of each Sanitary Permit renewal issued during Fiscal Year 2014 was generated.
- The proposed fees were applied to each permitted establishment, including vending machines, on this list, based on the number of employees or machines listed on the application.

Individually, the cost to each permitted establishment is an increase of \$50 in 2016, then an additional increase of \$98 in 2017, and a final increase of \$102 in 2018, for a three-year total increase of \$250. This assumes no change in the number of employees for each establishment over this timespan.

The fee increase should enable the Department of Public Health and Social Services to recoup much of the cost for the issuance and enforcement of the Sanitary Permit, and hopefully be able to recruit, train, and retain additional personnel to conduct more sanitation inspections. More inspections should result in increased compliance by regulated establishments, thus minimizing or preventing disease transmittance at these facilities. This is particularly relevant of food related establishments. It has been estimated by the University of Guam that the annual impact of food-borne illness on island is approximately 39,000 incidences, 3 deaths, and 167 hospitalizations, with an economic cost of \$5.1 to \$42.6 million dollars. With food inspections given greater priority over other types of inspections by the department, it is anticipated that the incidences of food-borne illnesses and associated costs will be reduced.

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

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

The direct cost to businesses will be an additional \$50 a year in 2016, or \$4.17 a month. In 2017, the additional increase is \$98, or \$8.17 a month, and by 2018, it will be \$102 or \$8.50 a month. Over the three years, this is \$20.83 a month, which equates to about \$0.68 a day. It is unlikely the fee increase will be passed down to the employee or customers, but if it is, it will likely be pennies a month per customer.

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 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 anticipated that there would be an increase in staff number as a result of recruitment of additional staff through the use of additional revenue generated from the fee increase to conduct as many compliance inspections as possible.

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, and the resultant additional staff, should have beneficial impact to the economy and the population of Guam from the anticipated reduction in the number of foodborne illness and other diseases transmitted in the nearly 3,000 regulated facilities on the island as there will be greater number of inspections. Currently, there is limited data and studies to effectively quantify the dollar amount potentially saved on the costs of diseases on Guam. However, the additional staff should allow the Division of Environmental Health to do such studies.

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

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

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

Title 26 Guam Administrative Rules and Regulations

Chapter 4

Article 5

1
2 **TABLE OF CONTENTS**
3

4 §4501. Purpose..... 4
5 §4502. Authority..... 4
6 §4503. Title..... 4
7 §4504. Definitions..... 4
8 §4505. Applications..... 8
9 §4506. Fees..... 8
10 §4506.1 Advance Notification of Fees Schedule..... 11
11 §4507. Suspension or Revocation of Sanitary Permit..... 11
12 §4508. Hearing..... 12
13 §4509. Suspension without Hearing..... 12
14 §4510. Effective Date..... 13
15 §4511. Severability..... 13
16

1 **§4501. Purpose.** The purpose of these rules and regulations is to govern the issuance of
2 sanitary permits and the assessment of necessary fees for the operation of health-regulated
3 establishments.

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

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

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

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

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

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

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

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

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

23 (5) manicuring or pedicuring.

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

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

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

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

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

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

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

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

3 (j) *Health-Regulated Establishment* shall mean any (1) eating and drinking
4 establishment; (2) food establishment; (3) institutional facility; (4) hotel; (5) cosmetic
5 establishment; (6) laundry and dry cleaning establishment; (7) public swimming pool; (8)
6 mortuary; (9) edible garbage feeding establishment; (10) chemical toilet; and (11) any other
7 establishment required to possess a Sanitary Permit issued by the Department.

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

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

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

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

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

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

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

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

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

3 (b) A non-refundable deposit of ~~Twenty~~ Thirty Dollars (~~\$20.00~~30.00) shall be made
4 to the 'Treasurer of Guam' at the time the application for Sanitary Permit is submitted to the
5 Department. Upon completion and processing of the application, the deposit amount shall be
6 deducted from the appropriate fee listed in §4506.

7 (c) Any application that remains inactive for sixty (60) consecutive days shall be
8 considered permanently inactive, removed from the file for processing, and then destroyed, and
9 the non-refundable ~~Twenty~~ Thirty Dollars (~~\$20.00~~30.00) deposit shall be automatically forfeited.

10 (d) An applicant who wishes to re-apply after his or her application has become
11 permanently inactive under the provision of §4505(c) shall be considered a new applicant and shall
12 re-submit the application and supporting documents and pay all required fees, including the
13 ~~Twenty~~ Thirty Dollars (~~\$20.00~~ 30.00) non-refundable deposit fee.

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

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

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

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

9 (1) Eating and drinking establishments, excluding vending machines and
10 temporary food service establishments;

11 (2) Food establishments;

12 (3) Institutional facilities;

13 (4) Hotels;

14 (5) Cosmetic establishments;

15 (6) Laundry and dry cleaning establishments;

16 (7) Public swimming pools;

17 (8) Mortuaries;

18 (9) Edible garbage feeding establishments; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8

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

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

Dear Madam Speaker:

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

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

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

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

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

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

We have enclosed the following materials for your reference:

1. A copy of the public hearing notice that was printed in the Marianas Variety on June 12 and 25, 2015;
2. A copy and a duplicate of the draft proposed Rules and Regulations Governing the Issuance of Sanitary Permits, as well as an electronic copy;
3. A copy of the memo of approval from the Office of the Attorney General;
4. A copy of the letter regarding format from the Office of the Compiler of Laws;

5. Minutes of the June 26, 2015 public hearing;
6. Recording of the June 26, 2015 public hearing; and
7. A copy of the Economic Impact Statement for these proposed rules and regulations;

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

Senseramente,

EDDIE BAZA CALVO
I Maga'lahaen Guahan
Governor of Guam

Enclosures

DRAFT

1 **I MINA' TRENTAI TRES NA LIHESLATURAN GUAHAN**
2 **2016 (SECOND) REGULAR SESSION**

3
4 **Bill No.** _____

5
6 **Introduced by:**

7
8
9 **AN ACT TO ADOPT THE RULES AND REGULATIONS GOVERNING THE**
10 **ISSUANCE OF SANITARY PERMITS**

11
12 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

13 **Section 1. Adoption of Rules and Regulations.** The Rules and Regulations Governing
14 the Issuance of Sanitary Permits as contained in Appendix "A."

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

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

Title 26 Guam Administrative Rules and Regulations

Chapter 4

Article 5

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2
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4
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6
7
8
9
10
11
12
13
14
15
16

TABLE OF CONTENTS

§4501. Purpose..... 4

§4502. Authority 4

§4503. Title 4

§4504. Definitions..... 4

§4505. Applications 8

§4506. Fees 8

§4506.1 Advance Notification of Fees Schedule..... 11

§4507. Suspension or Revocation of Sanitary Permit..... 11

§4508. Hearing..... 12

§4509. Suspension without Hearing 12

§4510. Effective Date..... 13

§4511. Severability..... 13

1 **§4501. Purpose.** The purpose of these rules and regulations is to govern the issuance of
2 sanitary permits and the assessment of necessary fees for the operation of health-regulated
3 establishments.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (j) *Health-Regulated Establishment* shall mean any (1) eating and drinking
4 establishment; (2) food establishment; (3) institutional facility; (4) hotel; (5) cosmetic
5 establishment; (6) laundry and dry cleaning establishment; (7) public swimming pool; (8)
6 mortuary; (9) edible garbage feeding establishment; (10) chemical toilet; and (11) any other
7 establishment required to possess a Sanitary Permit issued by the Department.

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

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

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

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

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

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

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

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

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

3 (b) A non-refundable deposit of ~~Twenty~~ Thirty Dollars (~~\$20.00~~30.00) shall be made
4 to the ‘Treasurer of Guam’ at the time the application for Sanitary Permit is submitted to the
5 Department. Upon completion and processing of the application, the deposit amount shall be
6 deducted from the appropriate fee listed in §4506.

7 (c) Any application that remains inactive for sixty (60) consecutive days shall be
8 considered permanently inactive, removed from the file for processing, and then destroyed, and
9 the non-refundable ~~Twenty~~ Thirty Dollars (~~\$20.00~~30.00) deposit shall be automatically forfeited.

10 (d) An applicant who wishes to re-apply after his or her application has become
11 permanently inactive under the provision of §4505(c) shall be considered a new applicant and shall
12 re-submit the application and supporting documents and pay all required fees, including the
13 ~~Twenty~~ Thirty Dollars (~~\$20.00~~ 30.00) non-refundable deposit fee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (2) at the discretion of the Director for violating any provisions of Title 10

18 GCA, Chapters 20 through 40; and

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

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

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

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

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

8