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CH. 4 PUBLIC HEALTH AND SANITATION

CHAPTER 4
PUBLIC HEALTH AND
SANITATION

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ARTICLE 1
ZOONOSIS CONTROL SECTION DOG CONTROL

NOTE: Rule-making authority cited for formulation of regulations for the Zoonosis Control Section of the Department of Public Health and Social Services by the Director of Public Health and Social Services, 10 GCA Chapter 20.

Rule-making authority cited for formulation of regulations relative to entry to, release from and duration for dogs and cats entering Guam by the Department of Public Health and Social Services, 10 GCA Chapter 34.

Enforcement of these regulations is the responsibility of the Zoonosis Control Section of the Department of Public Health and Social Services as provided in 10 GCA Chapter 34.

Rules and regulations on requirements for the introduction of all species of animals into the territory of Guam and on the control of animals and animals diseases within the territory of Guam can be found in 10 GCA Chapter 34.

The regulations for the shooting of stray dogs were formulated apart from the original Zoonosis Control Sections regulations. However, due to the subject matter of these regulations, the regulations for the shooting of stray dogs were incorporated into the original regulations of the zoonosis Control Section regulations. The regulations of the Zoonosis Control Section are reprinted here in form as exact as possible to those filed with the Legislative Secretary. The substance of the regulations has not been changed. However, for the purpose of uniformity and ease of use, a new system of numbering has been adopted by the Editor.

- § 4101. Definitions.
- § 4102. Premises Suitable for “Impoundment”.
- § 4103. Premises Suitable for “Quarantine”.
- § 4104. Dog License.
- § 4105. Rabies Examination.
- § 4106. Control of Animals Running at Large.
- § 4107. Home Impoundment of Biting Dogs.
- § 4108. Rabies-Free Areas.
- § 4109. Importation of Dogs and Cats from Rabies-Free Areas.
- § 4110. Shooting of Stray Dogs.
- § 4111. Same: Authorization and Approval.
- § 4112. Same: Initial Procedures Prior to Shooting of Stray Dogs.
- § 4113. Same: Firearms and Safety Procedures.

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§ 4114. Same: Disciplinary or Criminal Action.

§ 4101. Definitions.

(a) *Officer* as used in the Dog Control Law shall include, but is not necessarily limited to all persons assigned to the Zoonosis Control Section.

(b) *Director* means the Director of Public Health and Social Services.

§ 4102. Premises Suitable for Impoundment.

Premises suitable for impoundment as required by Public Law 10-41 include:

(a) The Dog Pound, Mangilao.

(b) Facilities on the premises of a qualified veterinarian which have been approved by the Chief, Zoonosis Control Section.

(c) The fenced yard, house or secure animal cage on private premises owned or tenanted by the owner of the animal involved and approved by the Chief, Zoonosis Control Section.

2019 NOTE: Past publications of the GAR included bracketed information in subsection (a), indicating that as of 2004, the premises suitable for impoundment is the animal shelter in Yigo operating as Guam Animals in Need (GAIN).

§ 4103. Premises Suitable for Quarantine.

Premises suitable for “quarantine” as required by P.L. 10-41 include:

(a) Animal Quarantine Station, Yigo.

(b) Facilities on the premises of a qualified veterinarian which have been approved by the Director.

(c) Commercial animal kennel facilities which have been approved by the Director and which, in addition, have furnished to the government of Guam a bond in the sum of Two Thousand Five Hundred Dollars (\$2,500.00) as guarantee that:

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(1) All animals quarantined in such facilities shall be subject to all applicable provisions of Regulations 10 of the Department of Agriculture regarding duration of, entry to and release from quarantine.

(2) All animals quarantine in such facilities will remain isolated from all other animals.

(3) All animals quarantined in such facilities will remain, at all times, in cages or other enclosures that have been approved by the Director except when temporarily removed for sanitation, grooming, exercise or other special purposes. Animals quarantined in such facilities shall in no case be removed from approved premises without the permission of the Chief, Zoonosis Control Section.

(4) The Chief, Zoonosis Control Section or his designated agent shall be permitted to inspect the facilities at any reasonable time.

(d) Violation of any of the above conditions shall constitute grounds for forfeiture of bond, impoundment of quarantined animals and cancellation of approval of the use of such facilities for official quarantine purposes.

§ 4104. Dog License.

Vaccination requirements for licensing of dogs are as follows:

(a) Type of Vaccine. Acceptable rabies vaccine shall be modified live virus vaccine for dogs and phenolized inactivated vaccine for all other species. Only those vaccines approved by the United States Department of Agriculture will be acceptable.

(b) Quantity of Vaccine. The quantity of vaccine shall be that recommended by the manufacturer for the species involved.

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(c) Rabies vaccination clinics will be provided when feasible to assure maximum vaccination of pets in areas not readily accessible to other veterinary services.

§ 4105. Rabies Examination.

Any impounded or quarantined dog which dies or develops clinical signs suggestive of rabies during the required observation period shall be submitted to the Department of Public Health and Social Services laboratory for rabies examination. Examination shall consist of fluorescent antibody examination of brain tissue and submission of representative tissue samples to the Communicable Disease Center, Atlanta, Georgia or other recognized diagnostic laboratory for confirmation of results when deemed necessary by the Director.

§ 4106. Control of Animals Running at Large.

Live-capture methods shall be used to apprehend dogs running at large when such capture is practical. When the Director shall determine through the use of stray animals surveys, the number of citizen complaints or other methods at his disposal that live-capture has been inadequate to control the number of animals running at large, he may authorize the use of poison baits. Such poisoning shall be carried out within the guidelines set forth in the Dog Control Law and only under the direct supervision of a representative of the Director.

§ 4107. Home Impoundment of Biting Dogs.

Animals which have bitten a person or persons may, at the discretion of the Director or his designated representative, be confined for observation on the premises of the owner of such animal. Permission for such confinement shall be granted only when confinement at the Dog Pound will be impractical, detrimental to the safety of Pound employees or the health of the animal involved, or when such other circumstances may prevail as the Director or his designated representative may deem sufficient. Biting dogs and cats vaccinated and licensed in accordance with provisions of the Dog Control Law may, with the permission of the victim or his guardian, be permitted to undergo

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home impoundment if the owner of such dog or cat furnishes an affidavit stating that he will observe the following:

(a) The animal will remain confined to the premises specified by the Director and isolated from contact with any other animal susceptible to the disease of rabies.

(b) The animal shall be made available for examination by a representative of the Director at any reasonable time.

(c) The owner must agree to accept sole liability for any legal actions arising out of incidents which occur during, and are a result of such home impoundment.

(d) The failure to abide by any of the provisions of this regulation shall be grounds for immediate seizure and impoundment of the animal involved.

§ 4108. Rabies-Free Areas.

Areas recognized by the Director as being rabies-free are: Australia, Bahama Islands, Bermuda Islands, Fiji, Iceland, Eire (Ireland), Jamaica, New Zealand, Norway, Sweden, Great Britain and Hawaii. Areas may be added to or removed from this list by the Director at any time based on current information available to him.

§ 4109. Importation of Dogs and Cats from Rabies-Free Areas.

Dogs and cats entering Guam from rabies-free areas may be exempted from quarantine requirements provided that, in addition to meeting all other requirements applicable to dogs and cats, they are imported in compliance with the following:

(a) Each such dog or cat is accompanied by a sworn statement in the form of an affidavit, executed by the owner or

consignor of the animal in the presence of a Notary Public, recognized Public Health or Livestock Sanitary Officer of the rabies-free area of origin, stating that it has not been imported from outside of, or removed from, such rabies-free area of origin, stating that it has not been imported from outside of,

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or removed from, such rabies-free area during the four-month period immediately preceding the date of shipment of Guam.

(b) That each such dog or cat is accompanied by a statement in the form of an affidavit, signed by the commanding officer or senior station official of each carrier which shall transport such dog or cat during any segment of its trip to Guam, attesting to the following:

(1) A complete and accurate identification of each such carrier;

(2) An identification of the port of origin and all ports visited by such carrier including port of termination;

(3) That such dog or cat was not exposed by direct contact to any other animal not of similar origin and health status while in the custody of such carrier.

§ 4110. Shooting of Stray Dog.

Under and by virtue of the provisions of § 9620.21, P.L. 15-96 (Environmental Health Act), rules and regulations relative to Shooting of Dogs are promulgated herein.

§ 4111. Same: Authorization and Approval.

(a) Personnel from the Animal Control Section shall be designated by the Director of Public Health and Social Services to shoot dogs. The Director of Public Safety shall qualify such personnel as expert marksmen. They must also possess a valid firearms identification card pursuant to P.L. 12-107.

(b) Authorization of these personnel to shoot dogs is restricted to official duties and only when authorized by appropriate officials.

§ 4112. Same: Initial Procedures Prior to Shooting of Stray Dogs.

(a) Shooting must be scheduled in advance, indicating the date, time and duration, location and names of personnel involved.

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The schedule must be prepared and submitted at least twenty-four (24)

hours in advance by the Administrator, Division of Environmental Health, to the Director of Public Health and Social Services, Director of Public Safety, and respective village commissioners and must be approved by them before implementation of the shooting schedule.

(b) No shooting will be conducted when schedules are changed until such changes are resubmitted in accordance with § 4112(a).

§ 4113. Same: Firearms and Safety Procedures.

(a) Only registered .22 caliber rifles or handguns with silencers and scopes using a .22 caliber short spatterproof ammunition are authorized. The Administrator, Division of Environmental Health, shall designate a custodian for all weapons and ammunition and such custodian shall maintain a log book, check weapons in and out, and make sure that weapons and ammunition are securely locked if not in use. Additionally, all ammunition shall be accounted for.

(b) Shooting is permitted during daylight or night time hours only after all precautionary measures are taken.

(c) Only short range shooting is permitted and at a downward position. Attempts must be made to avoid shooting fast-running strays to prevent missing the animals or unnecessarily maiming the animals.

(d) Shooting is permitted in public areas where there are no people within close proximity of danger or in private property with the prior written consent of the property owner and only in clear terrain where animals are not visible obstructed by vegetation or other objects.

(e) A log book must be kept to record the date of shooting, name of personnel shooting, number killed, number missed and number disposed at the landfill.

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(f) The Animal Control Supervisor shall supervise all shooting missions and shall be responsible for taking all precautions.

(g) Personnel authorized to shoot dogs shall be periodically training in marksmanship and firearms safety.

(1) Firearms and ammunition are lethal weapons and must be seriously handled and controlled accordingly.

(2) Rifles and handguns are intended for shooting of stray dogs only and not for other types of animals or purposes unless otherwise directed by the Director of Public Health and Social Services or the Environmental Health Administrator.

(3) Rifles or handguns are not permitted to be transported to and from the shooting sites when loaded. Loading must be done upon arrival at the shooting location. Ammunition must be completely expended at location site, or unloaded for transfer to Animal Shelter for storage.

(4) Shooting will not be conducted if any hazardous condition exists, e.g., people and houses nearby, heavy rain to obstruct visibility, obstruction from vegetation, junks, dilapidated buildings, etc.

(5) Carrying of rifles must either be at “port arms” (pointing skyward) or pointing towards the ground.

(6) Each rifle handler is responsible for cleaning and maintaining his weapon.

§ 4114. Same: Disciplinary or Criminal Action.

Personnel violating this established procedure are subject to disciplinary action by the Director of Public Health and Social Services in accordance with the Civil Service Commission rules and regulations regarding demotion, suspension, dismissal and appeal of such adverse action. Personnel are also subject to criminal action if gross negligence is alleged.

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**ARTICLE 2
WORLD HEALTH ORGANIZATION
INTERNATIONAL HEALTH REGULATION**

(NO RULES FILED)

**ARTICLE 3
COMMERCIAL QUARANTINE REGULATIONS**

NOTE: Rule-making authority cited for formulation of quarantine regulations by the Director of Public Health and Social Services, 10 GCA § 20105.

Rule-making authority cited for formulation of quarantine regulations originally vested by the Director of Public Health and Social Services, 10 GCA § 20104.

The regulations of the quarantine regulations are reprinted here in form as exact as possible to those filed on August 25, 1980 with the Legislative Secretary. The substance of these regulations has not been changed. However, for the purpose of uniformity and ease of use, a new system of numbering has been adopted by the Editor. It is hoped that the revised numerical system will eventually be substituted for that formulated by the Director of Public Health and Social Services.

- § 4301. Definitions.
- § 4302. Quarantine Requirements -Owners.
- § 4303. Facility Construction - Commercial Quarantine Facility.
- § 4304. Quarantine Requirements - Commercial Quarantine Facility.
- § 4305. Penalty.

§ 4301. Definitions.

(a) Department means the Department of Public Health and Social Services.

(b) Director means the Director of the Department of Public Health and Social Services or his designated representative.

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(c) Animals means any member of the Order Carnivora, Marsupulia, Chiroptera.

(d) Commercial Quarantine means a quarantine facility, including veterinary clinics, approved by the Director to confine animals under quarantine as required by applicable laws, rules and regulations. Except for veterinary clinics, other commercial quarantine facilities must have space for a minimum of twelve (12) dogs.

§ 4302. Quarantine Requirements - Owners.

(a) All animals entering Guam from areas which are not recognized as being rabies-free by the Director must be confined at the government of Guam Yigo Quarantine Facility before being transferred to a commercial quarantine facility.

(b) Petitions for authorization of quarantine in a commercial kennel facility will be approved only for animals originating in the continental United States (excluding counties contiguous to the border between the United States and Mexico), Japan, Hong Kong and Oceania.

(c) Animals may be released for quarantine on commercial quarantine facilities only upon petition of the owner and approval of such petition by the Director.

(d) Owners of animals petitioning for quarantine on commercial quarantine facilities shall sign a statement that they agree to the terms of these regulations before their petition will be considered.

(e) Only animals vaccinated for rabies at least once if between six (6) months and one (1) year of age or vaccinated for rabies at least twice if one (1) year of age or older may be released for quarantine on commercial quarantine facilities.

§ 4303. Facility Construction - Commercial Quarantine Facility.

(a) All kennels and runs will be constructed of materials impervious to water and readily cleaned and disinfected.

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(b) Each dog kennel shall be provided with an individual exercise run of at least six (6) feet in length for toy breeds or at least ten (10) feet in length for all other breeds.

(c) Individual kennels and run units shall be separated by full-height solid walls, or if fenced, by a space of not less than eight (8) inches.

(d) Cages for cats shall not be constructed in tiers.

(e) Cages, kennels and runs shall be so constructed that the cleaning procedure will not bring animal waste in contact with any other cage, kennel or run in the facility.

(f) The premises of a commercial quarantine facility shall be surrounded by a perimeter fence at least six (6) feet high and topped by barbed wire.

(g) The premises of a commercial quarantine facility shall be maintained in good repair and escape-proof condition at all times.

(h) The premises of a commercial quarantine facility shall be maintained in a sanitary condition at all times.

(i) A responsible employee shall remain on the premises of a commercial quarantine facility at all times to observe dogs and cats periodically for signs of rabies.

§ 4304. Quarantine Requirements - Commercial Quarantine Facility.

(a) Animals held in commercial quarantine facility will be strictly confined to cages approved by the Director.

(b) Animals will not be removed from their cages except upon authorization by the Director.

(c) Cages or kennels approved for quarantine will be in an area physically separated from areas used for housing all other animals.

(d) Cages or kennels approved for quarantine will be used only to house animals under quarantine.

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(e) Cages or kennels will be thoroughly cleaned and disinfected before a new animal is introduced.

(f) A log book shall be maintained showing the entry date of all quarantined animals and any removal from their cages or kennels.

(g) Commercial quarantine facility must be available for inspection by the Director at any time.

(h) The commercial quarantine facility shall be responsible for the apprehension of an animal escaping from such facility. The Director shall be notified immediately of such an incident.

(i) Should an animal under quarantine die during the period of its quarantine, the carcass shall be released only to the Director.

(j) Animals under quarantine will be released to their owners only upon authorization by the Director.

(k) Transportation to the commercial quarantine facility shall be provided by the Department.

(l) Permit for commercial quarantine facility shall be renewed annually.

§ 4305. Penalty.

Any violation of any provision of this regulation will be grounds for immediate confinement of the animal(s) involved at the government of Guam Quarantine Facility and/or cancellation of the authorization of the commercial quarantine facility involved.

ARTICLE 4
ISSUANCE OF HEALTH CERTIFICATE

SOURCE: Adopted by P.L. 33-020:2 (May 7, 2015).

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

§ 4401. Short Title.

§ 4402. Authority.

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- § 4403. Purpose.
- § 4404. Definitions.
- § 4405. Health Certificate Required.
- § 4406. Exemption of Health Certificate.
- § 4407. Application for Health Certificate and Temporary Health Certificate.
- § 4408. General Requirements for Health Certificate.
- § 4409. Training Course and Examination Requirements for Health Certificate.
- § 4410. Specific Requirements by Category.
- § 4411. Requirements for Temporary Health Certificate.
- § 4412. Single Health Certificate for Multiple Locations per Category.
- § 4413. Additional Health Certificates.
- § 4414. Interim Health Certificate.
- § 4415. Certificate of Management Certification and Health Certificate.
- § 4416. Fees.
- § 4417. Effective Date of Health Certificate.
- § 4418. Presentation of Health Certificate, Temporary Health Certificate, Interim Health Certificate, and Certificate of Management Certification.
- § 4419. Suspension or Revocation of Health Certificate and Certificate of Management Certification.
- § 4420. Administrative Penalties.
- § 4421. Right to Notice, Hearing, and Administrative Process.
- § 4422. Variances.
- § 4423. Effective Date.
- § 4424. Severability.

ANNEX I

ANNEX II

ANNEX III

General Provisions and Definitions

§ 4401. Short Title.

These rules and regulations may also be cited as the “Health Certificate Regulations.”

§ 4402. Authority.

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Sub section 22104, Chapter 22 of Title 10, Guam Code Annotated, authorizes the Director of the Department of Public Health and Social Services to establish, by rules and regulations, the requirements and fees for the issuance of a Health Certificate.

§ 4403. Purpose.

These rules and regulations are established to ensure that the holder of a health certificate is free of communicable diseases that could potentially spread to fellow employees or their clients as a result of the holder's work activities and/or possesses the minimum knowledge in preventing the spread of communicable diseases at the health-regulated establishment where the holder is employed. Upon adoption, these rules and regulations will repeal and replace the previously adopted regulations entitled, Rules and Regulations Governing the Issuance of Health Certificates.

§ 4404. Definitions.

Wherever in these rules and regulations the following words appear, they shall have the following definition:

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

- (1) eating and drinking establishment;
- (2) food establishment;
- (3) cosmetic establishment;
- (4) institutional facility;
- (5) laundry and dry cleaning establishment;
- (6) swimming pool;
- (7) hotel; and
- (8) tattoo shop.

(b) Certificate of Management Certification shall mean a certification issued by the Department or any

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authorized institution, as determined by the Director, to a person employed, or designated, as a manager or supervisor within any health-regulated establishment who has demonstrated his or her knowledge of applicable governing rules and regulations, including, but not limited to, sanitation, employee hygiene, cleaning and sanitizing procedures, and rodent and insect control, as determined by the Director.

(c) Cosmetic Establishment.

(1) Cosmetic establishment shall mean any premises or portions thereof, wherein any of the following is practiced for compensation:

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

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

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

(D) manicuring or pedicuring.

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

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

(B) “school of cosmetology,” which shall mean any establishment or facility where the practice of cosmetology is taught for a fee. The

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term includes, but is not limited to, barber colleges or other closely related institutions or establishments teaching cosmetology for reimbursement;

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

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

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

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

(f) Eating and drinking establishment shall mean any mobile food service establishment; vending machine; restaurant; coffee shop; public or private school cafeteria; lunchroom; luncheonette; lunch-stand; lunch-counter; in-plant or employee eating establishment; soda fountain; bar; cafe; tavern; short order cafe; sandwich stand; drink stand; cafeteria or similar facility connected with an institution; any other eating establishment within an organization, club, veteran’s club, boarding house, guest house, political

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subdivision, stall, stand, and booth; and a concession within any public market which gives, sells, or offers for sale, or promotes food to the public, guests, patrons, or employees; and as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering functions.

(g) Food establishment shall mean every establishment or place which is used or occupied as a bakery; confectionery; cannery; dairy; creamery; packing house; grocery; supermarket; meat or poultry market; fruit or vegetable market; delicatessen; beverage plant; slaughter house; poultry processing plant; fish processing plant; frozen food processing plant; bottling plant; food refrigeration locker plant; ice plant; ice cream or frozen dessert plant; public market; food warehouse; or any structure used for the production, processing, manufacture, preparation for sale, canning, bottling, packing, packaging, storage, sale or distribution, of any food.

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

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

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

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

(l) Institutional facility as used in these rules and regulations, shall include:

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

(2) “Child Care Facility,” which shall mean any person or place which receives or arranges placement of one or more children who are not related to such person, whether for gain or otherwise, apart from the parents or guardian, with or without the transfer of the right of custody for the purpose of providing regular care or training for such child or children during either the day or night, or both. Except as otherwise provided, the term “Child Care Facility” includes, but is not limited to, all facilities defined by the Department as “family day care homes,” “foster family homes,” “group day care homes,” “residential treatment facilities,” “day care center,” “day nurseries,” “nursery school,”

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“kindergarten school,” “day care homes,” or similar institutions or units regardless of name;

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

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

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

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

(7) “Nursing Home,” which shall mean any facility established, for profit or non-profit, which provides

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nursing care and related medical services twenty-four (24) hours per day for two (2) or more individuals because of illness, disease, or mental or physical infirmity. It provides care for these persons not in need of hospital care but requiring nursing care or related medical services, which medical services shall be administered by a professional nurse, a physical therapist, or an occupational therapist; or other licensed medical practitioners, depending upon the service required; and

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

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

(n) Laundry or dry cleaning establishment shall mean any place, building, structure, room, or partition thereof, used in the business of dyeing; washing; starching; ironing; or dry cleaning apparels, household linens, and other fabric articles, including any establishment providing laundering equipment for use by customers for a fee such as a laundromat, wash-o-mat, launderette, or coin operated laundromat.

(o) Massage parlor shall mean premises occupied and used for the purpose of practicing massage, provided that when any massage establishment is situated in any building used for residential or sleeping purposes, the massage

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establishment premises shall be set apart and shall not be used for any other purpose.

(p) Person employed shall mean the following:

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

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

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

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

(5) in a “hotel,” any person employed for compensation or otherwise who cleans and handles pre-packaged food (i.e., bottled water, coffee, tea), food contact equipment (i.e., coffee makers, ice buckets, and refrigerator/freezers), soiled or cleaned linens or other laundry items, and who maintains the sanitary condition and operation of the facility during the course of their duties and responsibilities;

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

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

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

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

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

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

(t) Temporary food service establishment shall mean any eating and drinking establishment which operates at a fixed location for a period of time not exceeding six (6)

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months in conjunction with a carnival, fair, circus, exhibition, or other transitory gathering not of a permanent nature, and shall include catering.

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

§ 4405. Health Certificate Required.

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

§ 4406. Exemption of Health Certificate.

The selling of the following articles shall not require the obtaining of a Health Certificate:

- (a) fresh, unprocessed fruits, vegetables, nuts, eggs, live poultry or live pigs;
- (b) canned or bottled drinks, including alcoholic beverages, in the original container of their manufacturer; or
- (c) candies or other confections in the original container of their manufacturer.

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

(a) Any person desiring to engage in employment requiring a Health Certificate or Temporary Health Certificate under these rules and regulations shall submit an application for a Health Certificate or Temporary Health Certificate to the Department. The applicant shall be required to show a current and valid photo

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identification or other evidence attesting to the applicant's true identity. The applicant shall also be required to show documentation that attests to the applicant's United States citizenship, permanent resident alien, or non-immigrant status, that authorizes the applicant to work in the United States by the U.S. federal government. The following are acceptable forms of photo identification:

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

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

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

(c) Whenever an applicant is unable to apply to renew a Health Certificate in person, the applicant may designate an authorized representative to make an application for the applicant, provided the representative has the following information available:

- (1) a signed and dated authorization letter from the applicant, along with an explanation of the applicant's relation to the representative;
- (2) a completed, original application; and
- (3) a copy of the representative's and the applicant's acceptable photo identification cards.

(d) An applicant applying for a Health Certificate shall complete all application requirements and submit all necessary information at any time, but not more than one (1) month before

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commencement of employment. An applicant, applying for a Temporary Health Certificate shall complete all application requirements and submit all necessary information, not more than twenty (20) and not less than five (5) working days, before commencement of employment, unless approved by the Director.

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

§ 4408. General Requirements for Health Certificate.

(a) Unless stated otherwise in these rules and regulations, all new Health Certificate applicants, including Temporary Health Certificate applicants, shall submit an application approved by the Department, pay all applicable fees, and shall:

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

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

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

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

(a) Unless otherwise stated in these rules or regulations or any other separate rules and regulations promulgated by the

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Director to properly carry out Division 2 of Title 10 GCA relating to environmental health, the following are further and specific requirements for any person desiring to engage in employment requiring a Health Certificate under these and other rules and regulations of the Department, and must be complied with to qualify for, and hold, a Health Certificate:

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

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

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

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

(5) At the discretion of the Director, the requirement for taking the training course may be waived if the applicant

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shows proof of disability, but shall be required to enter into the written agreement in Annex I or Annex II.

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

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

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

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

(c) [Reserved.]

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

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

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

(g) In the event an entity authorized by the Department to provide a training course is unable to provide the minimum

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standard of training that is acceptable to the Department in the issuance of Health Certificates, or fails to timely provide the required training course, the Department may seek the assistance of another approved entity in carrying out the provisions of this Section.

§ 4410. Specific Requirements by Category.

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

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

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

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

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

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

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

(e) Swimming Pool. Every person responsible for the operation of a regulated swimming pool shall be required to obtain a Health Certificate and attend and pass the training course provided by the Department. However, that person shall not be required to be tested or screened for infectious tuberculosis or other communicable diseases. A responsible operator of a regulated swimming pool will not be required to attend and pass the training course provided by the Department if such operator possesses and shows proof of a valid Certified Pool/Spa Operator certification with the National Swimming Pool Foundation, or its successor, or any other nationally recognized certification approved by the Department; however, the responsible operator shall still be required to obtain the required Health Certificate.

(f) Tattoo Shop.

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

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

(g) Laundry or Dry Cleaning Establishment. A Health Certificate shall not be issued or renewed unless the applicant

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has undergone a physical examination performed by a healthcare professional using report forms provided by the Department and passes a training course provided by the Department.

§ 4411. Requirements for Temporary Health Certificate.

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

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

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

§ 4412. Single Health Certificate for Multiple Locations Per Category.

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

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

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§ 4413. Additional Health Certificate.

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

§ 4414. Interim Health Certificate.

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

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

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

(d) An applicant who fails to attend the rescheduled training course or whose Interim Health Certificate has expired more than

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fourteen (14) working days from the date of the original training course shall be considered a new applicant and shall be required to apply as a new applicant. Such applicant may submit his/her initial physical test and/or tuberculosis test results with the application, provided the testing or screening was within the six (6) months of submission of the new application.

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

§ 4415. Certificate of Management Certification and Health Certificate.

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

(b) Any person employed or designated as a manager or supervisor within an eating and drinking establishment and food establishment, excluding manufacturers, wholesalers, and distributors, and any other food facilities specifically exempted, shall be required to take and pass a prescribed course provided by the Department, or any other course approved by the Department, before a Certificate of Management Certification, or an equivalent certification as approved by the Director, is issued by the institution administering the course. The course shall require the candidate for managerial certification to show evidence by examination of satisfactory knowledge (scoring seventy percent (70%) or higher) of rules and regulations governing food facilities, including, but not limited to, microbiology, food-borne diseases, food storage, food preparation and service, equipment design and construction, employee hygiene, cleaning and sanitary

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procedures, and rodent and insect control. Those candidates who fail to show evidence by examination of satisfactory knowledge (scoring sixty-nine percent (69%) or lower) shall repeat the course until the required minimum passing score of seventy percent (70%) or higher is met. No restrictions are placed on the number of times a designated manager or supervisor may take the course to obtain a passing score.

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

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

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

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

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

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

Any person with an expired Certificate of Management Certification in a situation described in this Section shall be

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considered to have a current and valid certification up until the date of the scheduled course.

(g) The Department, if it wishes, may authorize another government of Guam entity to provide or supplement the Certificate of Management Certification course, provided a written memorandum of agreement between the Department and the other entity is formally established.

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

§ 4416. Fees.

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

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

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

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

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

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(e) An applicant who has failed to pass the training course and is required to attend another training course for re-testing shall pay a fee of Ten Dollars (\$10.00) for such re-testing, and a fee of Five Dollars (\$5.00) for a new Interim Health Certificate, provided he/she returns within ten (10) working days of the expiration date; otherwise, the fee for a new Interim Health Certificate reverts back to Ten Dollars (\$10.00).

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

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

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

§ 4417. Effective Date of Health Certificate.

(a) Unless indicated elsewhere in these rules and regulations, or any other rules and regulations promulgated by the Director

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under Guam law relevant to environmental health, all Health Certificates shall expire one (1) year after the date of application and for the category indicated on the certificate. Applications for renewal of a Health Certificate shall not be accepted more than thirty (30) days prior to its expiration, unless authorized by the Director.

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

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

(a) Every person required to have a Health Certificate under §22101 of Title 10 GCA, shall have the Health Certificate in that person's personal possession at all times during his or her working hours.

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

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

(a) The Director may suspend or revoke any Health Certificate, Temporary Health Certificate, or Interim Health Certificate issued under these rules and regulations, or any other

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rules and regulations promulgated by the Director requiring a Health Certificate, for providing false information in his or her application, violation of the provisions of these or any other related rules and regulations, or in the event the holder of any Health Certificate has been determined to be harboring a communicable disease. The holder of the suspended or revoked Health Certificate shall return the said certificate to the Department.

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

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

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

§ 4420. Administrative Penalties.

(a) In accordance with Title 10 GCA, Chapter 22, §22106, the Director may impose a fine for any health-regulated establishment that permits a person to perform services without having in their possession a valid Health Certificate at the time the services are performed. The monetary fine for the administrative violation is not to exceed Three Hundred Dollars (\$300.00) for the

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first offense, and shall impose a fine of One Thousand Dollars (\$1,000.00) for a second offense involving the same person occurring within one (1) year of the first offense.

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

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

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

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

(f) If any person, or a health-regulated establishment, fails to comply with an administrative penalty order after it has become final, the Attorney General shall bring a civil action to enforce the order and to recover the amount ordered or assessed, plus current interest from the date of the final order or decision. To prevail in such an action, the Director need establish only that:

- (1) notice was given as required;

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

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

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

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

(b) The procedures and requirements set out in these Rules and Regulations, and to the extent consistent herewith, in the Administrative Adjudication Law at Title 5, Guam Code Annotated, §§ 9200 through 9242, as amended, shall be followed by the Director, and by any person or health-regulated establishment adversely affected by decisions of the Department pursuant to these Rules and Regulations.

(c) Upon an administrative adjudication the Director shall make the final determination whether to issue a Health Certificate,

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Interim Health Certificate, or Certificate of Management Certification, to suspend or revoke a Health Certificate, Interim Health Certificate, or Certificate of Management Certification, or to uphold an Administrative Penalty.

§ 4422. Variances.

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

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

§ 4423. Effective Date.

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

§ 4424. Severability.

If any provision or application of any provision of these regulations is held invalid, that invalidity shall not affect the other provisions or applications of these rules and regulations.

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ANNEX I

I, _____, a holder of
“Certificate of Management Certification” and the supervisor of
_____ at

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

(To be determined by DPHSS.)

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

EMPLOYEE-Print

SIGNATURE DATE

SUPERVISOR-Print

SIGNATURE DATE

DPHSS REPRESENTATIVE-Print

SIGNATURE DATE

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ARTICLE 5
SANITARY PERMITS

SOURCE: Adopted pursuant to P.L. 31:041:3 (May 16, 2011). Amended pursuant to Chapter 9 of Title 5 GCA (Administrative Adjudication Law), effective Nov. 9, 2021.

2022 NOTE: Pursuant to P.L. 31-041:4, the Department of Public Health and Social Services was mandated to review and amend these rules and regulations pursuant to Article 3 of Chapter 9, Title 5 Guam Code Annotated.

2019 NOTE: Past publications included the following annotation:

NOTE: Rule-making authority cited for formulation of Sanitary and Construction Permits by the Director of Public Health and Social Services, 10 GCA § 20105.

The regulations for sanitary and construction permits are reprinted here in form as exact as possible to those filed on December 22, 1980 with the Legislative Secretary. The substance of the regulations has not been changed. However, for the purpose of uniformity and ease of use, a new system of numbering has been adopted by the Editor. It is hoped that the revised numerical system will eventually be substituted for that formulated by the Director of Public Health and Social Services.

- § 4501. Purpose.
- § 4502. Authority.
- § 4503. Title.
- § 4504. Definitions.
- § 4505. Sanitary Permit Applications for New and Renewal.
- § 4506. Fees.
- § 4506.1. Notification of Fee Schedule.
- § 4507. Administrative Penalty.
- § 4508. Suspension or Revocation of Sanitary Permit.
- § 4509. Hearing.
- § 4510. Suspension without Hearing.
- § 4511. Effective Date.
- § 4512. Severability.

§ 4501. Purpose.

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

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§ 4502. Authority.

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

SOURCE: Adopted pursuant to P.L. 31:041:3 (May 16, 2011). Amended pursuant to Chapter 9 of Title 5 GCA (Administrative Adjudication Law), effective Nov. 9, 2021.

§ 4503. Title.

These rules and regulations shall also be known and cited as the *Sanitary Permit Rules and Regulations*.

§ 4504. Definitions.

As used in these rules and regulations:

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

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

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

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

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

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

(f) *Edible Garbage Feeding Establishment* shall mean a farm, ranch, facility, premises, site, or any place approved by the Director for operation to process edible garbage for the purpose of livestock feeding.

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

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

(i) *Health-Regulated Establishment* shall mean any
(1) eating and drinking establishment;

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- (2) food establishment;
- (3) institutional facility;
- (4) hotel;
- (5) cosmetic establishment;
- (6) laundry and dry cleaning establishment;
- (7) public swimming pool;
- (8) mortuary;
- (9) edible garbage feeding establishment; and(10)
any other establishment required to possess a Sanitary Permit issued by the Department.

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

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

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

(m) *Public Laundry* shall mean any place, building, structure, room establishment premises, or portions thereof, used in the business of making, sorting, washing, drying, starching, or ironing, or wearing apparel, household linens and other articles, including any establishment providing

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laundering equipment for use by customers for a fee, and known by various terms such as laundromat, wash-o-mat, or launderette.

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

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

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

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

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

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

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

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

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

SOURCE: Adopted pursuant to P.L. 31:041:3 (May 16, 2011). Amended pursuant to Chapter 9 of Title 5 GCA (Administrative Adjudication Law), effective Nov. 9, 2021.

§ 4505. Sanitary Permit Applications for New and Renewal.

(a) All applications for sanitary permits *shall* be in a form prescribed by the Director.

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

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

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

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

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

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

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

SOURCE: Adopted pursuant to P.L. 31:041:3 (May 16, 2011). Amended and renamed pursuant to Chapter 9 of Title 5 GCA (Administrative Adjudication Law), effective Nov. 9, 2021.

§ 4506. Fees.

Fees for the issuance of a Sanitary Permit *shall* be as follows:

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

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

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

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

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

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

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

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

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

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(3) One Hundred Twenty-Five Dollars (\$125.00) for TFSE-7;

(4) Two Hundred Dollars (\$200.00) for TFSE-180;

(5) Three Hundred Dollars (\$300.00) for TFSE-X; and

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

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

(1) Five Hundred Dollars (\$500.00) per vending machine for each of the first style or model of vending machine; and

(2) Ten Dollars (\$5.00 \$10.00) for each additional vending machine.

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

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

(f) An applicant for a Sanitary Permit may request for the permit to be expedited and processed within 24 hours the request is submitted. The Department may grant such request provided the applicant has met all the requirements of the Department to obtain a Sanitary Permit, including the requirement for the Pre-Operational Inspection. The Department shall assess a fee One Hundred Dollars (\$100.00) for expedited processing in addition to the regular processing fee. Applications for a Sanitary Permit for Temporary Food Service Establishments which are submitted one day or less prior to the event will automatically be assessed an expedited processing fee of Fifty Dollars (\$50.00), in addition to the regular processing fee.

(g) The cost of the Pre-Operational Inspection is included in the initial payment for the Sanitary Permit. However, a fee of Fifty Dollars (\$50.00) an hour shall be assessed for all subsequent inspections. With the exception of the first hour, fractional hours

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shall be rounded up to the nearest whole hour if more than one half (0.5) hour, and rounded down if less than one half (0.5) hour.

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

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

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

(2) That requests to be re-inspected outside normal Government of Guam business hours (8:00 a.m. to 5:00 p.m.; Monday through Friday) may submit a request to the Department, and if approved, shall be assessed a flat fee of Three Hundred Dollars (\$300.00). For any Government of Guam holiday, the fee shall be Six Hundred Dollars (\$600.00), if the request is approved. Payment shall be made on the first business day immediately after the inspection, and if such payment is not made, the Department may re-suspend the Sanitary Permit immediately without any advanced notice and assess all other applicable fees. If the re-inspection results in the non-reinstatement of the Sanitary Permit (i.e., failed inspection) and the establishment fails to make the requirement payment, the Department shall not

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conduct another re-inspection until such time all outstanding fees have been paid by the establishment.

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

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

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

(m) A Temporary Food Service Establishment, or a sponsor of an event with such establishment, that requests, and is granted, a variance pursuant to the Guam Food Code, which causes the Department to increase its inspection frequency or duration so to closely monitor the establishment in ensuring that the approved modification or waiver does not create any health hazard or nuisance shall pay a fee of Three Hundred Dollars (\$300.00).

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

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

SOURCE: Adopted pursuant to P.L. 31:041:3 (May 16, 2011). Amended pursuant to Chapter 9 of Title 5 GCA (Administrative Adjudication Law), effective Nov. 9, 2021.

§ 4506.1. Notification of Fees Schedule.

The Director shall ensure that notification is provided to all Sanitary Permit licensees relative to the cost for permit renewal

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prior to the expiration of the Sanitary Permit. The notification may be in a form of a press release to the local news media.

SOURCE: Adopted pursuant to P.L. 31:041:3 (May 16, 2011). Amended and renamed pursuant to Chapter 9 of Title 5 GCA (Administrative Adjudication Law), effective Nov. 9, 2021.

§ 4507. Administrative Penalty.

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Before imposing an administrative penalty against a person or a health-regulated establishment, the Director shall issue a notice of intent to impose the penalty and provide the individual or business an opportunity to request a hearing on the proposed

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penalty. The request must be made within fifteen (15) business days of the date the notice of intent is served upon the person or health-regulated establishment. Serving of the notice of intent to the person in charge of the health-regulated establishment, or by certified mail to the last known mailing address of the health-regulated establishment, shall be acceptable means of notification.

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

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

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

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

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

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

SOURCE: Adopted pursuant to P.L. 31:041:3 (May 16, 2011). Amended and renamed pursuant to Chapter 9 of Title 5 GCA (Administrative Adjudication Law), effective Nov. 9, 2021.

2022 NOTE: Prior to its amendment, this provision stated in its entirety:

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§ 4507. Suspension or Revocation of Sanitary Permit.

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

§ 4508. Suspension or Revocation of Sanitary Permit.

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

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

- (1) The staff and management receive applicable training and/or consultation from the Department; and
- (2) Submits a corrective action plan and/or other applicable, related documentation to the Department.

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

SOURCE: Adopted pursuant to P.L. 31:041:3 (May 16, 2011). Amended and renamed pursuant to Chapter 9 of Title 5 GCA (Administrative Adjudication Law), effective Nov. 9, 2021.

§ 4509. Hearing.

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

(b) Any health-regulated establishment that receives a notice of violation with intent to suspend or revoke as described

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in Subsection (a) of this §4509 and that wishes to contest shall request a hearing with the Director in writing *no later than* fifteen (15) calendar days after receipt of the notice, and shall state the grounds for objecting to the intended suspension or revocation. The Administrative Adjudication Law’s hearing procedure applies.

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

SOURCE: Adopted pursuant to P.L. 31:041:3 (May 16, 2011). Amended and renamed pursuant to Chapter 9 of Title 5 GCA (Administrative Adjudication Law), effective Nov. 9, 2021.

2022 NOTE: Pursuant to the authority of 1 GCA § 1606, the manifest error in subsection (b) was corrected by the Compiler.

§ 4510. Suspension without Hearing.

(a) In accordance to Title 10 GCA, Chapter 21, §§ 21107(d) and 21109(a) and (b), a Sanitary Permit may be suspended without prior hearing:

- (1) when the demerit score of the establishment is more than forty (40);
- (2) at the discretion of the Director for violating any provisions of Title 10 GCA, Chapters 20 through 40; and
- (3) for twice violating the same requirement deemed critical under the applicable rules and regulations of the Department within any six (6)-month period, in which case, it shall not exceed five (5) days.

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

SOURCE: Adopted pursuant to P.L. 31:041:3 (May 16, 2011). Amended and renamed pursuant to Chapter 9 of Title 5 GCA (Administrative Adjudication Law), effective Nov. 9, 2021.

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§ 4511. Effective Date.

These rules and regulations *shall* become effective immediately upon enactment.

SOURCE: Adopted pursuant to P.L. 31:041:3 (May 16, 2011). Amended and renamed pursuant to Chapter 9 of Title 5 GCA (Administrative Adjudication Law), effective Nov. 9, 2021.

§ 4512. Severability.

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

SOURCE: Adopted pursuant to P.L. 31:041:3 (May 16, 2011). Amended and renamed pursuant to Chapter 9 of Title 5 GCA (Administrative Adjudication Law), effective Nov. 9, 2021.

ARTICLE 6
PUBLIC SWIMMING POOLS

SOURCE: Original rules filed with the Legislative Secretary on August 19, 1981 and adopted September 29, 1980. Current rules were submitted to the Legislature on Mar. 26, 2019, and deemed adopted on June 24, 2019 pursuant to the Administrative Adjudication law, 5 GCA § 9101 *et seq.*

2022 NOTE: The rules are reproduced here in the same numbering as had been submitted to the Guam Legislature.

Past publications of the GAR included the following Compiler's Note, which is retained herein for historical purposes:

NOTE: Rule-making authority cited for the formulation of regulations governing public swimming pools by the Director of Public Health and Social Services, 10 GCA § 29104 (P.L. 15-96). These Rules and Regulations were adopted September 29, 1980; filed with the Legislative Secretary on August 19, 1981.

The rules and regulations relating to public swimming pools are reprinted here in form as exact as possible to those filed with the Legislative Secretary. The substance of the regulations has not been changed. However, for the purpose of uniformity and ease of use, a new system of numbering has been adopted by the Editor. It is hoped that the revised numerical system will eventually be substituted for that formulated by the Director of Public Health and Social Services.

§ 4601. Purpose.

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- § 4602. Authority.
- § 4603. Title.
- § 4604. Definitions.
- § 4605. Scope.
- § 4606. Sanitary Permit.
- § 4607. Public Swimming Pool Design Standards and Construction
- § 4608. Water Supply.
- § 4609. Wastewater Disposal
- § 4610. Depth Markings and Lines.
- § 4611. Recirculation System.
- § 4612. Inlets and Outlets.
- § 4613. Perimeter Overflow Gutters.
- § 4614. Skimmers.
- § 4615. Filter Requirements.
- § 4616. Pool Access and Egress.
- § 4617. Decks and Walkways.
- § 4618. Chemical Control.
- § 4619. Disinfection and Water Quality.
- § 4620. Water Clarity.
- § 4621. Electrical Requirements.
- § 4622. Lighting Requirements.
- § 4623. Ventilation Requirements.
- § 4624. Theoretical Peak Occupancy.
- § 4625. Hygiene Facilities Requirements.
- § 4626. Bathing Suits, Caps, and Towels.
- § 4627. Barriers and Enclosures.
- § 4628. Visitor and Spectator Areas.
- § 4629. Cleaning and Maintenance.
- § 4630. Wading Pool.
- § 4631. Spas.
- § 4632. Water Slides.
- § 4633. Lazy Rivers.
- § 4634. Qualified Operator.
- § 4635. Safety Requirements.
- § 4636. Lifesaving Equipment, First-Aid Kit.
- § 4637. Qualified Lifeguards.
- § 4638. Supervision of Bathers.
- § 4639. Injury and Illness Incident Reporting.

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- § 4640. Water Contamination Response.
- § 4641. Inspection and Grading.
- § 4642. Closure of Public Swimming Pool.
- § 4643. Variance.
- § 4644. Exemption.
- § 4645. Severability.

§ 4601. Purpose.

The purpose of these rules and regulations is to repeal and replace existing rules and regulations of the Department of Public Health and Social Services that govern PUBLIC SWIMMING POOL sanitation for safeguarding public health and providing BATHERS a swimming environment that is safe and conducive to good health. The Model Aquatic Health Code was utilized in the development of these rules and regulations.

§ 4602. Authority.

Title 10 Guam Code Annotated (GCA), Chapter 21, Section 21102 authorizes the DIRECTOR of the Department of Public Health and Social Services to establish rules and regulations to carry out the provisions of Chapter 29, Title 10 GCA.

§ 4603. Title.

These rules and regulations shall be known as the “Rules and Regulations for Public Swimming Pools.”

§ 4604. Definitions.

(a) Agitated Water means a PUBLIC SWIMMING POOL with mechanical means to discharge, spray, or move the water's surface above and/or below the static water line of the PUBLIC SWIMMING POOL. Where there is no static water line, movement shall be considered above the deck plane.

(b) Backflow means a hydraulic condition caused by a difference in water pressure that causes an undesirable reversal of the flow as the result of a higher pressure in the system than in its supply.

(c) Barrier means an obstacle intended to prevent direct access from one point to another.

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(d) Bather means a person at a PUBLIC SWIMMING POOL who has contact with water either through spray, or partial or total immersion. The term BATHER as defined, also includes staff members, and refers to those users who can be exposed to contaminated water, as well as potentially contaminate the water.

(e) Chemical Storage Space means a space in a PUBLIC SWIMMING POOL facility used for the STORAGE of POOL chemicals such as acids, salt, or corrosive or oxidizing chemicals.

(f) Chlorine means an element that at room temperature and pressure is a heavy greenish yellow gas with a characteristic penetrating and irritating smell; it is extremely toxic. It can be compressed in liquid form and stored in heavy steel tanks. When mixed with water, CHLORINE gas forms hypochlorous acid, the primary CHLORINE-based disinfecting agent, hypochlorite ion, and hydrochloric acid. Hypochlorous acid dissociation to hypochlorite ion is highly pH dependent. CHLORINE is a general term which refers to hypochlorous acid and hypochlorite ion in aqueous solution derived from CHLORINE gas or a variety of CHLORINE-based disinfecting agents.

(1) Available Chlorine means the amount of CHLORINE in the +1 oxidation state, which is the reactive, oxidized form. In contrast, chloride ion (Cl⁻) is in the -1 oxidation state, which is the inert, reduced state. AVAILABLE CHLORINE is subdivided into Free Available CHLORINE and Combined Available CHLORINE. POOL chemicals containing AVAILABLE CHLORINE are both oxidizers and disinfectants. Elemental CHLORINE (Cl₂) is defined as containing 100% AVAILABLE CHLORINE. The concentration of AVAILABLE CHLORINE in water is normally reported as mg/L (ppm) “as Cl₂,” that is, the concentration is measured on a Cl₂ basis, regardless of the source of the AVAILABLE CHLORINE.

(2) Combined Chlorine means that portion of the total residual CHLORINE that is combined with ammonia or nitrogen compounds and will not react with undesirable or pathogenic organisms.

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(3) Free Chlorine Residual, or Free Available Chlorine (FAC), means the portion of the total AVAILABLE CHLORINE that is not “combined chlorine” and is present as hypochlorous acid (HOCl) or hypochlorite ion (OCl⁻). The pH of the water determines the relative amounts of hypochlorous acid and hypochlorite ion. HOCl is a very effective bactericide and is the active bactericide in POOL water. OCl⁻ is also a bactericide, but acts more slowly than HOCl. Thus, CHLORINE is a more effective bactericide at low pH than at high pH. A FREE CHLORINE RESIDUAL must be maintained for adequate DISINFECTION.

(g) Contaminant means a substance that soils, stains, corrupts, or infects another substance by contact or association.

(h) Critical Item means a provision of this rules and regulations, that, if in noncompliance, is more likely than other violations to contribute to contamination, illness, or environmental health hazard.

(i) Cross-Connection means a connection or arrangement, physical or otherwise, between a potable water supply system and a PLUMBING FIXTURE, tank, receptor, equipment, or device, through which it may be possible for non-potable, used, unclean, polluted and contaminated water, or other substances to enter into a part of such potable water system under any condition.

(j) CT Inactivation Value, or CT Value, means a representation of the concentration of the disinfectant (C) multiplied by time in minutes (T) needed for inactivation of a particular CONTAMINANT. The concentration and time are inversely proportional; therefore, the higher the concentration of the disinfectant, the shorter the contact time required for inactivation. The CT VALUE can vary with pH or temperature change so these values must also be supplied to allow comparison between values.

(k) Deck means surface areas serving the PUBLIC SWIMMING POOL, including the dry DECK, perimeter/wet DECK, and POOL DECK.

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(1) Perimeter Deck means the hardscape surface area immediately adjacent to and within four feet of the edge of the PUBLIC SWIMMING POOL; also known as the “wet deck” area.

(2) Pool Deck means the surface areas serving the PUBLIC SWIMMING POOL, beyond PERIMETER DECK, which is expected to be regularly trafficked and made wet by BATHERS.

(l) Department means the Guam Department of Public Health and Social Services.

(m) Diaper-Changing Station means a hygiene station that includes a diaper-changing unit, handwashing sink, soap and dispenser, a means for drying hands, trash receptacle, and disinfectant products to clean after use.

(n) Diaper-Changing Unit means a diaper-changing surface that is part of a DIAPER-CHANGING STATION.

(o) Director means the Director of the Department of Public Health and Social Services or his/her designated representative.

(p) Disinfection means a treatment that kills or irreversibly inactivates microorganisms (e.g., bacteria, viruses, and parasites); in water treatment, a chemical (commonly CHLORINE, chloramine, or ozone) or physical process (e.g., ultraviolet radiation) can be used.

(q) Enclosure means an uninterrupted constructed feature or obstacle used to surround and secure an area that is intended to deter or effectively prevent unpermitted, uncontrolled, and unfettered access. It is designed to resist climbing and to prevent passage through it and under it.

(r) Equipment Room means a space intended for the operation of POOL pumps, filters, heaters, and controllers. This space is not intended for the STORAGE of hazardous POOL chemicals.

(s) Flat Water means a PUBLIC SWIMMING POOL in which the water line is static except for movement made by users.

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(t) Flume means the riding channels of a WATERSLIDE which accommodate riders using or not using mats, tubes, rafts, and other transport vehicles as they slide along a path lubricated by a water flow.

(u) Foot Bath means standing water in which BATHERS or PUBLIC SWIMMING POOL staff rinse their feet.

(v) Ground-Fault Circuit Interrupter or GFCI means a device for protection of personnel that de-energizes an electrical circuit or portion thereof in the event of excessive ground current.

(w) Handwashing Station means a location which has a handwashing sink, adjacent soap with dispenser, hand drying device or paper towels and dispenser, and trash receptacle.

(x) Hot Water means a PUBLIC SWIMMING POOL with a water temperature over 90°F.

(y) Hygiene Facility means a structure or part of a structure that contains toilet, SHOWER, DIAPER-CHANGING UNIT, HANDWASHING STATION, and dressing capabilities serving BATHERS and PATRONS at a PUBLIC SWIMMING POOL.

(z) Imminent Health Hazard means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

(aa) Indoor Swimming Pool means a physical place that contains one or more PUBLIC SWIMMING POOL and the surrounding BATHER and spectator/stadium seating areas within a structure that meets the definition of “Building” per the International Building Code. It does not include equipment, chemical STORAGE, or BATHER hygiene rooms or any other rooms with a direct opening to the PUBLIC SWIMMING POOL facility. Otherwise known as a natatorium.

(ab) Inlet means wall or floor fittings where treated water is returned to the POOL.

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(ac) Lazy River means a channeled flow of water of near-constant depth in which the water is moved by pumps or other means of propulsion to provide a river-like flow that transports BATHERS over a defined path. A LAZY RIVER may include play features and devices. A LAZY RIVER may also be referred to as a tubing POOL, leisure river, leisure POOL, or a current channel.

(ad) Oocyst means the thick-walled, environmentally resistant structure released in the feces of infected animals that serves to transfer the infectious stages of sporozoan parasites (e.g., Cryptosporidium) to new hosts.

(ae) Patron means a BATHER or other person or occupant at a PUBLIC SWIMMING POOL who may or may not have contact with PUBLIC SWIMMING POOL water either through partial or total immersion. PATRONS may not have contact with PUBLIC SWIMMING POOL water, but could still be exposed to potential contamination from the PUBLIC SWIMMING POOL facility air, surfaces, or aerosols.

(af) Perimeter Gutter System, or Perimeter Overflow System (POS), means the alternative to SKIMMERS as a method to remove water from the POOL's surface for treatment. The gutter provides a level structure along the POOL perimeter versus intermittent SKIMMERS.

(ag) Person means any person, firm, partnership, association, corporation, company, governmental agency, club or organization of any kind.

(ah) pH means the negative log of the concentration of hydrogen ions. When water ionizes, it produces hydrogen ions (H⁺) and hydroxide ions (OH⁻). If there is an excess of hydrogen ions the water is acidic. If there is an excess of hydroxide ions the water is basic. pH ranges from 0 to 14. Pure water has a pH of 7.0. If pH is higher than 7.0, the water is said to be basic, or alkaline. If the water's pH is lower than 7.0, the water is acidic. As pH is raised, more ionization occurs and CHLORINE disinfectants decrease in effectiveness.

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(ai) Plumbing Fixture means a receptacle, fixture, or device that is connected to a water supply system or discharges to a drainage system or both and may be used for the distribution and use of water; for example: toilets, urinals, SHOWERS, and hose bibs. Such receptacles, fixtures, or devices require a supply of water; or discharge liquid waste or liquid-borne solid waste; or require a supply of water and discharge waste to a drainage system.

(aj) Public Swimming Pool means any SWIMMING POOL that is available for public use, whether for a fee or free of charge, or any SWIMMING POOL used by any business, partnership, corporation or PERSON for the use of their customers, clients, guests or employees including, but not limited to: a commercial POOL; a community POOL or POOL at a hotel, motel, resort, auto park, trailer park, apartment house, or other multiple rental unit; private club; public club; and public or private school, gymnasium, or health establishment.

(ak) Qualified Lifeguard means an individual who has successfully completed a lifeguard training course offered by a training agency recognized by the DEPARTMENT, holds a current certificate for such training, has met the pre-service requirements, and is participating in continuing in-service training requirements of the PUBLIC SWIMMING POOL facility.

(al) Qualified Operator means an individual responsible for the operation and maintenance of the water and air quality systems and the associated infrastructure of the PUBLIC SWIMMING POOL facility, and who has successfully completed a recognized operator training course to operate a PUBLIC SWIMMING POOL offered by a recognized training agency, and holds a current certificate for such training.

(am) Recessed Steps means a way of ingress/egress for a POOL similar to a ladder but the individual treads are recessed into the POOL wall.

(an) Recirculation System means the combination of the main drain, gutter or SKIMMER, INLETS, piping, pumps,

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controls, surge tank or balance tank to provide POOL water recirculation to and from the POOL and the treatment systems.

(ao) Runout means that part of a WATERSLIDE where riders are intended to decelerate and/or come to a stop. The RUNOUT is a continuation of the WATERSLIDE FLUME surface.

(ap) Safety (as it relates to construction items) means a design STANDARD intended to prevent inadvertent or hazardous operation or use (i.e., a passive engineering strategy).

(aq) Sanitize means reducing the level of microbes to that considered safe by public health STANDARDS (usually 99.999%). This may be achieved through a variety of chemical or physical means including chemical treatment, physical cleaning, or drying.

(ar) Saturation Index means a mathematical representation or scale representing the ability of water to deposit calcium carbonate, or dissolve metal, concrete or grout.

(as) Secondary Disinfection Systems means those DISINFECTION processes or systems installed in addition to the STANDARD systems required on all PUBLIC SWIMMING POOLS, which are required to be used for increased risk PUBLIC SWIMMING POOLS.

(at) Shower means a device that sprays water on the body.

(1) Cleansing Shower means a SHOWER located within a HYGIENE FACILITY using warm water and soap. The purpose of these SHOWERS is to remove CONTAMINANTS including perianal fecal material, sweat, skin cells, personal care products, and dirt before BATHERS enter the PUBLIC SWIMMING POOL.

(2) Rinse Shower means a SHOWER typically located in the POOL DECK area with ambient temperature water. The main purpose is to remove dirt, sand, or organic material prior to entering the PUBLIC SWIMMING POOL to reduce the introduction of CONTAMINANTS and the formation of DISINFECTION by-products.

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(au) Skimmer means a device installed in the POOL wall whose purpose is to remove floating debris and surface water to the filter. They shall include a weir to allow for the automatic adjustment to small changes in water level, maintaining skimming of the surface water.

(av) Slide means a PUBLIC SWIMMING POOL feature where users slide down from an elevated height into water.

(1) Drop Slide means a SLIDE that drops BATHERS into the water from a height above the water versus delivering the BATHER to the water entry point.

(2) Pool Slide means a SLIDE having a configuration as defined in The Code of Federal Regulations (CFR) Chapter II, Title 16, Part 1207 by CSPC, or is similar in construction to a playground slide used to allow users to slide from an elevated height to a POOL. They shall include children's (tot) SLIDES and all other non-FLUME SLIDES that are mounted on the POOL DECK or within the basin of a PUBLIC SWIMMING POOL.

(3) Waterslide means a SLIDE that runs into a LANDING POOL or RUNOUT through a fabricated channel with flowing water.

(aw) Spa means a structure intended for either warm or cold water where prolonged exposure is not intended. SPA structures are intended to be used for bathing or other recreational uses and are not usually drained and refilled after each use. It may include, but is not limited to, hydrotherapy, air induction bubbles, and recirculation.

(ax) Standard means something established by authority, custom, or general consent as a model or an example.

(ay) Storage means the condition of remaining in one space for one hour or more. Materials in a closed pipe or tube awaiting transfer to another location shall not be considered to be stored.

(az) Substantial Alteration means the alteration, modification, or renovation of a PUBLIC SWIMMING POOL

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where the total cost of the work exceeds 50% of the replacement cost of the PUBLIC SWIMMING POOL.

(ba) Swimming Pool, or Pool, means any artificial structure, basin, chamber, or tank constructed of impervious material used or intended to be used for swimming, diving, or recreational bathing. It does not include conventional bathtubs where the primary purpose is the cleaning of the body, or individual therapeutic tubs.

(1) Diving Pool means a PUBLIC SWIMMING POOL used exclusively for diving.

(2) Landing Pool means a PUBLIC SWIMMING POOL or designated section of a PUBLIC SWIMMING POOL located at the exit of one or more WATERSLIDE FLUMES. It is the body of water intended and designed to receive a BATHER emerging from the FLUME for the purpose of terminating the slide action and providing a means of exit to a DECK or walkway area.

(3) Skimmer Pool means a POOL using a SKIMMER system.

(4) Surf Pool means any POOL designed to generate waves dedicated to the activity of surfing on a surfboard or analogous surfing device commonly used in the ocean and intended for sport, as opposed to general play intent for WAVE POOLS.

(5) Therapy Pool means a POOL used exclusively for aquatic therapy, physical therapy, and/or rehabilitation to treat a diagnosed injury, illness, or medical condition, wherein the therapy is provided under the direct supervision of a licensed physical therapist, occupational therapist, or athletic trainer. This could include wound patients or immunocompromised patients whose health could be impacted if there is not additional water quality protection.

(6) Wading Pool means an artificial basin, chamber, or tank constructed of impervious material used, or intended to be used, for wading by small children and having a maximum

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depth not to exceed 18 inches at the deepest point and not more than 12 inches in depth at the side walls.

(7) Wave Pool means any POOL designed to simulate breaking or cyclic waves for purposes of general play. A WAVE POOL is not the same as a SURF POOL, which generates waves dedicated to the activity of surfing on a surfboard or analogous surfing device commonly used in the ocean and intended for sport as opposed to general play intent for WAVE POOLS.

(bb) Theoretical Peak Occupancy means the anticipated peak number of BATHERS in a PUBLIC SWIMMING POOL, or the anticipated peak number of occupants of the DECKS of a PUBLIC SWIMMING POOL facility. This is the lower limit of peak occupancy to be used for design purposes for determining services that support occupants. THEORETICAL PEAK OCCUPANCY is used to determine the number of SHOWERS. For PUBLIC SWIMMING POOL, the THEORETICAL PEAK OCCUPANCY is calculated around the type of water use or space.

(bc) Turnover, or Turnover Rate, means the period of time, usually expressed in hours, required to circulate a volume of water equal to the capacity of the PUBLIC SWIMMING POOL.

(bd) Variance means a written document issued by the DIRECTOR, not his/her representative, that authorizes a modification or waiver of one or more requirements of these rules and regulations if, in the opinion of the DIRECTOR, a health hazard or nuisance will not result from the modification or waiver.

§ 4605. Scope.

These rules and regulations shall apply to all PUBLIC SWIMMING POOLS as defined herein, except private SWIMMING POOL maintained by an individual for the use of his family and friends.

These rules and regulations shall apply to all auxiliary structures and equipment thereof such as POOL DECKS, diving boards, locker rooms, SHOWER and dressing rooms, toilet facilities, and filtration, pumping, piping, disinfecting, and

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SAFETY equipment provided and maintained in connection with such facility.

§ 4606. Sanitary Permit.

(a) No PERSON shall directly or indirectly in any manner, conduct, control, manage, maintain, or operate a PUBLIC SWIMMING POOL unless a valid Sanitary Permit issued by the DEPARTMENT to operate such a facility has been obtained and posted. Any PERSON, before constructing a new PUBLIC SWIMMING POOL, or making SUBSTANTIAL ALTERATION of an existing facility shall first submit plans and specifications of such facility or changes to the DIRECTOR for approval.

(b) An application for a Sanitary Permit to operate all new or existing PUBLIC SWIMMING POOL shall be made in writing on a form prescribed by the DEPARTMENT, signed by the applicant or his authorized agent, and shall contain such information that will determine that the facility and its operation are in compliance with the applicable provisions of these rules and regulations.

(c) Before the application for a Sanitary Permit shall be approved, the DEPARTMENT shall verify that the facility meets the minimum sanitary requirements and STANDARDS by means of a pre-operational inspection. This shall include the access onto premises for assessment, inspection, and/or investigation.

(d) Before a pre-operational inspection is conducted, plans and specifications shall be submitted to the DIRECTOR in accordance with the requirements established in these rules and regulations, which shall include the following:

(1) Site information indicating, at a minimum, the location of all utilities, wells, topography, natural water features, and potential sources of surface drainage and pollution which may affect the proposed PUBLIC SWIMMING POOL;

(2) A plot plan including a general map and detailed scaled drawings of the PUBLIC SWIMMING POOL site

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plan or floor plan with detailed locations of each PUBLIC SWIMMING POOL and related features, and locations of all water supply facilities, sources of drinking water, public or private sewers and relative elevations of paved or other walkways and the EQUIPMENT ROOM floor with the elevations of storm and sanitary sewer inverts and street grade;

(3) Detailed scaled and dimensional drawings for each individual PUBLIC SWIMMING POOL showing the following:

(i) Location and type of INLETS, overflows, drains, suction outlets, overflow gutters or devices, piping, POOL water elevation, lighting, POOL markings, surface materials, and POOL features such as ladders, stairs, diving boards, SLIDES, and play features;

(ii) Location and type of DECK, curb, or walls enclosing the POOL, DECK drains, walkways, flooring, area finishes, entries and exits, hose bibs, fences, telephones, and area lighting;

(iii) A flow diagram showing the location, plan, elevation, and schematics of filters, pumps, chemical feeders and interlocks, chemical controllers and interlocks, supplementary DISINFECTION system, heaters, surge tanks, BACKFLOW prevention assemblies, valves, piping, flow meters, gauges, thermometers, test cocks, sight glasses, and drainage system;

(iv) A schematic layout of the EQUIPMENT ROOM showing accessibility for installation and maintenance, and CHEMICAL STORAGE SPACES;

(v) Location and number of HYGIENE FACILITIES provided including dressing rooms, lockers, SHOWERS, handwashing facilities, toilet fixtures, and DIAPER-CHANGING STATIONS; and

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(vi) Layout for zones of PATRON surveillance as specified in § 4637 (e) showing features or design configurations that can impact PATRON surveillance.

§ 4607. Public Swimming Pool Design Standards and Construction.

(a) PUBLIC SWIMMING POOLS shall be constructed of reinforced concrete or impervious and structurally sound materials which provide a smooth, easily cleaned, watertight structure capable of withstanding the anticipated stresses for full and empty conditions.

(b) All materials shall be inert, non-toxic, resistant to corrosion, impervious, enduring, and resistant to damages related to the environmental conditions of Guam.

(c) All corners formed by intersection of walls and floors shall be rounded.

(d) Wood, sand, or earth are not permitted as an interior finish in PUBLIC SWIMMING POOL construction.

(e) A PUBLIC SWIMMING POOL and all associated structures thereto shall be so shaped and arranged that maintenance of safe and sanitary conditions, and recirculation of the water, are not impaired. An obstruction shall not extend into or above the PUBLIC SWIMMING POOL so as to create a SAFETY hazard.

(f) The finished surface of the PUBLIC SWIMMING POOL wall and floor shall be smooth, without cracks or open joints, non-slip, easily cleaned and light colored, except that a marking may be inserted against a light background.

(g) PUBLIC SWIMMING POOL floors in areas less than three feet deep, underwater benches, and all other floors and surfaces required to be slip-resistant shall have a minimum dynamic coefficient of friction at least equal to the requirements of ANSI A137.1-2012 of 0.42 as measured by the DCOF AcuTest.

(h) A hydrostatic relief valve and/or suitable under drain system shall be provided where the water table exerts hydrostatic

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pressure to uplift the PUBLIC SWIMMING POOL when empty or drained.

(i) All vertical walls shall have a durable finish suitable for regular scrubbing and cleaning at the waterline. SKIMMER POOLS shall have a six-inch to 12-inch high waterline finish, and gutter or PERIMETER OVERFLOW SYSTEM shall have a minimum finish height of two inches.

(j) If dark colors are used for the POOL finish, these colors shall not extend more than 12 inches below the waterline.

(k) Except for special use POOLS, the slope of the floor for all POOLS with water depths under five feet shall not exceed one-foot vertical drop for every 12-feet horizontal, and shall not exceed one-foot vertical to three-feet horizontal for POOLS with water depths five foot and greater.

(l) Except as provided in (m) of this Section, floors and walls below the water line shall be white or light pastel in color such that from the POOL DECK a BATHER is visible on the POOL floor and the following items can be identified:

- (1) Algae growth, debris or dirt within the POOL, and
- (2) Cracks in the surface finish of the POOL, and
- (3) Marker tiles defined in § 4620.

(m) An exception for the color and finish requirement in (l) of this Section shall be made for the following PUBLIC SWIMMING POOL components:

- (1) Competitive lane markings;
- (2) Dedicated competitive diving well floors;
- (3) Step or bench edge markings;
- (4) POOLS shallower than 24 inches;
- (5) Water line tiles;
- (6) WAVE POOL and SURF POOL depth change indicator tiles; or
- (7) Other designs approved by VARIANCE.

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(n) PUBLIC SWIMMING POOLS shall be free of recessed areas which will interfere with circulation of the water and with skimming action and SAFETY supervision of BATHERS.

(o) PERIMETER OVERFLOW GUTTERS and/or SKIMMERS meeting the requirements of § 4613 and § 4614 shall be required on all PUBLIC SWIMMING POOLS.

(p) Diving boards shall be permitted only when the diving envelope conforms to the STANDARDS of the certifying agency that regulates competitive diving at the PUBLIC SWIMMING POOL. If the PUBLIC SWIMMING POOL does not have competitive diving or certifying agency that regulates competitive diving, then the diving envelope shall conform to the diving envelope STANDARDS of Table 1, Table 2, Figure 1, and Figure 2. Starting platforms shall only be used for competitive swimming and training, and under the direct supervision of a coach or instructor. Starting platforms shall be removed, if possible, or prohibited from use during all recreational or non-competitive swimming activity by covering platforms with a manufacturer-supplied platform cover or with another means or device that is readily visible and clearly prohibits use.

Table 1. Diving Board Dimensions				
Board Height	1.64 ft.	2.46 ft.	3.28 ft.	3.84 ft.
Board Length	10.0 ft.	12.0 ft.	16.0 ft.	16.0 ft.
Board Width	20.0 in.	20.0 in.	20.0 in.	20.0 in.

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Table 2. Dimensions of Components Related to Diving Wells					
Letters below refer to Figures 1 & 2		Minimum Dimensions			
A	Distance from plummet back to pool wall	3.0 ft.	4.5 ft.	6.0 ft.	6.0 ft.
B	Distance from plummet to pool wall at side	10.0 ft.	10.0 ft.	10.0 ft.	11.5 ft.
C	Distance from plummet to adjacent plummet	8.83 ft.	8.83 ft.	8.83 ft.	8.54 ft.
D	Distance from plummet to pool wall ahead	26.0 ft.	27.83 ft.	29.58 ft.	33.67 ft.
E	Height, board to ceiling at plummet & distances F and G	16.0 ft.	16.0 ft.	16.0 ft.	16.0 ft.
F	Clear overhead distance behind and each side of plummet	8.0 ft.	8.0 ft.	8.0 ft.	8.0 ft.
G	Clear overhead distance ahead of plummet	16.0 ft.	16.0 ft.	16.0 ft.	16.0 ft.
H	Depth of water at plummet	9.5 ft.	10.75 ft.	12.0 ft.	12.5 ft.
J	Distance ahead of plummet to depth K	12.0 ft.	14.25 ft.	16.5 ft.	19.75 ft.
K	Depth at distance J ahead of plummet	8.75 ft.	10.0 ft.	11.28 ft.	12.17 ft.
L	Distance at each side of plummet to depth M	8.0 ft.	8.13 ft.	8.25 ft.	9.92 ft.
M	Depth at distance L on each side of plummet	9.08 ft.	10.33 ft.	11.63 ft.	12.17 ft.
N	Maximum slope to reduce height E	30°	30°	30°	30°
P	Maximum floor slope to reduce depth ahead of K, to the sides of M, or back to pool wall behind H	3:1	3:1	3:1	3:1

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Figure 1. Diving Platform Longitudinal Section

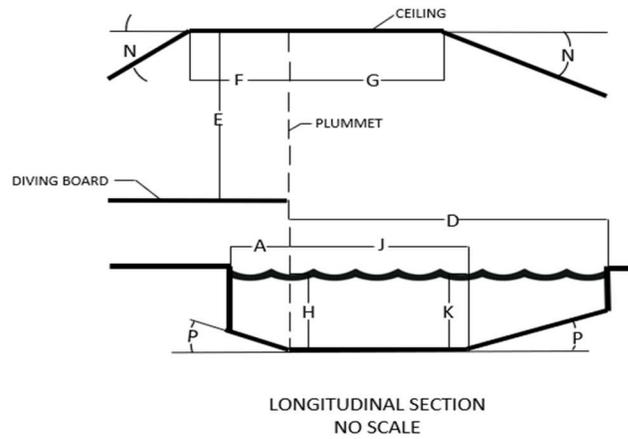
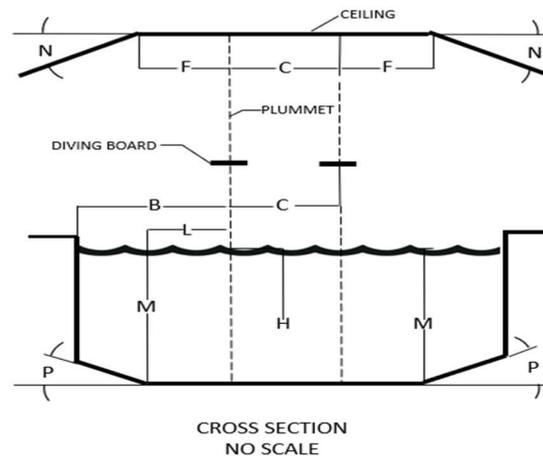


Figure 2. Diving Platform Cross Section



(q) Where applicable, all equipment used, or proposed to be used, in PUBLIC SWIMMING POOLS shall be listed and labeled

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by an ANSI accredited certification organization, or have EPA registration, as applicable.

(r) At least one space dedicated to CHEMICAL STORAGE SPACE shall be provided to allow safe STORAGE of the chemicals present. An emergency eye wash station shall be provided in all CHEMICAL STORAGE SPACES. The CHEMICAL STORAGE SPACE shall be separate from the EQUIPMENT ROOM.

(s) It shall be the responsibility of the Sanitary Permit holder of the PUBLIC SWIMMING POOL to comply with all applicable codes (i.e., STANDARDS of Guam Fire Department and Guam Environmental Protection Agency) when storing chemicals necessary for maintenance purposes, operation, or sanitation of equipment in the EQUIPMENT ROOM.

(t) A carbon monoxide detector with local alarming, listed and labeled in accordance with UL 2075, shall be installed in all EQUIPMENT ROOMS and rooms adjacent to spaces containing fuel-burning equipment or vents carrying the products of combustion.

(u) Floors of an interior CHEMICAL STORAGE SPACE and EQUIPMENT ROOM shall be of concrete or other suitable material having a smooth, slip resistant finish that is easily cleanable. Openings or gaps on floors, walls, or ceilings shall be permanently sealed against air leakage.

(v) All doors opening into CHEMICAL STORAGE SPACES shall be equipped with permanent signage warning against unauthorized entry, and specifying the expected hazards and the location of the associated Safety Data Sheets. Doors shall be constructed of corrosion-resistant materials and automatic lock to prevent unauthorized entry.

§ 4608. Water Supply.

(a) The water supply serving the PUBLIC SWIMMING POOL and all PLUMBING FIXTURES including drinking fountains, handwashing sinks, and SHOWERS shall come from an approved public water system.

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(b) The water supply shall have sufficient capacity to simultaneously serve all PLUMBING FIXTURES.

(c) If a spill spout is used at a PUBLIC SWIMMING POOL, the fill spout shall be located so that it is not a SAFETY hazard to BATHERS. The open end of the fill spouts shall not have sharp edges or protrude more than two inches beyond the edge of the POOL. The open end shall be separated from the water by an air gap of at least 1 ½ pipe diameters measured from the pipe outlet to the POOL.

(d) The potable water supply serving a PUBLIC SWIMMING POOL shall be protected against BACKFLOW consisting of either of the following:

(1) An acceptable air gap consisting of a vertical distance of not less than two pipe diameters of the water supply pipe or six inches, whichever is greater, over the lowest free-flowing discharge point of the receiving pipe, tank, or vessel. Splash guards that are open to the atmosphere may be used around the air gap; or

(2) Where permitted, an approved reduced pressure zone BACKFLOW preventer installed according to the plumbing code and the DEPARTMENT.

§ 4609. Wastewater Disposal.

(a) The sewer system shall be adequate to serve all PLUMBING FIXTURES in the facility including the SHOWERS, toilets, and related structures.

(b) There shall be no physical connection between the sewer system and any drain from the PUBLIC SWIMMING POOL or RECIRCULATION SYSTEM. Any PUBLIC SWIMMING POOL or gutter drain when discharged to the sewer system, storm drain, or other approved natural drainage course shall connect through a suitable air gap so as to preclude possibility of backup of sewage or waste into the PUBLIC SWIMMING POOL piping system.

(c) The sanitary sewer serving the PUBLIC SWIMMING POOL and auxiliary facilities shall discharge to the public sewer

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system wherever possible. Where no such sewer is available, the connection shall be made to a suitable disposal plant designed, constructed, and operated properly.

§ 4610. Depth Markings and Lines.

(a) Depth of water shall be plainly marked at or above the water surface on the vertical wall next to the PUBLIC SWIMMING POOL, at maximum and minimum depths, at the points of break between the deep and shallow portions, on both sides and at each end of the POOL, and spaced at not more than twenty-five feet intervals measured peripherally. In addition, for water less than five feet in depth, the depth shall be marked at one-foot depth intervals. The depth in the diving areas shall be appropriately marked.

(b) Depth markers shall be positioned to be read from within the POOL and while standing on the DECK facing the POOL. Depth markers shall be in numerals of four inches minimum height and a color contrasting with background.

(c) Depth markers shall be marked in units of feet and inches. Abbreviations of “FT” and “IN” may be used in lieu of “FEET” and “INCHES.” Symbols for feet (‘) and inches (”) shall not be permitted on water depth signs. Metric units may be provided in addition to – but not in lieu of – units of feet and inches.

(d) Lane lines or other markings on the bottom of a POOL shall not exceed ten inches in width. Decorative designs on the bottom or walls which give the illusion of being or mistaken for the human form are prohibited.

(e) For POOL water depths five feet or shallower, all DECK depth markers required in these rules and regulations shall be provided with “NO DIVING” warning signs along with the universal international symbol for “NO DIVING.”

(f) For POOLS deeper than five feet, a line of contrasting color, not less than two inches and not more than six inches in width, shall be clearly and permanently installed on the POOL

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floor at the shallow side of the break in the floor slope, and extend up the POOL walls to the waterline.

(g) One foot to the shallow water side of the break in floor slope and contrasting band, a SAFETY float rope shall extend across the POOL surface with the exception of WAVE POOLS, SURF POOLS, and WATERSLIDE LANDING POOLS.

§ 4611. Recirculation System.

(a) A RECIRCULATION SYSTEM consisting of one or more pumps, pipes, return INLETS, suction outlets, tanks, filters, water conditioning and DISINFECTION equipment, and other accessory equipment shall be provided to ensure effective distribution of treated water and maintain a uniform disinfectant residual and pH throughout the PUBLIC SWIMMING POOL.

(b) All PUBLIC SWIMMING POOLS shall comply with the maximum allowable TURNOVER times on Table 3 and Table 4.

Table 3. Turnover Times	
Type of Public Swimming Pool	Turnover Maximum
Diving Pools	2 hours
Lazy River	2 hours
Plunge Pools	1 hour
Runout Slide	1 hour
Wading Pools	1 hour
Wave Pools	2 hours
All Other Pools	6 hours

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Table 4. Turnover Times for Spa and Therapy Pools		
Temperature	Load	Turnover Maximum
≤ 72°-93°F	> 2500 gals/person	4 hours or less
≤ 72°-93°F	> 450 gals/person	2 hours or less
≤ 72°-93°F	≤ 450 gals/person	1 hour or less
≥ 93-104 F	All	0.5 hours or less

(c) The TURNOVER time shall be calculated based on the total volume of water divided by the flow rate through the filtration process.

(d) For gutter or SKIMMER POOLS with main drains, the required recirculation flow shall be as follows during normal operation:

- (1) At least 80% of the flow through the POS, and
- (2) No greater than 20% through the main drain.

(e) RECIRCULATION SYSTEM piping shall be designed so that water velocities do not exceed eight feet per second on the discharge side of the recirculation pump and suction piping shall be sized so that the water velocity does not exceed six feet per second unless alternative values have proper engineering justification.

(f) Piping shall be of non-toxic material, resistant to corrosion, and able to withstand operating pressures, chemicals, and temperatures. Piping and piping system component materials shall be listed and labeled to NSF/ANSI Standard 14, NSF/ANSI Standard 50, and NSF/ANSI Standard 61, as applicable. All piping shall be clearly marked to indicate type or source of water and direction of flow with clear labeling and/or color coding.

(g) All valves shall be clearly identified with a brass tag, plastic laminate tags, or permanently affixed alternate.

(h) All recirculation pumps shall meet the minimum Net Positive Suction Head requirement for the system. Pumps shall

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be of adequate capacity to provide the required number of TURNOVERS of PUBLIC SWIMMING POOL water as specified in (b) of this Section and whenever possible shall be so located as to eliminate the need for priming. If the pump or suction is located above the overflow level of the POOL, the pump shall be self-priming. The pump or pumps shall be capable of providing flow adequate for the back-washing of filters. Where vacuum filters are used, a vacuum limit switch shall be provided on the pump suction line. The vacuum limit switch shall be set for a maximum vacuum of 18 inches of mercury.

(i) The RECIRCULATION SYSTEM shall include a strainer or screen device on the suction side to prevent hair, lint, and foreign objects from reaching the pump and filters. Strainers shall be corrosion-resistant with openings not more than 1/8 inch in size, providing a free-flow area at least four times the area of the pump suction line, and shall be readily accessible and cleaned as necessary to maintain proper skimming. An extra strainer basket shall be provided with each strainer device to permit continuity of service.

(j) A cleaning system shall be provided to remove dirt from the bottom of the POOL. The cleaning system shall not create an entanglement or suction entrapment hazard or interfere with the operation or use of the PUBLIC SWIMMING POOL. Use of integral vacuum systems, meaning a vacuum system that uses the main circulating pump or a dedicated vacuum pump connect to the POOL with PVC piping and terminating at the POOL with a flush-mounted vacuum port fitting, shall be prohibited.

(k) A flow meter accurate within +/- 5% of the actual design flow shall be provided for each filtration system. Flow meters shall be listed and labeled to NSF/ANSI Standard 50 by an ANSI-accredited certification organization. When used with sand filters, the flow meter shall be located at a point so that the rate of the backwash will also be indicated. The flow meter shall be capable of measuring flows at least twenty percent over the design flow rate and shall be easy to read. Mercury manometers must be equipped with return wells to keep mercury from being blown out of the manometer.

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(l) All components of the filtration and RECIRCULATION SYSTEMS shall be kept in continuous operation 24 hours per day. The system flow rate shall not be reduced more than 25% lower than the minimum design requirements and only reduced when the POOL is unoccupied.

§ 4612. Inlets and Outlets.

(a) Effective distribution of treated water shall be accomplished by either a continuous POS with integral INLETS or by means of directionally adjustable INLETS to facilitate circulation of the water and maintain a disinfectant residual as required by § 4619 uniformly throughout the entire PUBLIC SWIMMING POOL.

(b) INLETS shall be hydraulically sized to provide the design flow rates for each POOL area of multi-zone POOLS based on the required design TURNOVER RATE for each zone.

(c) POOLS shall use wall and/or floor INLETS to provide adequate mixing. Wall INLETS shall be flushed against the POOL wall; submerged at least 24 inches below the water level; spaced no greater than 20 feet apart; placed within five feet of each corner of the POOL; placed at least five feet from a SKIMMER; and placed in each recessed or isolated area of the POOL. INLETS shall not protrude more than one and ¼ inches beyond the wall surface into the POOL and shall be rounded and smooth so as not to produce a SAFETY hazard.

(d) For POOLS greater than 50 feet wide, floor INLETS shall be required. Floor INLETS shall be flush with the bottom of the POOL; spaced no greater than 20 feet apart; row of INLETS located within 15 feet of each side wall; and spaced no greater than 25 feet from the nearest side walls when combined with wall INLETS.

(e) A minimum of two hydraulically balanced filtration system outlets are required in the bottom of all PUBLIC SWIMMING POOLS. The outlets shall be connected to a single main suction pipe by branch lines piped to provide hydraulic pressure balance between the drains. The branch lines shall not be valved so as to be capable of operating independently. Outlets

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shall be equally spaced from the POOL side walls and shall be located no less than three feet apart, measuring between the centerlines of the suction outlet covers. Suction outlets, including sumps and covers, shall be listed and labeled to the requirements of ANSI/APSP-16 2011. The bottom drain and recirculation outlets shall be covered with grates or other protective devices which cannot be removed except with tools. The slots or openings of these covers shall not exceed ½ inch in the smaller dimension.

§ 4613. Perimeter Overflow Gutters.

(a) PERIMETER OVERFLOW GUTTERS shall extend completely around the PUBLIC SWIMMING POOL, except at steps or recessed ladders. The overflow gutter may also serve as a step or a handhold, provided that the gutter is provided with a grating or cover and conforms to all construction and dimensional requirements herein specified.

(b) PERIMETER OVERFLOW GUTTERS shall be capable of continuously removing at least 125 percent of the approved total recirculation flow rate chosen by the designer.

(c) Gutter water shall be returned to the filter, or to waste, at the discretion of the POOL OPERATOR.

(d) All overflow gutters shall be connected to the RECIRCULATION SYSTEM through a properly designed surge tank. A vacuum gravity filter box may be used as a surge tank. The gutter system shall have an effective net surge capacity of at least one gallon per each square foot of POOL surface area. The surge tank's minimum, maximum, and normal POOL operating water levels shall be marked on the tank so as to be readily visible for inspection. Surge tanks shall have overflow pipes to convey excess water to waste via an air gap or other approved BACKFLOW prevention device.

(e) Gutters shall be level with a tolerance of +/- 1/16 of an inch around the perimeter of the PUBLIC SWIMMING POOL. The opening into the gutter beneath the coping shall not be less than four inches wide with a depth of at least three inches. Where large gutters are used, they shall be designed to prevent entrance or entrapment of BATHERS' arms and legs. The overflow edge

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or lip shall be rounded and not thicker than two and ½ inches. The overflow outlets shall be provided with outlet pipes which shall in any case be at least two inches in diameter.

(f) The outlet fittings shall have a clear opening in the grating of at least equal to one and ½ times the cross-sectional area of the outlet pipe. The outlet shall be spaced not more than three feet on centers in flat gutters. If the bottom of the gutter slopes is at least 1/3 of an inch per foot from a crown toward the outlet fittings, the outlets may be placed not over fifteen feet on the center. The use of continuous-flow gutters with single or multiple outlets will be acceptable provided they are properly designed for the POOL, self-cleansing, and capable of maintaining an effective skimming action without discharging back into the POOL.

(g) Nothing in this Section shall preclude the use of roll-out gutters or DECK-level type PUBLIC SWIMMING POOLS. Such designs shall conform to the general provisions relating to overflow rates. A curb, if used, shall be twelve inches wide and from three inches to six inches above the DECK. The gutter must be wide enough to provide safe footing.

(h) Gutters shall permit ready inspection, cleaning, and repair.

§ 4614. Skimmers.

(a) SKIMMERS are permitted on PUBLIC SWIMMING POOLS which are not more than thirty feet wide and not more than 1,600 square feet, provided an approved handhold is installed completely around the POOL. SKIMMERS shall be installed in each corner, or in the coves of a free-form POOL, and at twenty to forty-foot intervals around the POOL perimeter. Handholds shall consist of bull-nosed coping not over two and ½ inches thick for the outer two inches or an equivalent approved handhold. The handholds must be no more than nine inches above the normal water line.

(b) The SKIMMER system shall be designed to handle up to 100% of the total recirculation flow rate chosen by the designer. SKIMMERS shall be so located as to provide effective skimming

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of the entire water surface and so as not to be affected by restricted flow in areas such as near steps and within small recesses.

(c) There shall be at least one such SKIMMER for each five hundred square feet of POOL surface area or fractional part thereof. Additional SKIMMERS may be required to achieve effective skimming under site-specific conditions and/or to comply with all applicable building codes.

(d) Hybrid systems that incorporate surge weirs in the overflow gutters to provide for in-POOL surge shall meet all of the requirements specified for overflow gutters (with the exception of the surge or balance tank, since the surge capacity requirement will be alternately met by the in-POOL surge capacity). The number of surge weirs shall be based on the individual surge weir capacity and the operational apportionment of the design recirculation flow rate.

(e) The flow rate for the SKIMMERS shall comply with manufacturer data plates or NSF/ANSI 50, including Annex K.

(f) Each SKIMMER shall have a weir that adjusts automatically to variations in water level over a range of at least four inches.

(g) Each SKIMMER shall be equipped with a trimmer valve capable of distributing the total flow between individual SKIMMERS.

(h) The base of each SKIMMER shall be level with all other SKIMMERS in the POOL within a tolerance of +/- 1/4 of an inch.

(i) An easily removable and cleanable basket or screen through which all overflow water must pass shall be provided to trap large solids.

(j) The SKIMMER shall be constructed of sturdy, corrosion-resistant materials.

(k) There shall be some means of shutting off each SKIMMER.

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§ 4615. Filter Requirements.

(a) General

(1) Filtration shall be required for all PUBLIC SWIMMING POOLS that recirculate water.

(2) The filter shall be designed, constructed, and operated so that structural or functional failures will not permit passage of unfiltered water.

(3) All filters shall be listed and labeled to NSF/ANSI 50 by an ANSI-accredited certification organization.

(4) All filters shall be so designed and installed with adequate clearance and facilities for ready and safe inspection, maintenance, disassembly, and repair.

(5) Filters should be used with the appropriate filter media as recommended by the filter manufacturer for maximum clarity and cycle length for PUBLIC SWIMMING POOL use. A means and access for easy removal of filter media shall be required.

(b) Granular Media Filters

(1) The granular media filter system shall have valves and piping to allow isolation, venting, complete drainage (for maintenance or inspections), and backwashing of individual filters.

(2) Filtration accessories shall include with the influent and effluent pressure gauges, backwash sight glass or other means to view backwash water clarity, and manual air relief system.

(3) High-rate granular media filters shall be designed to operate at no more than 15 gallons per minute per square foot when a minimum bed depth of 15 inches is provided per manufacturer. When a bed depth is less than 15 inches, filters shall be designed to operate at no more than 12 gallons per minute per square foot.

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(4) The granular media filter system shall be designed to backwash each filter at a rate of at least 15 gallons per minute per square foot of filter bed surface area, unless explicitly prohibited by the filter manufacturer and approved at an alternate rate as specified in their NSF/ANSI 50 listing.

(5) The minimum depth of filter media cannot be less than the depth specified by the manufacturer.

(6) Influent and effluent pressure gauges shall have the capability to measure up to a 20 pounds per square inch increase in the differential pressure across the filter bed in increments of one pound per square inch or less.

(7) If coagulant feed systems are used, they shall be installed with the injection point located before the filters as far ahead as possible, with electrical interlocks in accordance with § 4618 (b).

(c) Precoat Filters

(1) The design filtration rate for vacuum precoat filters shall not be greater than either two gallons per minute per square foot or two and ½ gallons per minute per square foot when used with a continuous precoat media feed (commonly referred to as "body-feed").

(2) The design filtration rate for pressure precoat filters shall not be greater than two gallons per minute per square foot of effective filter surface area.

(3) The filtration surface area shall be based on the outside surface area of the media with the manufacturer's recommended thickness of precoat media and consistent with their NSF/ANSI 50 listing and labeling.

(4) The pre-coat process shall follow the manufacturer's recommendations and requirements of NSF/ANSI Standard 50.

(d) Cartridge Filters

(1) The design filtration rate for surface-type cartridge filter shall not exceed 0.30 gallons per minute per square foot.

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(2) Filter cartridges shall be supplied and sized in accordance with the filter manufacturer's recommendation for PUBLIC SWIMMING POOL use.

(3) One complete set of spare cartridges shall be maintained on site in a clean and dry condition.

§ 4616. Pool Access and Egress.

(a) Each POOL shall have a minimum of two means of access and egress with the exception of WATERSLIDE LANDING POOLS, WATERSLIDE RUNOUTS, and WAVE POOLS. Acceptable means of access/egress shall include stairs/handrails, grab rails/RECESSED STEPS, ladders, ramps, swim outs, and zero-depth entries.

(b) If the POOL is over thirty feet wide, such means of access/egress shall be installed on each side of the POOL and shall be placed not more than 75 feet apart.

(c) Where provided, stairs shall be constructed with slip-resistant materials. The leading horizontal and vertical edges of stair treads shall be outlined with slip-resistant contrasting tile or other permanent marking of not less than one inch and not greater than two inches.

(d) Where stairs are provided in POOL the water depths greater than five feet, they shall be recessed into the side of the POOL, not protrude into the swimming area, and the lowest tread shall be not less than four feet below normal water elevation.

(e) Traditional rectangular stairs shall have a minimum uniform horizontal tread depth of 12 inches, and a minimum unobstructed tread width of 24 inches.

(f) Dimensions of stair treads for other types of stairs shall conform to the STANDARDS of Table 5, Figure 3, Figure 4, and Figure 5.

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Table 5. Required Dimensions for Stairs, Treads, and Risers					
Dimensions	T-1 Standard	T-1 Convex, Concave, Triangular	T-2	W-1	H-1
Minimum	12 inches	21 inches	12 inches	24 inches	6 inches
Maximum	18 inches	24 inches	16 inches	N/A	12 inches

Figure 3. Stairs, Treads, and Risers

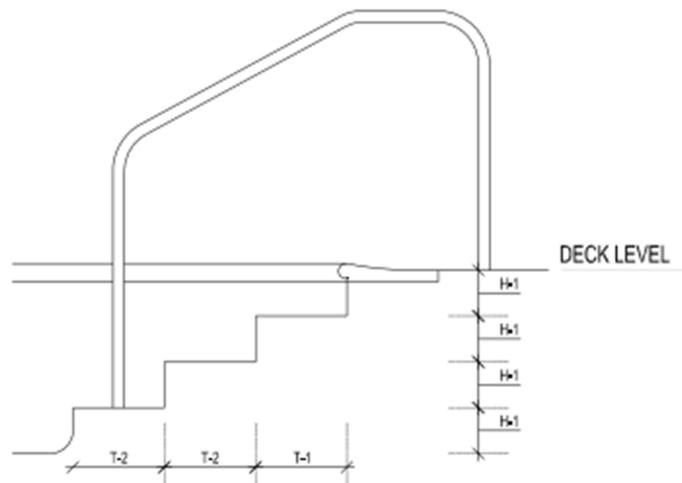


Figure 4. Stair Treads

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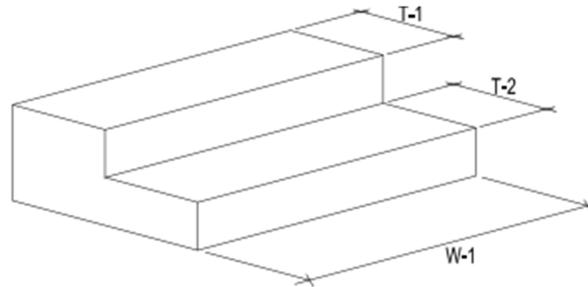
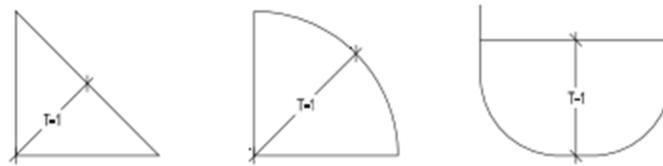


Figure 5. Unique Stair Treads



(g) The top surface of the uppermost stair tread shall be located not more than 12 inches below the POOL coping or DECK.

(h) Stair risers shall have a minimum uniform height of six inches and a maximum height of 12 inches, with a tolerance of $\frac{1}{2}$ of an inch between adjacent risers.

(i) Stairs shall not be used underwater to transition between two sections of POOL of different depths.

(j) PUBLIC SWIMMING POOL ladders shall be corrosion-resistant and shall be anchored securely to the DECK. Ladders shall have two handrails with not less than 17 inches and not more than 24 inches horizontal clear space between them. Ladders and handrails shall be designed to resist a load of 50 pounds per linear foot applied in any direction and independently a single concentrated load of 200 pounds applied in any direction at any location. The upper railing surface of handrails shall extend

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above the POOL coping or DECK a minimum of 28 inches. The clear space between handrails and the POOL wall shall be not less than three inches and not more than six inches.

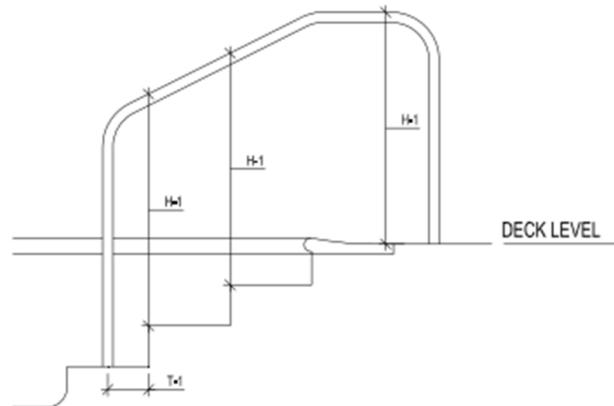
(k) Ladder treads shall be slip-resistant and shall have a minimum horizontal tread depth of 1 and ½ inches. The distance between the horizontal tread and POOL wall shall not be greater than four inches. Ladder treads shall be uniformly spaced not less than seven inches and not more than 12 inches vertically at the handrails. The top surface of the upmost ladder tread shall be located not more than 12 inches below the POOL coping, gutter, or DECK.

(l) Stairs wider than five feet shall have at least one additional handrail for every 12 feet of stair width.

(m) Dimensions of handrails shall conform to the STANDARDS of Table 6 and Figure 6.

Table 6. Stair Handrail Dimensions		
Dimensions	T-1	H-1
Minimum	3 inches	34 inches
Maximum	N/A	38 inches

Figure 6. Stair Handrails



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(n) RECESSED STEPS shall be slip-resistant, easily cleanable, shall drain into the POOL, and dimensions shall conform to the STANDARDS of Table 7, Figure 7, and Figure 8.

Table 7. Recessed Steps Dimensions				
Dimensions	H-1	H-2	W-1	D-1
Minimum	6 inches	5 inches	12 inches	5 inches
Maximum	12 inches	N/A	N/A	N/A

Figure 7. Recessed Steps Dimensions

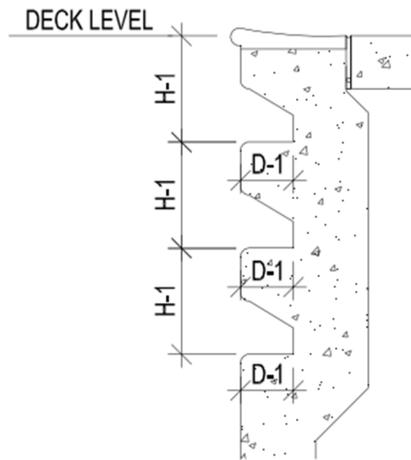
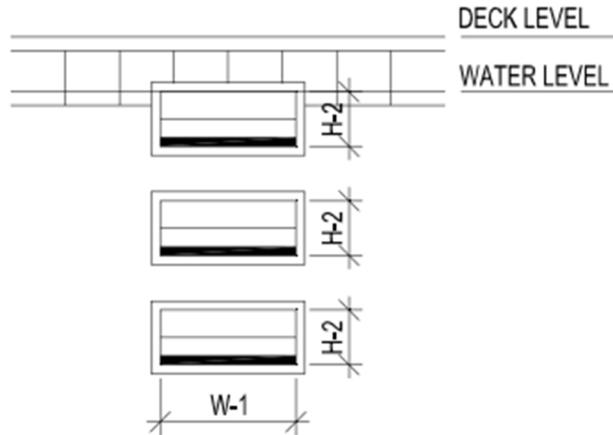


Figure 8. Recessed Steps Dimensions

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§ 4617. Decks and Walkways.

(a) A continuous DECK with at least four feet of clearance from the POOL edge to fencing or other obstruction shall be provided to allow for QUALIFIED LIFEGUARD transit, roaming, or change of positioning to maximize viewing of the zone of BATHER surveillance as well as execution of water extrication. All DECK edges shall be beveled, rounded, or otherwise relieved to eliminate sharp corners. The DECK area shall be impervious and easily cleanable.

(b) The surface of the paved walk or DECK shall not drain into the PUBLIC SWIMMING POOL, RECIRCULATION SYSTEMS, or the overflow gutter. Drainage shall be conducted away from the POOL area in a manner that will not create muddy, hazardous, or objectionable conditions. DECKS shall be sloped away from the POOL and in accordance with Table 8.

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Table 8. Minimum Slopes for Drainage	
Surface	Minimum Slope
Smooth finishes; such as tile, hand-finished concrete & lightly-broomed concrete	1/8 inch per foot
Moderately textured finishes; such as exposed aggregate or medium-broomed concrete	1/4 inch per foot
Heavily textured finishes; such as brick (where permitted)	3/8 inch per foot

§ 4618. Chemical Control.

(a) DISINFECTION and pH control chemicals shall be automatically introduced through the RECIRCULATION SYSTEM. A chemical controller, as specified in this Section shall be provided and used for monitoring and control of disinfectant and pH feed equipment. DISINFECTION and pH control chemicals shall be added using a feeder that meets the requirements outlined in this Section.

(b) The POOL shall be equipped with chemical feed equipment such as flow-through chemical feeders, electrolytic chemical generators, mechanical chemical feeders, chemical feed pumps, and automated controllers that are listed and labeled to NSF ANSI 50 by an ANSI-accredited certification organization. Flow-through chemical feeders shall only be used with the chemical (formulation, brand, size, and shape) specified by the chemical feeder manufacturer. All chemical feeders shall be provided with an automatic means to be disabled through an electrical interlock with at least two of the following:

- (1) Recirculation pump power,
- (2) Flow meter/flow switch in the return line,
- (3) Chemical control power and paddle wheel or flow cell on the chemical controller if SAFETY test confirms feed

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systems are disabled through the controller when the pump is turned off, loses prime, or filters are backwashed.

(c) Feeders shall be capable of supplying disinfectant and pH control chemicals to the PUBLIC SWIMMING POOL to maintain the minimum required DISINFECTION levels at all times in accordance with these rules and regulations. All CHLORINE dosing and generating equipment, including erosion feeders, or in line electrolytic and brine/batch generators, shall be designed with a capacity to provide 4.0 lbs of FREE AVAILABLE CHLORINE (FAC)/day/10,000 gal of POOL water for outdoor PUBLIC SWIMMING POOLS, or 2.5 lbs FAC/day/10,000 gal of POOL water for INDOOR SWIMMING POOLS at a minimum.

(d) The injection point of DISINFECTION chemicals shall be located below any pH control chemical injection point with sufficient physical separation of the injection points to reduce the likelihood of mixing of these chemicals in the piping during periods of interruption of RECIRCULATION SYSTEM FLOW. Means of injection shall not allow BACKFLOW into the chemical system from the POOL system. Coagulants shall be metered and injected through a pump system prior to the filters per the manufacturer's recommended rate.

(e) Automated controllers shall be installed for monitoring and turning on or off chemical feeders used for pH and disinfectants at all PUBLIC SWIMMING POOLS. Operation manuals or other instructions that give clear directions for cleaning and calibrating automated controller probes and sensors shall be provided in close proximity to the automated controller. A set point shall be used to target the disinfectant level and the pH level.

(f) Equipment and piping used to apply chemicals to the water shall be of such size, design, and material that they may be cleaned and will be free from clogging. All material used for such equipment and piping shall be resistant to action of chemicals to be used therein.

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§ 4619. Disinfection and Water Quality.

(a) PUBLIC SWIMMING POOLS when in use shall be continuously disinfected by a chemical which imparts a residual effect. Only products that are EPA-registered for use as sanitizers or disinfectants in PUBLIC SWIMMING POOLS shall be permitted.

(b) When CHLORINE is used, PUBLIC SWIMMING POOLS not using cyanuric acid (CYA), shall maintain a minimum FAC concentration of 1.0 ppm, and POOLS using CYA shall maintain a minimum FAC concentration of 2.0 ppm. SPAS shall maintain a minimum FAC concentration of 3.0 ppm. Maximum FAC concentrations shall not exceed 10.0 ppm at any time the PUBLIC SWIMMING POOL is open to BATHERS.

(c) If used, CYA levels shall not exceed 90 ppm. Use of CYA or stabilized CHLORINE products shall be prohibited for new construction, SUBSTANTIAL ALTERATION, or DISINFECTION equipment replacements in SPAS and THERAPY POOLS after the effective date of these rules and regulations.

(d) Bromine-based disinfectants may be applied to PUBLIC SWIMMING POOLS through the addition of an organic bromine compound (1,3-Dibromo-5,5-dimethylhydantoin (DBDMH) or 1-bromo-3-chloro-5,5-dimethylhydantoin (BCDMH)). Minimum bromine concentrations of 4.0 ppm shall be maintained at all times in SPAS, and 3.0 ppm shall be maintained at all times in all other PUBLIC SWIMMING POOLS. The maximum bromine concentration shall not exceed 8.0 ppm at any time the PUBLIC SWIMMING POOL is open to BATHERS.

(e) Use of compressed CHLORINE gas shall be prohibited for new construction and after SUBSTANTIAL ALTERATION to existing PUBLIC SWIMMING POOLS. For existing facilities using CHLORINE gas, the following additional features shall be provided:

(1) The CHLORINE and chlorinating equipment shall be in a separate room with a shatter-proof ventilation system capable of 60 air changes per hour. Such rooms shall not be

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below ground level and shall be provided with a shatter-proof gas-tight inspection window. The door of the room shall not open to the PUBLIC SWIMMING POOL, and shall open to the exterior of the building or structure.

(2) The chlorinator equipment shall be of rugged design capable of withstanding wear without developing leaks.

(3) CHLORINE cylinders shall be anchored to prevent their falling over. A valve-stem wrench shall be maintained on the CHLORINE cylinders in use so the supply can be shut off quickly in the case of an emergency.

(4) The CHLORINE feeding device shall be designed so that during accidents or interruptions of the water supply, leaking CHLORINE gas will be conducted to the out-of-doors.

(5) The chlorinator shall be a solution feed-type capable of delivering CHLORINE at its maximum rate without releasing CHLORINE gas to the atmosphere.

(6) The chlorinators shall be designed to prevent the BACKFLOW of water into the CHLORINE solution container.

(7) Personal protective equipment, consisting of at least a gas mask designed for use in a CHLORINE atmosphere and of a type approved by the National Institute for Occupational Safety and Health (NIOSH) shall be stored directly outside one entrance of the room in which the chlorinator is maintained. In addition, a replacement canister shall be provided and a record shall be kept of gas mask usage to ensure that the mask will be serviceable when needed.

(8) A minimum of two self-contained breathing apparatus (SCBA) systems shall be on hand at all times and two QUALIFIED OPERATORS are to be involved in the changing of the tanks. One of the QUALIFIED OPERATORS should be stationed outside of the chemical

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room where the QUALIFIED OPERATOR inside can be seen at all times.

(9) An emergency direct line telephone shall be located by the door.

(f) Other sanitizers and disinfectants are acceptable when they are demonstrated to provide a readily measurable residual. Such sanitizers and disinfectants shall not create a hazardous condition or compromise disinfectant efficacy when used with required bromine and CHLORINE concentrations and not interfere with water quality measures meeting all criteria set forth in these rules and regulations.

(g) The PUBLIC SWIMMING POOL water shall be maintained in an alkaline condition as indicated by pH of not less than 7.2 and not over 7.8. A pH testing kit accurate to the nearest 0.2 pH unit shall be provided at each PUBLIC SWIMMING POOL.

(h) PUBLIC SWIMMING POOL water shall be chemically balanced. Total alkalinity shall be maintained in the range of 60-180 ppm. Calcium hardness shall not exceed 1,000 ppm. When the level of combined CHLORINE (chloramines) exceeds 0.4 ppm, actions shall be taken by the operator to reduce this level. Such actions shall include but are not limited to superchlorination, water exchange, or PATRON adherence to appropriate BATHER hygiene practices. EPA-registered algaecides may be used provided that the product is labeled as an algaecide for PUBLIC SWIMMING POOL use and the product is used in strict compliance with label instructions.

(i) A water quality testing kit for measuring the concentration of the disinfectant residual, pH, alkalinity, CYA (if used), and temperature, certified to NSF/ANSI 50 by an ANSI-accredited certification organization, shall be provided at each POOL. FAC, combined AVAILABLE CHLORINE (CAC), or total bromine (TB), and pH shall be tested at all PUBLIC SWIMMING POOLS prior to opening each day. For all PUBLIC SWIMMING POOLS using an automated disinfectant feed system, FAC (or TB) and pH shall be tested every four hours while

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open to the public. PUBLIC SWIMMING POOLS using a manual disinfectant feed system that delivers disinfectant via a flow through erosion feeder or metering pump without an automated controller, FAC or bromine and pH shall be tested every two hours while open to the public. Total alkalinity shall be tested weekly. Total dissolved solids shall be tested quarterly. Calcium hardness and SATURATION INDEX shall be tested monthly. If used, CYA shall be tested 24 hours after the addition of CYA and monthly thereafter. If PUBLIC SWIMMING POOLS use stabilized CHLORINE as its primary disinfectant, the operator shall test CYA every two weeks.

(j) The maximum temperature for PUBLIC SWIMMING POOLS shall be 104°F.

(k) The new construction or SUBSTANTIAL ALTERATION of PUBLIC SWIMMING POOLS designed primarily for children under 5 years old, such as WADING POOLS, and THERAPY POOLS shall be required to use a SECONDARY DISINFECTION SYSTEM within one year of the effective date of these rules and regulations:

(1) SECONDARY DISINFECTION SYSTEMS shall be designed to achieve a minimum 3-log (99.9%) reduction in the number of infective *Cryptosporidium parvum* OOCYSTS per pass through the SECONDARY DISINFECTION SYSTEM.

(2) The SECONDARY DISINFECTION SYSTEM shall be located in the treatment loop (post filtration) and treat a portion (up to 100%) of the filtration flow prior to return of the water to the PUBLIC SWIMMING POOL.

(l) Removal of water from the POOL and replacement with make-up water shall be performed as needed to maintain water quality. A volume of water totaling at least four gallons per BATHER per day per PUBLIC SWIMMING POOL shall be discharged from the system or treated with an alternate system approved by the DEPARTMENT and reused.

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§ 4620. Water Clarity.

The water in a PUBLIC SWIMMING POOL shall be sufficiently clear such that the bottom is visible while the water is static. To make this observation, a four-inch by four-inch marker tile in contrasting color to the POOL floor or main suction outlet shall be located at the deepest part of the POOL. For POOLS over 10 feet deep, an eight by eight-inch square marker tile, shall be used as a reference point. Such reference point shall be visible at all times at any point on the DECK up to 30 feet away in a direct line of sight from the tile or main drain.

§ 4621. Electrical Requirements.

Nothing in these rules and regulations shall be construed as providing relief from any applicable requirements of the National Electrical Code (NEC) or other applicable code.

(a) INDOOR SWIMMING POOLS and CHEMICAL STORAGE SPACES shall be considered wet and corrosive environments.

(b) Electrical conduit, devices or equipment shall not enter, pass through, or occupy an interior CHEMICAL STORAGE SPACE, except as required to service devices integral to the function of the room, such as pumps, vessels, controls, or lighting and SAFETY devices, if allowed by the local electrical code.

(c) Lamps, including fluorescent tubes, installed in interior CHEMICAL STORAGE SPACES shall be protected against breakage with a lens or other cover, or be otherwise protected against the accidental release of hot materials.

§ 4622. Lighting Requirements.

Lighting as described in this Section shall be provided for all outdoor PUBLIC SWIMMING POOLS open for use from 30 minutes before sunset to 30 minutes after sunrise, or during periods of natural illumination below the levels required in this Section.

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(a) EQUIPMENT ROOMS and INDOOR SWIMMING POOL water surface shall be lighted to provide a minimum of 30 horizontal foot candles of illumination. Outdoor water surface and DECK shall have a minimum maintained light level of ten horizontal foot candles of illumination.

(b) Where outdoor POOLS are open for use for night swimming, or during periods of low illumination, underwater lighting may be excluded where maintained POOL surface lighting levels are a minimum of 15 horizontal foot candles, and all portions of the POOL, including the bottom and drain(s), are readily visible as required in § 4620.

(c) Where underwater lighting is used, not less than 0.5 watts shall be employed per square foot of PUBLIC SWIMMING POOL water surface area. Such lights shall be spaced to provide illumination so that all portions of the POOL, including the bottom and drain(s), may be seen readily without glare. Dimmable lighting shall not be used for underwater lighting.

(d) When underwater POOL lighting fixtures are provided, they shall be installed so as not to create a SAFETY hazard to BATHERS. Branch circuits that supply underwater lights operating at more than the Low Voltage Contact Limit as defined in NEC 680.2 must be GROUND-FAULT CIRCUIT INTERRUPTER (GFCI) protected. The top of lens of the underwater lighting fixtures should be at least eighteen inches below water level of POOL. Lighting shall be such that lifeguards may see every part of the PUBLIC SWIMMING POOL, all diving boards, or other appurtenances, without being blinded by the light. Lights, appliances, and wiring shall be installed and grounded in accordance with the local electrical code. Overhead electrical wiring shall be designed and located so that wires cannot possibly fall on the PUBLIC SWIMMING POOL ENCLOSURES.

(e) No lighting controls shall be accessible to PATRONS or BATHERS.

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(f) Outdoor POOLS, or POOLS with adequate natural light that are intended for daylight use only, shall prominently post signs which are legible at all entrances and which state that swimming after dark is not permitted in accordance with these rules and regulations.

§ 4623. Ventilation Requirements.

All INDOOR SWIMMING POOLS, SHOWER facilities, dressing rooms, toilet spaces, CHEMICAL STORAGE SPACES, and mechanical rooms shall be adequately ventilated either by natural or mechanical means and shall comply with ASHRAE Standard 62.1 2013, Ventilation for Acceptable Indoor Air Quality.

§ 4624. Theoretical Peak Occupancy.

(a) The THEORETICAL PEAK OCCUPANCY for a PUBLIC SWIMMING POOL shall be used for designing systems that serve BATHERS and PATRONS, and shall incorporate non-water related areas such as DECKS and other adjacent portions of the PUBLIC SWIMMING POOL not associated with the PUBLIC SWIMMING POOL.

(b) The THEORETICAL PEAK OCCUPANCY shall be calculated by dividing the surface area in square feet of the PUBLIC SWIMMING POOL by the density factor (D) that fits the specific PUBLIC SWIMMING POOL being considered.

$$\text{THEORETICAL PEAK OCCUPANCY} = \text{PUBLIC SWIMMING POOL Surface Area} / D$$

The density factors (D) are:

Water/BATHER-related:

- (1) FLAT WATER density factor = 20 sq. ft. per BATHER
- (2) AGITATED WATER density factor = 15 sq. ft. per BATHER
- (3) HOT WATER density factor = 10 sq. ft. per BATHER

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(4) WATERSLIDE LANDING POOL density factor = manufacturer-established capacity at any given time.

(5) Interactive water play water density factor = 10 sq. ft. per BATHER on surface.

(6) SURF POOL density factor = manufacturer-established capacity at any given time.

Non-water/PATRON-related:

(7) DECK density factor = 50 sq. ft. per BATHER.

(8) Stadium seating density factor = 6.6 sq. ft. per BATHER

(c) The density factors in (b) of this Section may be modified for higher BATHER or PATRON density, but they shall not be modified to result in less BATHERS per square foot than listed.

(d) The THEORETICAL PEAK OCCUPANCY shall be determined by adding the calculations for each PUBLIC SWIMMING POOL in the facility

§ 4625. Hygiene Facilities Requirements.

(a) A PUBLIC SWIMMING POOL designed primarily for use by children less than five years of age shall have, at a minimum, a drinking fountain, toilet, SHOWER facilities, HANDWASHING STATION, and DIAPER-CHANGING STATION located no greater than 200 feet walking distance and in clear view from the nearest entry/exit of the PUBLIC SWIMMING POOL. All other PUBLIC SWIMMING POOLS, except those exempted under § 4625 (l), shall have a drinking fountain, toilet, SHOWER facilities, and HANDWASHING STATION located no greater than 300 feet walking distance from each PUBLIC SWIMMING POOL.

(b) All PUBLIC SWIMMING POOLS allowing use by diaper-aged BATHERS (i.e., children less than five years of age) shall have at least one DIAPER-CHANGING STATION in each male and female HYGIENE FACILITY or make available a unisex DIAPER-CHANGING STATION. DIAPER

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CHANGING UNITS shall conform to the ASTM Standard F2285-04: Consumer Performance Standards for Commercial Diaper-Changing Stations or the STANDARDS for diaper-changing surfaces in the most current version of Caring for Our Children: National Health and Safety Performance Standards: Guidelines for Out-of-Home Child Care Programs.

(c) If a hand wash sink is not available adjacent to the DIAPER-CHANGING STATION, a portable HANDWASHING STATION shall be available adjacent to the station at all times. In addition, a covered, hands-free, plastic-lined trash receptacle or diaper pail shall be located directly adjacent to the DIAPER-CHANGING UNIT.

(d) The minimum number of CLEANSING SHOWERS shall be one per gender for PUBLIC SWIMMING POOLS less than 4,000 square feet in collective surface area. An additional CLEANSING SHOWER per gender shall be added for each additional 4,000 square feet of POOL space or portion thereof. CLEANSING SHOWERS shall be evenly distributed between genders, as applicable. The layout of the SHOWER rooms shall be such that the BATHERS on leaving the dressing room pass the toilets and SHOWERS enroute to the PUBLIC SWIMMING POOL.

(e) SHOWERS shall be supplied with soap in a soap dispenser, and water at a rate of at least three gallons per minute per SHOWER head.

(f) Entryways to private or group CLEANSING SHOWER areas shall be enclosed by a door or curtain made of smooth, easy-to-clean material.

(g) A minimum of one RINSE SHOWER shall be provided on the DECK near an entry point to the PUBLIC SWIMMING POOL or arranged to encourage BATHERS to use the RINSE SHOWER prior to entering the POOL. A minimum of four showerheads per 50 feet of beach entry POOLS shall be provided as a RINSE SHOWER. A minimum of one RINSE SHOWER shall be provided at each entrance to a LAZY RIVER and WATERSLIDE queue line.

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(h) PUBLIC SWIMMING POOLS with 7,500 square feet of water area or more may be flexible in the number of SHOWERS they provide based on the THEORETICAL PEAK OCCUPANCY in § 4624 provided the following requirements are met:

(1) 25% of the required SHOWERS shall be CLEANSING SHOWERS;

(2) 25% of the required SHOWERS shall be RINSE SHOWERS; and

(3) the remaining 50% may be either CLEANSING or RINSE SHOWERS.

(i) All floors and other surfaces which may be walked on by BATHERS shall have a smooth, easy-to-clean, impervious-to-water, slip-resistant surface. Floors shall be sloped to drain water or other liquids.

(j) Walls, partitions, doors, lockers, and similar surfaces which require periodic cleaning shall be of impervious material, smooth, and finished so as to facilitate thorough scrubbing. Interior walls and partitions shall terminate not less than six inches above the floor, or shall rest on masonry or concrete not less than four inches above the floor. Junctures inside the building between all walls or partitions and floors of structures shall be covered.

(k) Lockers shall be set either on solid masonry bases four inches high or on legs with bottom of locker at least ten inches above the floor. Lockers shall be properly vented.

(l) The requirement relating to dressing rooms and SHOWERS shall be waived, if requested by owner, for POOLS with use limited to the tenants of the specific motel, apartment complex, condominium, or hotel that is served, and whose PATRONS use these facilities in their own quarters before entering the POOL. If toilets in the private quarters or public sections of these establishments are available to all swimmers within a travel distance of three hundred feet from a POOL, and are located not more than two floors above or below the POOL DECK, toilet facilities will not have to be provided at the POOL

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DECK. Drinking fountains will not be required at POOLS for motels, apartment complexes, condominiums or hotels.

(m) Unless exempted by (l) of this Section, toilet and handwashing facilities shall be provided for the THEORETICAL PEAK OCCUPANCY as computed under § 4624 on the basis of the fixture schedule on Table 9.

Table 9. Minimum Required Plumbing Fixtures		
Hygiene Facility	Males	Females
Toilets	1/75	1/40
Urinals	1/75	----
Handwashing Sinks	1/100	1/100

Fixture schedules may be increased in public swimming pools at school, camps, or similar locations where bather loads may reach peaks due to schedules of use.

(n) HYGIENE FACILITY floors, walls, and ceilings shall be kept clean and free of visible mold and mildew at all times.

(o) HYGIENE FACILITY fixtures, dressing area fixtures, and furniture shall be cleaned and SANITIZED daily, and more often if necessary, with an EPA-registered product.

(p) HYGIENE FACILITY fixtures shall be maintained in good repair. Toilet tissue shall be provided in toilet rooms and soap and paper towels shall be provided at each handwashing sink. A minimum of one hands-free trash receptacle shall be provided in areas adjacent to handwashing sinks.

(q) FOOT BATHS shall be prohibited.

§ 4626. Bathing Suits, Caps, and Towels.

Reusable bathing suits, caps, and towels furnished to PUBLIC SWIMMING POOL users by the management shall be laundered and/or cleaned, and SANITIZED after each usage. Adequate STORAGE shall be provided for storing clean suits, towels, and other shared equipment, and shall be separate from used or unclean materials.

§ 4627. Barriers and Enclosures.

(a) All PUBLIC SWIMMING POOLS, CHEMICAL STORAGE SPACES, and mechanical spaces shall be enclosed to

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prevent unauthorized entry. The ENCLOSURE may consist of any combination of building envelopes, site walls, or fencing and shall not be less than six feet in height measured from the finished grade to the top of the BARRIER on the side outside of the BARRIER surrounding the PUBLIC SWIMMING POOL. Chain-link fencing constructed of a maximum opening of 1 ¾ inches mesh shall be permitted.

(b) All primary public access gates or doors serving as part of a PUBLIC SWIMMING POOL ENCLOSURE or required PUBLIC SWIMMING POOL ENCLOSURE shall be self-closing and self-latching from any open position. All gates or doors shall be capable of being locked from the exterior and shall be at least equal in height at top and bottom to the BARRIER of which they are a component. Turnstiles shall not form a part of a PUBLIC SWIMMING POOL ENCLOSURE. For unguarded PUBLIC SWIMMING POOLS, self-latching mechanisms must be located not less than four and a half feet above finished grade.

§ 4628. Visitor and Spectator Areas.

(a) When a spectator area or an access to a spectator area is located within the PUBLIC SWIMMING POOL ENCLOSURE, the DECK adjacent to the area or access shall provide egress width for the spectators in addition to the width required by § 4617. The additional width shall be based on the egress requirements in the applicable building code based on the THEORETICAL PEAK OCCUPANCY of the PUBLIC SWIMMING POOL served with a minimum width of four feet.

(b) A BARRIER located on the DECK to separate the DECK used by spectators from the PERIMETER DECK used by BATHERS may have one or more openings directly into the BATHER areas with a demarcation line on the DECK that shows the separation between the DECK used by spectators and the PERIMETER DECK used by BATHERS.

(c) A spectator or other area located in a balcony within ten feet of or overhanging any portion of a PUBLIC SWIMMING POOL shall be designed to deter jumping or diving into the PUBLIC SWIMMING POOL.

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(d) No food or drink shall be permitted in the immediate area of the PUBLIC SWIMMING POOL or on the DECKS surrounding the POOL except that food and beverage will be allowed in the visitor and spectator area, or in a similarly separated snack area for BATHERS, if beverages are served in non-breakable containers and trash containers are provided to keep litter off of the POOL DECKS.

§ 4629. Cleaning and Maintenance.

(a) The PUBLIC SWIMMING POOL wall, floor, walkway, and DECK floor shall be kept clean and free from accumulation of algae, mold, mildew, and/or slime.

(b) Floating scum, sputum, and debris in the PUBLIC SWIMMING POOL shall be removed within twenty-four hours or more frequently as required. Visible dirt on the bottom of a PUBLIC SWIMMING POOL shall be removed at least once each day.

(c) All parts of the POOL shall be maintained in good repair. Floors shall be kept free from cracks and other defects, and shall conform with § 4607. Walls, ceilings, and equipment shall be painted as often as necessary to be kept in good condition.

(d) The whole POOL area shall be kept clean and sanitary, free of litter, and pests. Hoses shall be maintained for regular flushing and cleaning. During extended periods of non-use when the recirculation and purification is not functioning, POOLS shall be maintained so as to prevent their becoming a mosquito breeding source. This shall be accomplished by securely covering, draining the POOL of all water, and keeping the POOL free of standing water; or by some other means as approved by the DEPARTMENT.

§ 4630. Wading Pool.

In addition to the general PUBLIC SWIMMING POOL requirements stated in these rules and regulations, WADING POOLS shall be separated from other POOLS by a BARRIER that meets the requirements of § 4627, unless the WADING POOL is separated by a distance of 15 feet from other bodies of water.

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WADING POOLS near other WADING POOLS shall not be required to be separated by a BARRIER.

§ 4631. Spas.

In addition to the general PUBLIC SWIMMING POOL requirements stated in these rules and regulations, SPAS shall comply with the following provisions:

(a) The maximum water depth in SPAS shall be four feet measured from the designed static water line except for SPAS that are designed for special use and purposes and approved by the DEPARTMENT.

(b) The maximum submerged depth of any seat or sitting bench shall be 28 inches measured from the water line.

(c) A SPA shall have one or more suitable, slip-resistant handhold(s) around the perimeter and not over 12 inches above the water line.

(d) Interior steps or stairs shall be provided where SPA depths are greater than 24 inches. Each set of steps shall be provided with at least one handrail to serve all treads and risers.

(e) Elevated SPAS may be located adjacent to another PUBLIC SWIMMING POOL as long as there is an effective BARRIER between the SPA and the adjacent PUBLIC SWIMMING POOL, or a minimum distance of four feet between the PUBLIC SWIMMING POOL and SPA is provided.

(f) A minimum of two depth markers shall be provided regardless of the shape or size of the SPA.

(g) Water temperatures shall not exceed 104°F.

(h) The agitation system shall be connected to a minute timer that does not exceed 15 minutes that shall be located out of reach of a BATHER in the SPA.

(i) All SPAS shall have a clearly labeled emergency shutoff or control switch for the purpose of stopping the

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motor(s) that provide power to the RECIRCULATION SYSTEM and hydrotherapy or agitation system that shall be installed and be readily accessible to the BATHERS, in accordance with the NEC.

(j) SPAS shall have a minimum of two adjustable filter system INLETS spaced at least three feet apart and designed to distribute flow evenly.

§ 4632. Water Slides.

(a) The design engineer shall address compliance with the following STANDARDS and must provide documentation and/or certification that the WATERSLIDE design is in conformance with these STANDARDS:

(1) ASTM F2376-13: Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems; and

(2) ASTM F2469-09: Standard Practice for Manufacturer, Construction, Operation, and Maintenance of Aquatic Play Equipment.

(b) Signs indicating riding instructions, warnings, and requirements in accordance with the manufacturer recommendations shall be posted at the WATERSLIDE entry.

(c) FLUME surfaces shall be inert, nontoxic, smooth, and easily cleaned. All FLUME valleys and dips shall have proper drainage, SAFETY measures that insure a rider cannot fall from the FLUME, and a means of egress in the event the ride malfunctions or a rider stops on the ride. The exit of any FLUME must be designed to ensure that BATHERS enter the LANDING POOL or SLIDE RUNOUT at a safe speed and angle of entry. If a WATERSLIDE has two or more FLUMES and there is a point of intersection between the centerlines of any two FLUMES, the distance between that point and the point of exit for each intersecting FLUME must not be less than the SLIDE manufacturer's recommendations and ASTM F2376.

(d) WATERSLIDES shall be designed to terminate at or below water level, except for DROP SLIDES or unless otherwise

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permitted by the WATERSLIDE manufacturer and ASTM F2376. WATERSLIDES shall be perpendicular to the wall of the PUBLIC SWIMMING POOL at the point of exit unless otherwise permitted by the WATERSLIDE manufacturer. WATERSLIDES shall be designed with an exit system which shall be in accordance with the WATERSLIDE manufacturer's recommendations and ASTM F2376, and provides for safe entry into the LANDING POOL or WATERSLIDE RUNOUT.

(e) If steps are provided instead of exit ladders or RECESSED STEPS with grab rails, they shall be installed at the opposite end of the LANDING POOL from the FLUME exit and a handrail shall be provided.

(f) If the WATERSLIDE FLUME ends in a PUBLIC SWIMMING POOL, the landing area shall be divided from the rest of the PUBLIC SWIMMING POOL by a float line, wing wall, peninsula, or other similar feature to prevent collisions with other BATHERS.

(g) A PERIMETER DECK shall be provided along the exit side of the LANDING POOL. In addition, a walkway, steps, stairway or ramp shall be provided between the LANDING POOL and the top of the FLUME.

(h) There shall be a SLIDE landing area in accordance with the SLIDE manufacturer's recommendations and ASTM F2376. This area shall not infringe on the landing area for any other SLIDES, diving equipment, or any other minimum PUBLIC SWIMMING POOL clearance requirements. The minimum required water depth shall be in accordance with the SLIDE manufacturer's recommendations and ASTM F2376.

(i) The landing area of the SLIDE shall be protected through the use of a float line, wing wall, peninsula, or other similar impediment to prevent collisions with other BATHERS.

§ 4633. Lazy Rivers.

In addition to the general PUBLIC SWIMMING POOL requirements stated in these rules and regulations, LAZY RIVERS shall comply with the following additional provisions:

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(a) Handrails, steps, stairs, and propulsion jets for LAZY RIVERS shall not protrude into the river.

(b) Means of access/egress shall be provided at 150-foot intervals around the LAZY RIVER.

(c) A DECK shall be provided along the entire length of the LAZY RIVER.

(d) Obstructions around the perimeter of the LAZY RIVER, such as bridges or landscaping, shall be allowed provided they do not impact lifeguarding, sight lines, or rescue operations. All bridges spanning a LAZY RIVER shall have a minimum clearance of both seven feet from the bottom of the LAZY RIVER and four feet above the water surface to any structure overhead.

§ 4634. Qualified Operator.

(a) Every PUBLIC SWIMMING POOL shall be under the supervision of a QUALIFIED OPERATOR who shall assume the responsibility for compliance with all parts of these rules and regulations relating to POOL operation and maintenance and SAFETY of BATHERS. A QUALIFIED OPERATOR shall have completed an operator training course that is recognized by the DEPARTMENT. Originals or copies of such course certificate or documentation shall be available on site for inspection by the health officer for each QUALIFIED OPERATOR employed at or contracted by the site.

(b) A QUALIFIED OPERATOR shall be on-site or immediately available within two hours during all hours of operation at a PUBLIC SWIMMING POOL that:

- (1) Has more than two PUBLIC SWIMMING POOLS;
- (2) Has over 50,000 gallons of water;
- (3) Include features with recirculated water;
- (4) Is used as a THERAPY POOL or to provide swimming training;

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(5) Allows BATHER count of greater than 200 BATHERS daily;

(6) Is operated by a municipality or a school; or

(7) Has a history of repeated violations of these rules and regulations which in the opinion of the health officer requires one or more on-site QUALIFIED OPERATORS.

(c) All other PUBLIC SWIMMING POOLS shall have an on-site QUALIFIED OPERATOR immediately available within two hours or a contract with a QUALIFIED OPERATOR for a minimum of weekly visits and assistance whenever needed.

(d) A QUALIFIED OPERATOR shall keep operation, SAFETY, emergency, and training plans on file at the facility. In addition, records pertaining to the operation, maintenance and management of the PUBLIC SWIMMING POOL, such as chemical inventory log, water monitoring and testing records, and other records required in these rules and regulations shall be maintained. Such records shall be kept for a minimum of three years and shall be available upon request by the health officer.

(e) The QUALIFIED OPERATOR shall ensure that a daily preventive maintenance inspection for PUBLIC SWIMMING POOLS listed in (b) of this Section is done before opening and that it shall include the following:

(1) Walkways/DECK and exits are clear, clean, free of debris;

(2) Drain covers, vacuum fitting covers, SKIMMER equalizer covers, and any other suction outlet covers are in place, secure, and unbroken;

(3) SKIMMER baskets, weirs, lids, flow adjusters, and suction outlets are free of any blockage;

(4) INLET and return covers and any other fittings are in place, secure, and unbroken;

(5) SAFETY warning signs and other signage are in place and in good repair;

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(6) SAFETY equipment as required by these rules and regulations are in place and in good repair, including emergency instructions and phone numbers;

(7) Entrapment prevention systems are operational;

(8) Recirculation, DISINFECTION systems, controller(s), and probes are operating as required;

(9) SECONDARY DISINFECTION SYSTEMS are operating as required;

(10) Underwater lights and other lighting are intact with no exposed wires or water in lights;

(11) Slime and biofilm have been removed from accessible surfaces of PUBLIC SWIMMING POOL SLIDES, and other features;

(12) Doors to non-public areas (CHEMICAL STORAGE SPACES, offices, etc.) are locked;

(13) First aid supplies are stocked;

(14) Emergency communication equipment and systems are operational;

(15) Fecal/vomit/blood incident contamination response protocols, materials, and equipment are available;

(16) Water features and amenities are functioning in accordance with the manufacturer's recommendations;

(17) Fencing/BARRIERS, gates, and self-latching or other locks are tested and are intact and functioning properly, and BARRIERS do not have nearby furniture to encourage climbing;

(18) Drinking fountains are clean and in functional condition;

(19) Electrical devices are in good working condition and meet the requirements specified in the NEC and these rules and regulations;

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(20) Alarms, if required, are tested and functioning properly; and

(21) Assessing water clarity such that the bottom and objects in the POOL are clearly visible.

§ 4635. Safety Requirements.

(a) PUBLIC SWIMMING POOLS operated primarily for unorganized use and having an area of more than two thousand two hundred fifty square feet of water surface area, shall be provided with an elevated lifeguard platform or chair. In POOLS with four thousand square feet or more of water surface area, additional elevated chairs or stations located so as to provide a clear unobstructed view of the POOL bottom in the area under surveillance shall be provided. (Ideally, chairs should be placed in locations which eliminate sun glare on the water, and in positions which will give complete coverage of the POOL within a field view limited to 450 on either side of a line of sight extending straight out from the chair.)

(b) Enough acoustical treatment, including material and ceiling design, shall be given to enclosed POOL rooms to control noise levels. It is essential for SAFETY that swimmers be able to hear signals and directions of routine supervision as well as emergency control.

(c) When the POOL is not open for use, access to the POOL shall be prevented.

(d) At all POOLS, diagrammatic illustrations of artificial respiration procedures shall be posted where clearly visible from the nearby DECK and shall be protected against the elements. Also, the location and telephone number of the nearest ambulance, hospital, fire, or police rescue service, physician, and POOL operator shall be kept similarly posted together with instructions that in case of need, manual or mouth-to-mouth artificial respiration should be started immediately and continued until a physician arrives or mechanical resuscitators are applied.

(e) Whenever the POOL is opened for use and no lifeguard service is provided, the warning sign shall be placed in plain view

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and shall state "Warning -- No Lifeguard on Duty" with clearly visible letters at least four inches high. In addition, the sign shall also state "Children under the age of 14 should not use POOL without direct adult supervision."

(f) The PUBLIC SWIMMING POOL, as necessary, shall have a functional telephone or other communication system or device that is hard wired and capable of directly dialing 911 or function as the emergency notification system. The telephone or communication system or device shall be conspicuously provided and accessible to PUBLIC SWIMMING POOL users such that it can be reached immediately. Alternate functional systems, devices, or communication processes are allowed with the DEPARTMENT's approval in situations when a hardwired telephone is not logistically sound, and an alternate means of communication is available. A permanent sign providing emergency dialing directions and the PUBLIC SWIMMING POOL address shall be posted and maintained at the emergency telephone, system or device.

§ 4636. Lifesaving Equipment, First-Aid Kit.

(a) PUBLIC SWIMMING POOLS whose depth exceeds two feet of standing water shall provide and maintain a U.S. Coast Guard-approved PUBLIC SWIMMING POOL rescue throwing device, with at least a quarter-inch thick rope whose length is 50 feet or 1 and ½ times the width of the POOL, whichever is less. The rescue throwing device shall be located in the immediate vicinity to the PUBLIC SWIMMING POOL and be accessible to BATHERS.

(b) PUBLIC SWIMMING POOLS whose depth exceeds two feet of standing water shall provide and maintain a reaching pole of 12-foot to 16-foot in length, non-telescopic, light in weight, and with a securely attached Shepherd's Crook with an aperture of at least 18 inches. The reaching pole shall be located in the immediate vicinity to the PUBLIC SWIMMING POOL and be accessible to BATHERS and PATRONS.

(c) When any POOL is of such size that unaided swimming rescues by lifeguards may not offer sufficient protection to

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swimmers, one or more square-sterned boats equipped with oars, oarlocks, life rings, or paddle boards shall be provided.

(d) Every PUBLIC SWIMMING POOL shall be equipped with a STANDARD first-aid kit which shall be kept filled and ready for use. Signage shall be provided at the PUBLIC SWIMMING POOL which clearly identifies first aid location(s). Availability of a kit in the office of the resident manager for a motel, apartment complex, condominium, or hotel shall satisfy this requirement for such POOLS.

(e) Lifesaving equipment shall be mounted in conspicuous areas around the PUBLIC SWIMMING POOL DECK, at lifeguard chairs, or elsewhere, readily accessible, its function plainly marked, and kept in repair and ready condition. BATHERS or other PERSONS shall not be permitted to tamper with or remove such equipment from its established location for any purpose other than the intended emergency use.

§ 4637. Qualified Lifeguards.

(a) One or more QUALIFIED LIFEGUARDS shall be on duty at POOL side at all times when the PUBLIC SWIMMING POOL is open to use by BATHERS except at POOLS with less than 2,250 square feet of water surface. Such attendant should be in full charge of bathing and have authority to enforce all rules of SAFETY and sanitation.

(b) A QUALIFIED LIFEGUARD shall:

(1) Be a capable swimmer and be competent in lifesaving methods;

(2) Be trained in administration of artificial respiration and other first-aid measures;

(3) Have satisfactorily completed a lifeguard training course recognized by the DEPARTMENT. The valid and current certificate of completion of the course of instruction shall be available for verification;

(4) Be dressed suitably to enter the water and to take action on an emergency; and

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(5) Not engaged in activities which would distract his attention from proper supervision of BATHERS using the PUBLIC SWIMMING POOL or prevent immediate attention to a BATHER in distress in the water.

(c) Each QUALIFIED LIFEGUARD conducting PATRON surveillance with the responsibility of in-water rescue in less than three feet of water shall have a rescue tube immediately available for use. Each QUALIFIED LIFEGUARD conducting PATRON surveillance in a water depth of three feet or greater shall have a rescue tube on his/her PERSON in a rescue ready position.

(d) PUBLIC SWIMMING POOLS with standing water and with any of the following conditions shall be required to have a lifeguard(s) conducting PATRON surveillance at all times the PUBLIC SWIMMING POOL is open.

(1) Any PUBLIC SWIMMING POOL deeper than five feet at any point;

(2) Any PUBLIC SWIMMING POOL that allows for unsupervised children under the age of 14 years;

(3) Any PUBLIC SWIMMING POOL while it is being used for the recreation of youth groups, including but not limited to childcare usage or school groups;

(4) Any PUBLIC SWIMMING POOL while it is being used for group training must have a dedicated lifeguard on DECK for class surveillance, including but not limited to competitive swimming and/or sports, lifeguard training, exercise programs, and swimming lessons;

(5) Any PUBLIC SWIMMING POOL with a configuration in which any point on the PUBLIC SWIMMING POOL surface exceeds 30 feet from the nearest DECK;

(6) Any PUBLIC SWIMMING POOL with an induced current or wave action including but not limited to WAVE POOLS and LAZY RIVERS;

(7) WATERSLIDE LANDING POOLS; and

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(8) Any PUBLIC SWIMMING POOL in which BATHERS enter the water from any height above the DECK including but not limited to diving boards, DROP SLIDES, starting platforms, and/or climbing walls. This does not include POOL SLIDES.

(e) When QUALIFIED LIFEGUARDS are used, the facility shall create and implement a staffing plan which includes diagrammed zones of PATRON surveillance for each PUBLIC SWIMMING POOL such that:

(1) The QUALIFIED LIFEGUARD is capable of viewing the entire area of the assigned zone of PATRON surveillance;

(2) The QUALIFIED LIFEGUARD is able to reach the furthest extent of the assigned zone of PATRON surveillance within 20 seconds;

(3) Identify whether the QUALIFIED LIFEGUARD is in an elevated stand, walking, in-water and/or other approved position;

(4) Identifying any additional responsibilities for each zone; and

(5) All areas of each PUBLIC SWIMMING POOL are assigned a zone of PATRON surveillance and all zones of PATRON surveillance are staffed during operation.

(f) Employees who are ill with diarrhea shall not be permitted to enter the water or perform in a QUALIFIED LIFEGUARD role. Employees with open wounds shall be permitted in the water or in a QUALIFIED LIFEGUARD role only if they have healthcare provider approval or wear a waterproof, occlusive bandage to cover the wound.

§ 4638. Supervision of Bathers.

(a) POOL staff should encourage the following personal conduct regulations:

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(1) All BATHERS shall be instructed to use the toilet, and particularly to urinate, before taking a cleansing bath and entering the POOL;

(2) All PERSONS using the PUBLIC SWIMMING POOL shall take a CLEANSING SHOWER bath in the nude, using warm water and soap and thoroughly rinsing off all suds, before entering the PUBLIC SWIMMING POOL room or ENCLOSURE. A BATHER leaving the POOL to use the toilet shall take another cleansing bath before returning to the PUBLIC SWIMMING POOL room or ENCLOSURE;

(3) Any PERSON having an infectious or communicable disease shall be excluded from a PUBLIC SWIMMING POOL. PERSONS having any considerable area of exposed sub-epidermal tissue, open blisters, cuts, etc., shall be warned that these are likely to become infected and advised not to use the POOL;

(4) Spitting, spouting of water, blowing the nose, etc., in the PUBLIC SWIMMING POOL shall be strictly prohibited; and

(5) No running, boisterous or rough play, except supervised water sports, shall be permitted in the POOL, on the runways, DECK, diving boards, floats, platforms, or in dressing rooms, SHOWER rooms, etc.

(b) Signage shall be placed in a conspicuous place at the entrance of the PUBLIC SWIMMING POOL communicating expected and prohibited behaviors listed under (a) of this Section using text that complies with the intent of the said information.

§ 4639. Injury and Illness Incident Reporting.

A full report of any injury or illness incident occurring at a PUBLIC SWIMMING POOL shall be reported by the POOL owner/operator to the DEPARTMENT within 24 hours of its occurrence, and a notation recorded in a log book. This shall include all incidents occurring at a PUBLIC SWIMMING POOL which:

(a) result in death;

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- (b) require resuscitation;
- (c) require referral to a hospital or other facility for medical attention; or
- (d) is a BATHER illness associated with bathing water quality.

§ 4640. Water Contamination Response.

(a) In the event of a fecal or vomit contamination in a PUBLIC SWIMMING POOL, the QUALIFIED OPERATOR shall immediately close the PUBLIC SWIMMING POOL to BATHERS until remediation procedures are complete. This closure shall include the affected PUBLIC SWIMMING POOL and other PUBLIC SWIMMING POOLS that share the same RECIRCULATION SYSTEM.

(b) Contaminating material shall be removed (e.g., using a net, scoop, or bucket) and disposed of in a sanitary manner. Fecal or vomit contamination of the item used to remove the contamination (e.g., the net or bucket) shall be removed by thorough cleaning followed by DISINFECTION (e.g., after cleaning, leave the net, scoop, or bucket immersed in the POOL during the DISINFECTION procedure prescribed for formed-stool, diarrheal-stool, or vomit contamination, as appropriate). PUBLIC SWIMMING POOL vacuum cleaners shall not be used for removal of contamination from the water or adjacent surfaces unless vacuum waste is discharged to a sanitary sewer and the vacuum equipment can be adequately disinfected.

(c) PUBLIC SWIMMING POOL water that has been contaminated by feces or vomit shall be treated as follows:

- (1) Check to ensure that the water's pH is 7.5 or lower and adjust if necessary;
- (2) Verify and maintain water temperature at 77°F or higher;
- (3) Operate the filtration/RECIRCULATION SYSTEM while the POOL reaches and maintains the proper

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free CHLORINE concentration during the remediation process;

(4) Test the CHLORINE residual at multiple sampling points to ensure the proper free CHLORINE concentration is achieved throughout the POOL for the entire DISINFECTION time; and

(5) Use only non-stabilized CHLORINE products to raise the free CHLORINE levels during the remediation.

(d) Formed-stool contaminated water shall have the FREE CHLORINE RESIDUAL checked and the FREE CHLORINE RESIDUAL raised to 2.0 mg/L (if less than 2.0 mg/L) and maintained for at least 25 minutes (or an equivalent time and concentration to reach the CT VALUE) before reopening the PUBLIC SWIMMING POOL.

(e) Diarrheal-stool contaminated water shall:

(1) Check the FREE CHLORINE RESIDUAL and then raise the FREE CHLORINE RESIDUAL to 20.0 mg/L and maintain for at least 12.75 hours (or an equivalent time and concentration to reach the CT VALUE) before reopening the PUBLIC SWIMMING POOL, or

(2) Circulate the water through a SECONDARY DISINFECTION SYSTEM to theoretically reduce the number of Cryptosporidium OOCYSTS in the PUBLIC SWIMMING POOL below one OOCYST/100 mL.

(f) In PUBLIC SWIMMING POOL water that contains CYA or a stabilized CHLORINE product, water shall be treated by:

(1) Hyperchlorination accomplished by:

(i) Following the preparatory guidance outlined in (c) of this Section;

(ii) Lowering the CYA concentration to less than or equal to 15 ppm by draining, if necessary;

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(iii) Raising the FREE CHLORINE RESIDUAL to 20 mg/L for at least 28 hours; 30 mg/L for at least 18 hours; 40 mg/L for at least 8.5 hours; or an equivalent time and concentration needed to reach the CT INACTIVATION VALUE;

(iv) Measurement of the inactivation time required shall start when the PUBLIC SWIMMING POOL reaches the intended FREE CHLORINE RESIDUAL level or;

(2) Circulating the water through a SECONDARY DISINFECTION SYSTEM to theoretically reduce the number of Cryptosporidium OOCYSTS in the PUBLIC SWIMMING POOL below one OOCYST/100 mL; or

(3) Draining the PUBLIC SWIMMING POOL completely.

(g) Vomit-contaminated water shall have the FREE CHLORINE RESIDUAL checked and the FREE CHLORINE RESIDUAL raised to 2.0 mg/L (if less than 2.0 mg/L) and maintained for at least 25 minutes (or an equivalent time and concentration to reach the CT VALUE) before reopening the PUBLIC SWIMMING POOL.

(h) In PUBLIC SWIMMING POOL water that contains CYA or a stabilized CHLORINE product, water shall be treated by doubling the inactivation time required in these rules and regulations. Measurement of the inactivation time required shall start when the PUBLIC SWIMMING POOL reaches the intended free CHLORINE level.

(i) If a bodily fluid, such as feces, vomit, or blood, has contaminated a surface in a PUBLIC SWIMMING POOL, facility staff shall limit access to the affected area until remediation procedures have been completed. All visible CONTAMINANT shall be removed and the contaminated surface cleaned and disinfected.

§ 4641. Inspection and Grading.

(a) Access.

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An employee or representative of the DEPARTMENT shall, after proper presentation of credentials, have access to any PUBLIC SWIMMING POOL at any reasonable time for the purpose of making inspections to determine compliance with these rules and regulations. Denial of access shall be cause for suspension of the Sanitary Permit.

(b) Report of Inspections.

Whenever an inspection of a PUBLIC SWIMMING POOL is conducted, the findings shall be recorded on a form authorized by the DIRECTOR, shall summarize the requirements of these rules and regulations, and shall set forth a demerit value for each requirement. Demerit value assignments shall be from one through six. Inspection remarks shall be written to reference, by section number, the section violated, and shall state the correction to be made. The rating score of the establishment shall be the total of the demerit values for all violations. A copy of the completed inspection report form shall be issued to the operator of the establishment at the conclusion of the inspection. The completed form is a public document that shall be made available for public disclosure to any person who requests it according to law.

(c) Appeal.

The report of inspection of a PUBLIC SWIMMING POOL shall state that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a hearing is filed with the DIRECTOR within the period of time established in the notice for correction.

(d) Grading.

(1) Grades of a PUBLIC SWIMMING POOL shall be as follows:

- (i) Grade A: An establishment having a demerit score of not more than ten;
- (ii) Grade B: An establishment having a demerit score of more than ten but not more than twenty;

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(iii) Grade C: An establishment having a demerit score of more than twenty but not more than forty; and

(iv) Grade D: An establishment having a demerit score of more than forty.

(2) The DEPARTMENT shall issue a placard reflecting the letter grade of the most recent inspection.

(3) The DEPARTMENT shall establish a specific and reasonable period of time for correction of the violations found, in accordance with the following provision:

(i) When the demerit score of the establishment is twenty or less, all violations of one through five demerits must be corrected within a period of time not to exceed 30 days; or

(ii) When the demerit score of the establishment is more than twenty but less than forty-one, all items of one through five demerit points must be corrected within a period of time not to exceed 15 days; or

(iii) When one or more six demerit point items are in violation, regardless of demerit score, such items must be corrected within a period of time not to exceed 10 days; and

(iv) When the demerit score of the establishment is more than forty, the Sanitary Permit shall be immediately suspended.

(4) The operator shall at the time of inspection correct a violation of a CRITICAL ITEM of these rules and regulations. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the DIRECTOR may agree to or specify a longer time frame, not to exceed 10 calendar days after the inspection, for the operator to correct violations of a CRITICAL ITEM.

(5) The operator shall correct noncritical violations by a date and time agreed to or specified by the DIRECTOR but no later than 30 calendar days after the inspection. The

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DIRECTOR may approve a compliance schedule that extends beyond this time limit if a written schedule of compliance is submitted by the operator and no health hazard exists or will result from allowing an extended schedule of compliance.

(e) Notwithstanding the grade criteria established above, whenever a second consecutive violation of the same item of 2, 4, or 6 demerit points is discovered, the permit may be suspended or in lieu thereof, the establishment shall be downgraded to the next lower grade.

(f) The operator shall ensure that he/she, or a designee, be present during inspections of a PUBLIC SWIMMING POOL by the DEPARTMENT.

(g) The Inspection Report and Letter Grade Placard shall be posted in a conspicuous area designated by the DIRECTOR or his/her representative.

§ 4642. Closure of Public Swimming Pool.

(a) Except as specified in (b) of this Section, an operator shall immediately discontinue operations and notify the DEPARTMENT if an IMMINENT HEALTH HAZARD may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, gross insanitary occurrence or condition, or other circumstance that may endanger public health, such those listed in (d) of this Section.

(b) An operator need not discontinue operations in an area of a PUBLIC SWIMMING POOL that is unaffected by the IMMINENT HEALTH HAZARD.

(c) Failure to report an IMMINENT HEALTH HAZARD to the DEPARTMENT may result in immediate suspension of the Sanitary Permit.

(d) The DIRECTOR shall order immediate correction of the following violations, or immediate closure of the PUBLIC SWIMMING POOL whenever he finds any of the following conditions:

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- (1) Failure to continuously operate the PUBLIC SWIMMING POOL filtration or DISINFECTION equipment;
- (2) Failure to provide adequate supervision and staffing as described in these rules and regulations;
- (3) Failure to provide the minimum disinfectant residual levels;
- (4) pH below 6.5 or above 8.0;
- (5) Use of an unapproved or contaminated water supply source for potable water use;
- (6) Unprotected overhead electrical wires within 20 feet horizontally of the PUBLIC SWIMMING POOL;
- (7) Non-GFCI protected electrical receptacles within 20 feet of the inside wall of the PUBLIC SWIMMING POOL;
- (8) Failure to maintain an emergency lighting source;
- (9) Absence of all required lifesaving equipment on DECK;
- (10) PUBLIC SWIMMING POOL bottom not visible;
- (11) Total absence of or improper depth markings at a PUBLIC SWIMMING POOL;
- (12) Plumbing CROSS-CONNECTIONS between the drinking water supply and PUBLIC SWIMMING POOL water or between sewage system and the PUBLIC SWIMMING POOL including filter backwash facilities;
- (13) Failure to provide and maintain an ENCLOSURE or BARRIER to inhibit unauthorized access to the PUBLIC SWIMMING POOL when required;
- (14) Use of unapproved chemicals or the application of chemicals by unapproved methods to the PUBLIC SWIMMING POOL water;

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(15) Broken, unsecured, or missing main drain grate or any submerged suction outlet grate in the PUBLIC SWIMMING POOL;

(16) Number of BATHERS/PATRONS exceeds the THEORETICAL PEAK OCCUPANCY;

(17) Broken glass or sharp objects in PUBLIC SWIMMING POOL or on DECK area;

(18) Failure to possess a valid Sanitary Permit; or

(19) It is declared a "public nuisance" as defined in 10 GCA § 20107.

(e) When the DIRECTOR orders closure of a PUBLIC SWIMMING POOL, he shall issue a written order to the PUBLIC SWIMMING POOL owner, operator, or his representative stating that the PUBLIC SWIMMING POOL is to be closed immediately and specifying corrective action(s) to be taken. The PERSON to whom the order is issued shall close the PUBLIC SWIMMING POOL immediately and shall prohibit any PERSON from using it. The DIRECTOR or his/her representative shall post a notice, easily visible to the public, stating that said POOL is closed by order of the DIRECTOR and that swimming is prohibited.

(f) After the initial written order to close the PUBLIC SWIMMING POOL is issued, and after the specified corrective action(s) has been taken, the owner, operator or his representative shall notify the DIRECTOR that the PUBLIC SWIMMING POOL is ready for re-inspection.

(g) If upon re-inspection the corrective action is not approved, the PUBLIC SWIMMING POOL shall remain closed and kept out of use until corrective action is approved.

(h) A PERSON shall not remove a notice of closure posted by the DIRECTOR or his/her representative, except with the express written consent of the DIRECTOR.

§ 4643. Variance.

(a) The DIRECTOR may, on written application and after review, grant a VARIANCE from a specific provision of these

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rules and regulations, subject to appropriate conditions which shall include a time schedule for compliance when such VARIANCE is in harmony with the general purposes and intent of these rules and regulations, and when there are practical difficulties or unnecessary hardship in complying with such provision. The application shall include, but not be limited to:

(1) A citation of the section to which the VARIANCE is requested;

(2) A statement as to why the applicant is unable to comply with the section to which the VARIANCE is requested;

(3) The nature and duration of the VARIANCE requested;

(4) A statement of how the intent of these rules and regulations will be met and the reasons why the public health or SAFETY would not be jeopardized if the VARIANCE was granted; and

(5) A full description of any policies, procedures, or equipment that the applicant proposes to use to rectify any potential increase in health or SAFETY risks created by granting the VARIANCE.

(b) A VARIANCE request from an existing PUBLIC SWIMMING POOL that possessed a valid Sanitary Permit at the time of the effective date of these rules and regulations shall be approved by the DIRECTOR, provided no injuries or disease transmission have occurred in the existing PUBLIC SWIMMING POOL as a result of the deficiency or non-compliance, and the VARIANCE request:

(1) Is not for the requirements of § § 4608-4615 and § § 4634-4642; and

(2) Will not result in an IMMINENT HEALTH HAZARD.

(c) Any VARIANCE approved pursuant to (b) of this Section shall remain in effect indefinitely until:

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(1) The Sanitary Permit of the existing PUBLIC SWIMMING POOL expires and not renewed within two years from the date of the expiration;

(2) The existing PUBLIC SWIMMING POOL undergoes SUBSTANTIAL ALTERATION; OR

(3) An injury or a disease transmission is documented as a result of the VARIANCE.

(d) The DIRECTOR, not his/her representative, is delegated the authority to approve such VARIANCE.

§ 4644. Exemption.

A PUBLIC SWIMMING POOL is exempt from the provisions relating to BARRIERS and ENCLOSURES under § 4627 and § 4630 when all of the following alternative SAFETY measures are in place:

(1) 24-hour manned security;

(2) monitored video surveillance of the entire perimeter of the facility; and

(3) signage posted in a conspicuous place communicating that unauthorized entry is prohibited.

§ 4645. Severability.

If any provision or the application of any provision of these rules and regulations is held invalid, that invalidity shall not affect other provisions or applications of these rules and regulations.

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ARTICLE 7
SCHOOL SANITATION

SOURCE: Original rules filed with the Legislative Secretary on November 22, 1983. Current rules were submitted to the Legislature on Mar. 15, 2019, and deemed adopted on June 13, 2019 pursuant to the Administrative Adjudication law, 5 GCA § 9101 *et seq.*

2022 NOTE: The rules are reproduced here in the same numbering as had been submitted to the Guam Legislature.

Past publications of the GAR included the following Compiler’s Note, which is retained herein for historical purposes:

NOTE: Rule-making authority cited for formulation of school sanitation regulations by the Director of Public Health and Social Services, 10 GCA Chapter 25.

These Regulations are reprinted exactly as promulgated by the Department except that section numbers have been changed to conform to those used in this Volume.

These Regulations were filed with the Legislative Secretary on November 22, 1983.

- § 4701. Purpose.
- § 4702. Authority.
- § 4703. Title.
- § 4704. Definitions.
- § 4705. Sanitary Permit.
- § 4706. School Location and Premises.
- § 4707. School Building.
- § 4708. Ventilation.
- § 4709. Temperature and Humidity.
- § 4710. Lighting.
- § 4711. Plumbing.
- § 4712. Water Supply.
- § 4713. Handwashing Unit.
- § 4714. Shower Facilities.
- § 4715. Restrooms.
- § 4716. Garbage, Trash, and Recycling Disposal.
- § 4717. Food Protection.
- § 4718. Safety.
- § 4719. Existing Facilities.
- § 4720. Inspection and Grading.

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- § 4721. Variance.
- § 4722. Severability.

§ 4701. Purpose.

The purpose of these rules and regulations is to protect and promote the health and safety of all employees and students in schools on Guam.

§ 4702. Authority.

Title 10 Guam Code Annotated, Chapter 21, Section 21102 authorizes the Director of the Department of Public Health and Social Services to establish rules and regulations to carry out the provisions of Chapter 25, Title 10 Guam Code Annotated.

§ 4703. Title.

These rules and regulations shall be known as the “Rules and Regulations for School Building Sanitation.”

§ 4704. Definitions.

As used in these rules and regulations, the following definitions shall apply:

(a) American Society of Heating, Refrigerating, and Air-Conditioning Engineers (also known as ASHRAE) means the building technology society that focuses on building systems, energy efficiency, indoor air quality, and sustainability within the industry.

(b) American Society for Testing and Materials (also known as ASTM) means the international standards organization that develops and publishes voluntary consensus technical standards for a wide range of materials, products, systems, and services.

(c) Campus means the grounds and buildings of a school found on a property that is owned, leased, rented, or otherwise occupied by the operator on single, continuous property.

(d) Department, or DPHSS, means the Guam Department of Public Health and Social Services.

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(e) Director means the Director of Public Health and Social Services or his/her designated representative.

(f) Elementary School means a school attended by students in kindergarten to fifth grade.

(g) Handwashing Unit means an area that includes a sink, a soap dispenser, and a sanitary paper towel dispenser.

(h) High School means a school attended by students in ninth to twelfth grade.

(i) Imminent Health Hazard means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

(j) Middle School means a school attended by students in sixth to eighth grade.

(k) Operator means a person, governmental agency, firm, association, corporation, or business entity, who owns, leases or manages, or proposes to own, lease, or manage, a school, and includes any person designated in the application for a Sanitary Permit to operate a school or having authority to administer day-to-day operation of the facility and to respond to complaints, orders, and other matters as set forth in these rules and regulations.

(l) Restroom means an area that includes a toilet, toilet paper dispenser, and handwashing unit.

(m) Sanitary Permit means the official document issued by the DPHSS authorizing the establishment to operate its business.

(n) School means any establishment, public or private, for the care and education of students from kindergarten through grade twelve and any college or university or institution of higher learning.

(o) Shower Facilities means a shower room and locker room are combined into one area.

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(p) Storm Drainage System means piping within a public or private premises that carries rainwater, surface water, subsurface water, and similar liquid wastes to a point of disposal.

(q) Variance means a written document issued by the Director that authorizes a modification or waiver of one or more requirements of these rules and regulations if, in the opinion of the Director, a health hazard or nuisance will not result from the modification or waiver.

§ 4705. Sanitary Permit.

(a) No operator shall directly or indirectly in any manner, conduct, control, manage, maintain, or operate a school unless a valid Sanitary Permit issued by the Department to operate such a facility has been obtained and posted. Any operator, before constructing a new school, or making an addition to, or major alteration of, an existing facility shall first submit plans and specifications of such building or changes to the Director for approval.

(b) An application for a Sanitary Permit to operate all new or existing schools, whether public, private, or vocational, shall be made in writing on a form prescribed by the Department, signed by the applicant or his authorized agent, and shall contain such information that will determine that the facility and its operation are in compliance with the applicable provisions of these regulations.

(c) Every campus shall obtain a separate Sanitary Permit, and the transfer of that permit to another person, operator, school, campus, or location shall be prohibited.

(d) Before the application for a Sanitary Permit shall be approved, the Department shall verify that the facility meets the minimum sanitary requirements and standards by means of a pre-operation inspection. This shall include the access onto premises, inspection, and investigation.

(e) Before a pre-operation inspection is conducted, plans and specifications shall be submitted to the Director in accordance

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with the requirements established in these regulations, which shall include the following:

- (1) The dimensions of the proposed establishment;
 - (2) The location, number, and type of plumbing fixtures, including all water supply fixtures and toilet fixtures, and other fixtures and equipment; and
 - (3) If a newly-constructed building, the general layout of water supply lines, wastewater lines, or methods of wastewater disposal.
- (f) If upon inspection, the Director is satisfied that the school meets the qualifications and standards prescribed in these rules and regulations, a nontransferable Sanitary Permit shall be issued. The Sanitary Permit shall be posted in a conspicuous area designated by the Director.
- (g) An application for renewal of Sanitary Permit shall be submitted no earlier than 30 days prior to its expiration date with its applicable fees.
- (h) The school shall adhere to the most recently adopted building, plumbing, fire, and other pertinent regulatory codes for Guam.
- (i) The school shall have an updated floor plan readily available and shall present it to the Director upon request. Such floor plan shall show the arrangement of all rooms, buildings, and areas in the school.
- (j) Compliance with this section does not absolve the school from obtaining other permits and licenses required by law.

§ 4706. School Location and Premises.

- (a) The school shall not permit activities that will increase the intensity of noise on the school premises. Noise level at the site should not exceed seventy (70) decibels.
- (b) The school site shall be located so that it is as remote as possible from sources of air pollution such as manufacturing plants, abattoirs, refineries, open-burning dumps, sanitary landfill

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operations, polluted streams, and any sources of smoke, dust, fumes, or objectionable odors.

(c) Once a school site has been established, no source of objectionable conditions as detailed in Section 4706 (a) and (b) above shall be permanently located near enough to a school site so as to create conditions objectionable to the school.

(d) The school site, which includes the area used for a playground as well as that immediately adjacent to the school building, shall be evenly graded and sloped so as to provide adequate surface drainage.

(e) Playgrounds shall be constructed and maintained to permit maximum utilization of sites, with elimination of sanitary and health hazards, including depressions, fragments of glass, stone, and similar obstructions.

(f) Outdoor recreational area shall be required of schools occupied by kindergarten through grade twelve and shall comprise a minimum of 100 sq. ft. of accessible space per student using that area at any given period. The outdoor recreational area shall be either fenced or properly isolated from vehicular traffic.

(g) The school site shall be free of potential pest breeding sites, such as open dumps, swamps, etc., and shall be located away from low lying swampy areas where mosquitoes breed.

(h) The school site shall be kept clean and free of rubbish and overgrown vegetation.

(i) No school shall be located in a private family residence unless that portion of the residence to which students have access is physically separated from the usual living quarters of the family. A solid, doorless partition from the floor to the ceiling and between such walls shall be available to provide complete physical separation of the school from such other business or dwelling.

(j) Exterior of buildings, walkways, awnings, picnic tables, benches, and other outside structures shall be kept clean and in good repair.

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(k) All storm drainage systems shall include a gutter, leader, downspout, splash block, and/or drain opening. The gutter/downspout grading and/or discharge point shall be such that water will not pool.

(l) All equipment, structures, and fixtures that are no longer being used shall be removed from the building and properly disposed.

§ 4707. School Building.

(a) Room Requirements.

(1) The classroom shall be of sufficient size to provide at least 25-30 square feet of space per student in elementary schools, 20-25 square feet of space per student in middle schools, and at least 18-20 square feet of space per student in high schools, colleges, and universities.

(2) Rooms shall be kept clean, neat, and orderly with approved waste container that is durable, easily cleanable, and appropriately sized for its use.

(3) All dining areas that are used for purposes other than dining shall be kept clean, neat, and orderly, with adequate seating and lighting.

(4) The janitorial rooms, and any storage area used to store hazardous materials, shall be locked to prevent student access.

(5) Rooms or areas unsafe for use shall be closed or cordoned off to prevent access. Readily visible signs shall be posted in conspicuous locations to prohibit unauthorized access.

(6) Use of scented products such as air fresheners, candles, deodorizers, and plug-ins shall be prohibited in rooms.

(b) Floor Requirements.

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(1) Floors of all rooms shall be of such construction as to be easily cleanable, non-absorbent, light in color, and shall be kept clean and in good repair.

(2) Floors shall be made from materials approved by the Department.

(3) Floors without carpeting shall be sealed with a satisfactory floor sealer.

(4) Area carpets and rugs shall be easily cleanable, have friction backings or underlayment when placed on smooth floor surfaces, and shall not be used in areas where contamination with bodily fluids or food is likely. Carpets and rugs shall be kept clean and in good repair.

(c) Wall Requirements.

(1) Walls shall be smooth, have surfaces light in color, be easily cleanable, and shall be maintained in good repair and in a clean, sanitary condition.

(2) All unintended openings to the outer air shall be sealed off to effectively prevent the entrance of pests.

(d) Ceiling Requirements.

(1) Ceilings shall have flat surfaces, light in color, be easily cleanable, and shall be maintained in good repair and in a clean, sanitary condition.

(2) All unintended openings to the outer air shall be sealed off to effectively prevent the entrance of pests.

(e) Door Requirements.

(1) School building exits shall be provided, which are easily accessible and plainly indicated. Exit signs shall be posted at the interior side of the exit door.

(2) Rolling, sliding, revolving, and double swinging doors are prohibited. Doors leading to the outside of the building shall be tight-fitting, self-closing, and shall open outward.

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(3) Doors shall be kept clean and in good repair.

(4) All unintended openings to the outer air shall be sealed off to effectively prevent the entrance of pests.

(f) Window Requirements.

(1) Windows shall be kept clean and in good repair.

(2) All openings to the outer air shall be screened effectively, unless other effective means are provided to prevent the entrance of pests. Plastic or wire screen shall be not less than 16 mesh to the inch.

(g) Classroom Equipment Requirements.

(1) The classroom equipment such as chalkboards, whiteboards, erasers, desks, chairs and other furniture shall be kept clean and in good repair.

(2) Chalkboards shall be of black or green, dull finish, and shall have smooth, even surfaces with no cracks and as few seams as possible.

(3) Chalkboards and whiteboards shall be located so as to be easily seen by the intended users and opposite windows so as not to create areas of high light contrast near or behind chalkboards.

(4) Use of equipment, such as crayon or chalk containing lead, lead compounds, and other hazardous materials is prohibited.

(5) Art and craft materials shall be labeled in accordance with the chronic hazard labeling standard, ASTM D4236-94(2005).

(h) Seating Requirements.

(1) Each student shall have an individual seating unit with writing table attached or adjacent to the seat and so constructed as to provide comfortable seating and convenient writing without undue strain.

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(2) Where windows are the primary source of illumination, the desks shall be so arranged as to minimize the effects of glare and shadow.

(3) When the student is erectly seated with feet squarely on the floor, there must be no pressure from the forward edge of the seat under the knees.

(4) Writing tables shall be smooth, easily cleanable, maintained, and in good repair.

(i) **Maintenance and Housekeeping Requirements.**

(1) There shall be sufficient space for the storage of outdoor clothing, raincoats, maintenance equipment, ground equipment, and instructional equipment to prevent cluttering of classrooms, walkways, or other areas.

(2) All areas, facilities, furniture, and equipment shall be maintained in a clean, safe, and sanitary condition and kept in good repair. Furniture and equipment no longer being used shall be removed and disposed of properly.

(3) The building shall be free of pests and conditions which attract, provide harborage, and promote breeding of such.

(4) Cleaning materials, tools, and maintenance equipment shall be provided and shall be safely stored and secured in a locked area.

§ 4708. Ventilation.

(a) Ventilation shall be a minimum of fifteen cubic feet per minute per student (15 cfm/student) to provide proper circulation of needed air within a room by either windows or mechanical ventilators (ASHRAE Standard 62-1999). Ventilation rate requirements may be increased by the Department for rooms where the ventilation rate is insufficient.

(b) Ventilation system filters shall be cleaned or replaced regularly to prevent excessive accumulation of dust or debris.

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(c) All rooms, areas, and equipment from which contaminated aerosols, obnoxious odors, or noxious fumes, or vapors may originate shall be effectively vented to the outside air.

(d) Windows, including louvers opened from the bottom, which cause direct currents of air on students nearby, shall be provided with window ventilators or deflectors.

(e) Windows, including louvers shall be adjustable at the top and bottom, and when this is the only means of ventilation, at least one-half (1/2) of the windows shall open from both top and bottom.

(f) Ducts and fans in connection with mechanical ventilation shall be so arranged and controlled as to eliminate objectionable air currents directly on the students.

(g) When mechanical ventilation is provided, it shall be kept clean and in good repair.

§ 4709. Temperature and Humidity.

(a) Indoor air temperature of rooms occupied by students and faculty shall be in the range of 75oF – 83oF (ASHRAE Standard 55-2004).

(b) Indoor relative humidity shall be in the range of 30% - 60% (ASHRAE Standard 62-1999).

§ 4710. Lighting.

(a) Availability of natural light is highly recommended in all rooms occupied by students. When adequate natural light is not available, artificial light shall be provided to promote a comfortable visual environment.

(b) All classroom windows shall be provided with shades or blinds which shall be kept clean and in good repair and so used or adjusted so that glare and excessive light intensities are reduced to a minimum.

(c) Minimum acceptable levels for school lighting in the following areas shall be:

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(1) Lecture rooms, study halls, laboratories, offices, libraries, art rooms, and electronic and machine shops: 50 foot-candles at all levels.

(2) Reception rooms, gymnasiums, and swimming pools: 30 foot-candles at all levels.

(3) Auditoriums, restrooms, locker rooms, corridors and stairways, storage, and any other rooms: 20 foot-candles at all levels.

(d) Artificial lighting in all areas except storage areas shall be diffused, indirect, and glare-free, and shall be provided with light shields.

(e) Window panes shall not be used for decorations or objects which shut out the light.

§ 4711. Plumbing.

Plumbing shall be sized, installed, and maintained to carry adequate quantities of water to required locations throughout the school, to prevent contamination of the water supply, to properly convey sewage and liquid wastes from the school building to the public sewage system or to a sewage disposal system approved by the regulatory agencies so as not to create an unsanitary condition or nuisance.

§ 4712. Water Supply.

(a) Each school building shall be provided with an ample supply of water from an approved public water system. Water supply shall be safe and of sanitary quality.

(b) Drinking water dispensed by means of drinking fountains, cups, and water coolers shall conform to the following:

(1) Drinking fountains shall be kept clean and in good repair.

(2) Drinking fountains shall be provided in the ratio of one per 75 students.

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(3) Drinking fountains shall be constructed of impervious material, such as stainless steel, vitreous china, porcelain, enamel, or stoneware.

(4) The jet of the drinking fountain shall dispense from a nozzle of non-oxidizing, impervious material set at an angle from the vertical so as to prevent the return of the water to the orifice or orifices from where it is dispensed.

(5) The end of the nozzle shall be protected by a non-oxidizing guard to prevent the mouth and nose of a person using the fountain from coming into contact with the nozzle.

(6) The bowl of a drinking fountain shall be free from corners so as to be easily cleanable and to avoid collection of dirt and other contaminants.

(7) The waste opening pipe shall be provided with a strainer and be of sufficient size to carry off the water promptly.

(8) Single service cups shall be used when dispensing drinking water from bottled water or water coolers. Single service cups shall be stored, handled, and dispensed in a sanitary manner.

(9) Water coolers used for dispensing drinking water shall be provided with a cover, and shall be kept clean. Dipping of water from a water cooler is prohibited.

(10) Other cups, such as individually owned cups, shall be used only by one owner.

(c) The school water supply system shall be in good working order at all times so as to adequately supply the water demand of the school.

(d) All water outlets shall be protected from back-flow either by air gap or back-flow prevention devices. There shall be no cross-connection, or existing or potential conditions to cause back-siphonage, anywhere in the school building or its premises.

(e) Any water outlet with a threaded, serrated, or quick coupling nozzle shall be provided with a vacuum breaker.

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§ 4713. Handwashing Unit.

(a) Handwashing units shall be located in all classrooms for grade two and below, and in other rooms which require frequent handwashing, such as laboratories, art and cooking classes, and other classrooms as determined by the Department.

(b) Handwashing units shall be kept clean, maintained, and shall be adequate in size and number to serve the total population of the school. Elementary schools, middle schools, high schools, colleges, and universities shall have at least one (1) handwashing unit for every 50 students.

(c) Handwashing sinks shall be provided with cold water at a minimum. If hot water is also provided at handwashing sink, it must be combined with the cold water through a mixing faucet. The hot water shall have a maximum temperature of 110°F.

(d) Soap, sanitary paper towels, and waste containers shall be provided at all handwashing units.

(e) Liquid soap dispenser shall be of a type that uses a replacement pouch or sealed-soap cartridge. If a non-mounted refillable liquid soap dispenser is used, it shall be discarded when empty (shall not be refilled). Soap dispensers shall be provided and placed so that the user does not have to move away from the handwashing sink to obtain the soap.

(f) Sanitary paper towels shall be placed inside the sanitary paper towel dispenser. Dispensers shall be installed near the handwashing sink. A heated air hand-drying device may be used in place of sanitary paper towels. Common use towels are prohibited.

(g) Handwashing units shall be conveniently located to or in restrooms.

(h) Soap dispensers and sanitary paper towel dispensers that are no longer being used shall be removed and disposed of properly.

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§ 4714. Shower Facilities.

(a) Shower facilities shall be provided in all middle schools, high schools, colleges, and universities where physical education is a required subject in the curriculum.

(b) Lockers or cubicles shall be provided in a separate room when shower rooms are required.

(c) There shall be a minimum of one showerhead for every four (4) females and one showerhead for every five (5) males based upon maximum demand in any one period.

(d) There shall be a minimum of one locker or cubicle for each student based upon maximum demand in any one period.

(e) The floors of the shower facilities shall be of smooth, finished material with non-slip surface impervious to moisture and sloped to the floor drain. Junctions between walls and floors shall be covered and sealed. Shower rooms and stalls shall have floors, partitions, and walls to a minimum height of six (6) feet, finished with dense non-absorbent and non-corrosive materials having a smooth impervious surface.

(f) Shower facilities shall be kept clean, free of mildew or mold, and well ventilated; and the lockers, showerheads, and floors shall be kept in good repair.

(g) The temperature of water at the shower head shall not exceed 110°F.

§ 4715. Restrooms.

(a) The following establishes the minimum number of toilets and urinals for schools:

(1) Elementary schools:

(A) Female toilets – one for each 35 females

(B) Male toilets – one for each 50 males

(C) Boys' Urinals - one for each 30 males

(2) Secondary schools, and colleges and universities:

(A) Female toilets - one for each 45 females

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(B) Male toilets - one for each 50 males

(C) Boys' Urinals - one for each 30 males

(b) For each toilet added in excess of the minimum required, one urinal may be deducted. The number of urinals shall not be reduced to less than two-thirds of the minimum requirement.

(c) Toilets and urinals shall be of appropriate height for the students.

(d) Separate restrooms for each gender shall be conveniently located. Restrooms found in classrooms may accommodate both genders provided the required toilet ratios have been met.

(e) Restrooms shall be provided in conjunction with shower or locker rooms.

(f) Restrooms shall be completely enclosed.

(g) Restrooms that open directly to the outdoors shall have entrance doors that are tight fitting, self-closing, and open outward.

(1) Restroom entrance doors shall be provided with signs designating the gender for which such room is intended.

(2) Doors shall be kept clean and in good repair.

(h) Floors in the restroom shall be of material impervious to moisture and floor drains shall be provided. Junctions between walls and floors shall be covered and sealed.

(i) Toilet stall partitions and toilet stall doors shall begin not more than one (1) foot from the floor and extend to a height of not less than five (5) feet for elementary, and not less than six (6) feet for middle schools, high schools, and colleges and universities. Each toilet stall door shall be equipped with a latch or lock to secure the door to ensure privacy when using the toilet.

(j) Each restroom shall be provided with a waste container that is durable, easily cleanable, and appropriately sized for its use.

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(k) All restrooms shall be kept in good repair, clean, and free from foul odor.

(l) All toilet paper shall be placed in the toilet paper holder/dispenser and be available and conveniently located adjacent to each toilet.

§ 4716. Garbage, Trash, and Recycling Disposal.

(a) Every school shall provide an adequate number of garbage and trash containers, which shall be located at a place suitable for their use. When recycling programs are in place, recycling containers shall be provided and located at a place suitable for their use.

(b) Watertight and non-absorbent containers with tight-fitting lids shall be used for storing garbage, trash, and recycling. Containers shall be washed and treated with a disinfectant as often as necessary to prevent nuisances. The disinfectant used in such containers shall contain at least 100 ppm of chlorine or its equivalent of an acceptable sanitizer.

(c) Garbage, trash, recycling, and other solid wastes shall be disposed of regularly.

(d) Trash and solid waste shall be disposed of in an approved manner so as not to create a nuisance or health hazard.

(e) Bulk refuse containers shall be located on impervious asphalt or concrete surfaces sloped to drain into an approved sewage disposal system, elevated at least six inches from the ground surface.

(f) Garbage intended for use as animal feed shall be stored according to regulations separately established for feeding of garbage to livestock.

§ 4717. Food Protection.

For classes that require cooking as part of the curriculum, written procedures shall be maintained and made available to the Department upon request, which address the minimum critical requirements of food safety including, but not limited to, demonstration of food safety knowledge by the class instructor,

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student health and hand hygiene, temperature control, preventing cross-contamination, and obtaining food from safe sources.

§ 4718. Safety.

Each school shall have adequate type and number of first aid material as determined by the individual school's health care professional.

§ 4719. Existing Facilities.

School facilities in existence at the time that these regulations take effect shall be given five years from the date that these rules become effective to come into full compliance with the requirements of these rules unless a school facility or operator files a written statement of exception with the Director and receives a variance as provided in § 4721.

§ 4720. Inspection and Grading.

(a) Access.

An employee or representative of the Department shall, after proper presentation of credentials, have access to any school building at any reasonable time for the purpose of making inspections to determine compliance with these rules and regulations. Denial of access shall be cause for suspension of the Sanitary Permit.

(b) Report of Inspections.

Whenever an inspection of a school building is conducted, the findings shall be recorded on a form authorized by the Director, shall summarize the requirements of these rules and regulations, and shall set forth a demerit value for each requirement. Demerit value assignments shall be from one through six. Inspection remarks shall be written to reference, by section number, the section violated and shall state the correction to be made. The rating score of the establishment shall be the total of the demerit values for all violations. A copy of the completed inspection report form shall be issued to the operator of the establishment at the conclusion of the inspection. The completed

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form is a public document that shall be made available for public disclosure to any person who requests it according to law.

(c) Appeal.

The report of inspection of a school building shall state that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a hearing is filed with the Director within the period of time established in the notice for correction.

(d) Grading.

(1) Grades of a school building shall be as follows:

(i) Grade A: An establishment having a demerit score of not more than ten;

(ii) Grade B: An establishment having a demerit score of more than ten but not more than twenty;

(iii) Grade C: An establishment having a demerit score of more than twenty but not more than forty; and

(iv) Grade D: An establishment having a demerit score of more than forty.

(2) Whenever two or more similar violations of the same item are observed during the same inspection, the demerit value for that item violation shall only be counted once.

(3) The Department shall issue a placard reflecting the letter grade of the most recent inspection.

(4) The Department shall establish a specific and reasonable period of time for correction of the violations found, in accordance with the following provision:

(i) When the demerit score of the establishment is twenty or less, all violations of one through five demerits must be corrected within a period of time not to exceed 30 days; or

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(ii) When the demerit score of the establishment is more than twenty but less than forty-one, all items of one through five demerit points must be corrected within a period of time not to exceed 15 days; or

(iii) When one or more six demerit point items are in violation, regardless of demerit score, such items must be corrected within a period of time not to exceed 10 days; and

(iv) When the demerit score of the establishment is more than forty, the Sanitary Permit shall be immediately suspended.

(e) The operator shall ensure that he/she, or a designee, be present during inspections of a school building by the Department.

(f) The Inspection Report and Letter Grade Placard shall be posted in a conspicuous area designated by the Director.

(g) Except as specified in (h) of this section, an operator shall immediately discontinue operations and notify the Department if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, gross insanitary occurrence or condition, or other circumstance that may endanger public health.

(h) An operator need not discontinue operations in an area of a school that is unaffected by the imminent health hazard.

(i) Failure to report an imminent health hazard to the Department may result in immediate suspension of the permit.

§ 4721. Administrative Penalties.

(a) The Director may impose a fine payable to the "Treasurer of Guam" for any operator that operates without a valid Sanitary Permit. The monetary fine for this administrative violation shall be charged to the operator based on the following:

(1) A fine not less than One Thousand Dollars (\$1,000) per violation, but not exceeding Five Thousand Dollars (\$5,000), for operating without a valid Sanitary Permit.

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(2) For § 4720 (a) (1) above, the Department shall treat each additional day as a separate violation per day of continuing violation.

(b) The Director shall issue a notice of violation and administrative penalty against an operator and provide an opportunity to request a hearing on the proposed penalty. The request must be made within 10 days of the date that the notice is served upon the operator.

(c) Any operator may seek review of any administrative penalty imposed before the Superior Court of Guam. Such review shall be upon the record established before the Director and not de novo. The Superior Court may sustain, modify or vacate any administrative penalty it reviews.

(d) If any operator fails to comply with an administrative penalty order after it has become final, the Attorney General shall bring a civil action to enforce the order and to recover the amount ordered or assessed, plus current interest from the date of the final order or decision. To prevail in such an action, the Director need establish only that:

(1) Notice was given as required;

(2) A hearing was granted to the defendant or that the defendant requested no hearing; and

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

§ 4721. Variance.

In the event that a school or an operator is unable to comply with certain requirements of these rules and regulations, upon a showing of good cause which is not the result of negligence or malfeasance, the Director may grant a variance from the requirements of a particular rule by making a written determination. Before a variance from a requirement of these rules is approved, the school or the operator shall first submit a written statement of the proposed variance from the requirement

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citing relevant rule section numbers. The written statement shall include an alternate plan to address the potential public health hazards and nuisances under the relevant rule sections. The Director, not his/her representative, is delegated the authority to approve such variance.

§ 4722. Severability.

If any provision or the application of any provision of these regulations is held invalid, that invalidity shall not affect other provisions or applications of these rules and regulations.

ARTICLE 8
BAKERIES

NOTE: Rule-making authority cited for formulation of regulations for the Bakeries Section of the Department of Public Health and Social Services by the Director of Public Health and Social Services, 10 GCA § 20105.

These Rules and Regulations were filed with the Legislative Secretary on July 17, 1984.

- § 4801. Definitions.
- § 4802. Authority.
- § 4803. Construction Permit.
- § 4804. Sanitary Permit.
- § 4805. Buildings.
- § 4806. Water Supply.
- § 4807. Plumbing.
- § 4808. Sewage.
- § 4809. Garbage and Refuse.
- § 4810. Construction and Design of Equipment and Utensils.
- § 4811. Equipment and Utensil Cleaning Facilities.
- § 4812. Storage and Handling of Equipment.
- § 4813. Refrigeration.
- § 4814. Storage of Bakery Product Ingredients and Supplies.
- § 4815. Food Supplies.

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- § 4816. Protection from Contamination.
- § 4817. Insect and Rodent Control.
- § 4818. Packaging and Transportation.
- § 4819. Personnel Cleanliness and Health.
- § 4820. Bakery Product Labeling and Marking.
- § 4821. Health Certificate.
- § 4822. Repealer.
- § 4823. Separability.

§ 4801. Definitions.

(a) Bakery shall mean any place or building and structure in connecting therewith where bread, rolls, cakes, doughnuts, alimentary pastes, pies, or any food products of which flour or meal is the principal ingredient, and which are processed, handled or stored for sale to the public.

(b) Bakery Product shall mean food products, consisting of bread, pies, pastries, cakes, cookies, doughnuts, crackers or other similar products which are baked, cooked, processed, or which are processed to be cooked or baked off the premises.

(c) Director means the Director of Public Health and Social Services, and his/her authorized representative.

(d) Department means the Department of Public Health and Social Services.

(e) Employee means the permit holder, individuals having supervisory or management duties, and any other person working who handles bakery products, equipment and utensils operates bakery machinery or vehicles, etc.

(f) Manufacturing shall mean the preparation, mixing, blending, icing, decorating, baking, or handling of bakery products and food ingredients or materials used therein.

(g) Perishable Food means any food of such type of in such condition or physical state as it may spoil or otherwise become unfit for human consumption.

(h) Potentially Hazardous Food means any perishable food or food products which consists in whole or in part of milk or milk

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products, eggs, synthetic fillings, or any other ingredient capable of supporting rapid or progressive growth of infectious and toxigenic microorganisms including but not limited to, cream fillings in pies, cakes or pastries; custard products; meringue topped bakery products; or butter type fillings in bakery products.

(i) Person shall mean an individual, partnership, corporation, association, or club.

(j) Distributor shall mean any person other than a bakery engaged in selling, marketing, or distributing at wholesale or retail any bakery products but does not include:

(1) Any person distributing solely bakery products manufactured by him/her in a bakery with a sanitary permit.

2019 NOTE: Subsection designations altered pursuant to authority granted by 1 GCA § 1606.

§ 4802. Authority.

Public Law 15-96, Guam Environmental Health Act, 10 GCA § 20105 authorizes the Department to establish rules and regulations governing bakeries and to ensure that all provisions of Public Law 15-96 regarding permit issuance are carried out.

§ 4803. Construction Permit.

Any person, association or corporation before construction a bakery or before making an addition to or conversion of or major alteration of an existing facility shall first submit plans and specifications of such building or changes to the Department, Division of Environmental Health in accordance with separate regulation established for obtaining a construction permit from the Department. Such construction permit shall be obtained before construction or changes begin.

§ 4804. Sanitary Permit.

(a) No person, association, or corporation shall directly or indirectly in any manner, conduct, control, manage, maintain, or operate a bakery unless a valid sanitary permit issued by the Department to operate such a facility has been obtained and posted.

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(b) Before the application for a sanitary permit shall be approved, the Department shall verify that the facility meets the minimum sanitary requirements and standards. This will involve right of entry, inspection, and investigation. Findings of the inspection shall be reported on an official inspection report form which shall accompany the application.

(c) If upon inspection the Department is satisfied that the bakery reasonably meets the qualifications and standards prescribed, a non-transferable sanitary permit designating the type of facility shall be issued. Said sanitary permit shall be posted in a conspicuous area designated by the Director. All sanitary permits shall be valid for no more than 12 months and shall be renewed on June 30 of each year.

(d) If the new application or renewal inspection indicates that the facility does not meet the minimum sanitary requirements and standards, the sanitary permit shall be denied or terminated.

(e) An application for renewal of sanitary permit shall be filed 30 days prior to its expiration date, and upon approval by the Division of Environmental Health a new sanitary permit shall be issued.

(f) Failure to comply with any rule or regulation, or refusal to renew the sanitary permit of any bakery is reason for revocation, suspension, or disapproval of the new permit.

(g) Any person denied a permit or whose permit has been revoked for cause may appeal the Director's action. The appeal shall be in accordance with 10 GCA § 21109.

(h) There shall be a \$5.00 charge for any duplicate permits issued.

§ 4805. Buildings.

(a) Rooms: Separate rooms shall be provided for manufacturing bakery products, toilet facilities, supply rooms, dressing rooms and lockers where provided and, retail sale of bakery products which may include packaging of bakery products in properly protected area.

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(b) Floors:

(1) The floors of all rooms shall be easily cleanable, non-absorbent, smooth, and free of cracks.

(2) When subject to flood type cleaning, floors shall be sloped and provided with drain meeting local plumbing codes or regulations.

(3) Joints at wall-floor junctions shall be covered and sealed.

(4) The floors of all rooms shall be kept clean and in good repair.

(c) Walls and Ceilings:

(1) The surface of walls and ceilings of all rooms shall be reasonably smooth, non- absorbent, and of washable light color.

(2) Storage room walls and ceiling construction shall be tight and designed to be easily cleanable.

(3) The surface of all walls and ceilings shall be kept clean and in good repair.

(4) Walls and ceilings shall be free of crevices or openings which may harbor or serve as passageways for rodents or insects.

(d) Ventilation:

(1) Adequate ventilation shall be provided to maintain all rooms free from strong and undesirable odors, smoke, dusts and excessive condensation.

(2) Permanently installed pressured ventilating equipment shall be equipped with filtered air intake.

(3) Baking ovens and fryers shall be properly hooded and vented to the outside and equipped with exhaust fans where necessary to remove smoke and odors. Exhaust fan vents shall be equipped with insect screens or self-closing louvers.

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(4) Windows opening into any product area from the outside atmosphere shall be equipped with screens not coarser than 16 mesh per inch.

(e) Lighting:

(1) Adequate lighting shall be provided in all rooms. A minimum of 25 foot candles light intensity at 30 inches from the floor shall be provided in the rooms where bakery products are processed and/or packaged. There shall be at least a light intensity of 10 foot candles 30 inches from the floor in all other rooms.

(2) Lights in manufacturing, packaging and storage rooms shall be equipped with protective shields.

(f) Toilet Facilities:

(1) Toilet facilities shall be installed according to the latest edition of the Uniform Plumbing Code at the time of construction, shall be conveniently located, and shall be accessible to employees at all times.

(2) Toilets and urinals shall be designed to be easily cleanable.

(3) Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing, solid doors, which shall be closed except during cleaning or maintenance.

(4) Toilet fixtures shall be kept clean in good repair. A supply of toilet tissues shall be provided at each toilet at all times. Easily cleanable waste receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

(5) Toilet rooms shall not open directly into processing or food storage rooms.

(6) Toilet rooms shall be ventilated to the outside atmosphere by either a screened window or by a mechanical ventilator or exhaust fan having no direct connection with the ventilating duct system of the food processing or food storage rooms.

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(7) Hand soap or equivalent product and individual single service paper towels or approved heated air hand drying devices shall be provided.

(g) Lavatory Facilities:

(1) Lavatories shall be at least the number required by law, shall be installed according to law, and shall be located to permit convenient use by all employees in bakery areas and utensil washing areas.

(2) Lavatories shall be accessible to employees at all times. Newly constructed or extensively remodeled establishments shall provide handwashing lavatories in the production and/or packaging areas.

(3) Lavatories shall also be located in or immediately adjacent to toilet rooms or vestibules. Sinks used for food preparation or for washing equipment or utensils shall not be used for handwashing.

(4) Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet used shall be designated to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Steam mixing valves are prohibited.

(5) A supply of hand-cleaning soap or detergent shall be available at each lavatory. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each lavatory. Common or roll towels are prohibited. If disposal towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.

(6) Lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair.

(h) Dressing and Locker Room Facilities:

(1) If employees routinely change clothes within the establishment, rooms, or areas shall be designated and used

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for that purpose. These designated rooms or areas shall not be used for food preparation, storage or packaging, or for utensil washing or storage.

(2) Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may be located only in the designated dressing rooms or in food storage rooms or areas containing only completely packaged food or packaged single service articles.

§ 4806. Water Supply.

(a) General: Enough potable water for the needs of the bakery establishment shall be provided from a source constructed and operated according to law.

(b) Transportation: All potable water not provided directly by pipe to the bakery establishment from the source shall be transported in an approved bulk water transport system and shall be delivered to a closed-water system. Both of these systems shall be constructed and operated according to law.

(c) Bottled Water: Bottled and packaged potable water shall be obtained from a source that complies with all laws and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

(d) Water Under Pressure: Water under pressure at the required temperatures shall be provided to all fixtures and equipment that use water.

(e) Steam: Steam used in contact with food or food- contact surfaces shall be free from any materials or additives other than those specified in 21 CFR 173.310.

2019 NOTE: Subsection designations amended pursuant to authority granted by 1 GCA § 1606.

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§ 4807. Plumbing.

(a) General: Plumbing shall be sized, installed, and maintained according to law. There shall be no cross-connection between the potable water supply and any non-potable or questionable water supply nor any source of pollution through which the potable water supply might become contaminated.

(b) Non-Potable Water System: A non-potable water system is permitted only for purposes such as air-conditioning and fire protection and only if the system is installed according to law and the non-potable water does not contact, directly or indirectly, food potable water, equipment that contacts food, or utensils. The piping of any non-potable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

(c) Backflow: The potable water system shall be installed to preclude the possibility of backflow. Devices shall be installed to protect against backflow and back-siphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet and the fixture's flood level rim. A hose shall not be attached top a faucet unless a back-flow prevention device is installed.

(d) Grease Traps: If used, grease traps shall be located to be easily accessible for cleaning, shall be cleaned as often as necessary, and shall be maintained to avoid nuisances.

(e) Garbage Grinders: If used, garbage grinders shall be installed and maintained according to law.

(f) Drains: Except for properly trapped open sinks, there shall be no direct connection between the sewerage systems and any drains originating from equipment in which food, portable equipment, or utensils are placed.

§ 4808. Sewage.

(a) General: All sewage, including liquid waste, shall be disposed of by a public sewage system or by a sewage disposal system constructed and operated in accordance with 10 GCA Chapter 39. Non-water carried sewage disposal facilities are

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prohibited except in remote areas or because of special situations as permitted by the Department.

§ 4809. Garbage and Refuse.

(a) Containers:

(1) Garbage and refuse shall be kept in durable, easily cleanable, insect proof and rodent proof containers that do not leak and do not absorb liquids. Plastic bags and wet-strength paper bags may be used to line these containers, and they may be used for storage inside the bakery.

(2) Where edible garbage will be stored in plastic bags for use as animal feed, National Sanitation Foundation (NSF) approved plastic food storage bags shall be used.

(3) Containers used in food preparation and utensil washing areas shall be kept covered after they are filed.

(4) Containers stored outside the establishment, dumpsters, compactors and compactor systems shall be easily cleanable, shall be provided with tight fitting lids, doors or covers, which shall be kept closed when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.

(5) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulate.

(6) Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas. Suitable facilities, including hot water and detergent or steam, shall be provided and used for washing containers. Liquid waste from compacting or cleaning operations shall be disposed of a sewage.

(b) Storage:

(1) Garbage and refuse on the premises shall be stored in a manner to make them inaccessible to insects and rodents. Outside storage of unprotected plastic bags or wet- strength

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paper bags or banded units containing garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food waste need not be stored in covered containers.

(2) Garbage or refuse storage rooms, if used, shall be of easily cleanable, non-absorbent, washable materials, shall be kept clean, shall be insect-proof and shall be large enough to store the garbage and refuse containers that accumulate.

(3) Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters, and compactor systems located outside shall be stored on or above a smooth surface of non-absorbent material such as concrete or machine laid asphalt that is kept clean and maintained in good repair.

(c) Disposal:

(1) Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

(2) Where garbage or refuse is burned on the premises, it shall be done by controlled incineration that prevents the escape of particulate matter in accordance with law. Areas around incineration facilities shall be clean and orderly.

(3) No garbage shall be disposed of as animal feed unless the collector has a valid sanitary permit to operate a livestock garbage feeding establishment, and the Division of Environmental Health has been notified in writing of who is collecting garbage for animal feed.

2019 NOTE: Subsection designations amended pursuant to authority granted by 1 GCA § 1606.

§ 4810. Construction and Design of Equipment and Utensils.

(a) All utensils and equipment used in the manufacture and packaging of bakery products shall be made of smooth, non-toxic, non-absorbent material and of such construction and design as to be easily cleaned, and must be kept in good repair.

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(b) Joints and seams in metal shall be smooth and flush welded or soldered.

(c) Equipments and utensils contact surfaces shall be free of crack, crevices, pits or other imperfection that contribute to insanitary conditions.

(d) Equipment shall be positioned at a minimum distance of six inches from the floor and eight inches from the wall and ceilings for easy cleaning, except for such stationary equipment is sealed to walls, floors or ceilings in a sanitary manner that does not harbor insects, rodents or filth.

(e) The distances between machines shall be large for convenient use of the machines and for accessibility for cleaning and inspection.

(f) Compressed air introduced into the product area shall be filtered. If piston type compressors are used, the airlines shall be equipped with oil and water traps.

(g) The electrical wiring system, including conduits, switch boxes and control panels, shall be so constructed and installed to prevent insect harborage.

(h) Equipment and utensils shall be used only for the purpose intended.

§ 4811. Equipment and Utensil Cleaning Facilities.

(a) Manual Cleaning and Sanitizing:

(1) For manual washing, rinsing and sanitizing of utensils and equipments, a sink with not fewer than three compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.

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(2) Drain boards or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for clean utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.

(3) Equipment and utensils shall be pre-flushed or pre-scraped and, when necessary, presoaked to remove gross food particles and soil.

(4) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequences:

(A) Sinks shall be cleaned prior to use.

(B) Equipment and utensils shall be thoroughly washed in the first compartment with a warm water (100°-120°F) detergent solution that is kept reasonably clean.

(C) Equipment and utensils shall be rinsed free of detergent and abrasive with clean water in the second compartment.

(D) Equipment and utensils shall be sanitized in the third compartment according to one of the methods included in Section 11.1 (E)(1) through (4) of these regulations.

(5) The food-contact surfaces of all equipment and utensils shall be sanitized by:

(A) Immersion for at least one-half (2) minute in clean, hot water at a temperature of at least 170°F; or

(B) Immersion for at least one minute in a clean solution containing at least 50 parts per million of available chlorine as a hypo-chlorine and at a temperature of at least 75°F; or

(C) Immersion for at least one minute in a clean solution containing at least 12.5 parts per million of

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available iodine and having a pH not higher than 5.0 and at a temperature of at least 75°F; or

(D) Immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 C.F.R. 178.1010 that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75°F for one minutes; or

(E) Treatment with steam free from materials or additives other than those specified in 21 CFR 173.310 in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

(F) Rinsing, spraying or swabbing with chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under Section 11.1(E)(4) of these regulations in the case of equipment too large to sanitize by immersion.

(6) When hot water is used for sanitizing, the following facilities shall be provided and used:

(A) A integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature or at least 17°F, and

(B) A numerically scaled indicating thermometer accurate to Å3°F, convenient to the sink for frequent checks of water temperature; and

(C) Dish baskets of such size and design to permit complete immersion of the utensils and equipment in the hot water.

(7) When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under 21 CFR 178.10102 and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used.

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§ 4812. Storage and Handling of Equipment.

(a) After cleaning and sanitizing, utensils, and equipment shall be stored in a clean, dry place, protected from insects, dust, and any other contamination, and shall be handled in such a manner and to prevent contamination of food contact surfaces.

(b) Cleaned and sanitized utensils and equipments shall be stored at least six inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. The food contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.

(c) Utensils shall be air dried before being stored or shall be stored in a self- draining position. Nesting of pots or pans is prohibited during drying.

(d) Single-Service Articles:

(1) Single-service articles shall be stored at least six inches above the floor in closed cartons or containers which protect them from contamination and shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.

(2) Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food.

(e) Prohibited Storage Area: The storage of equipment, utensils or single service articles in toilet rooms or vestibules is prohibited.

§ 4813. Refrigeration.

(a) Adequate refrigeration facilities of an approved type shall be provided to hold all perishable or potentially hazardous raw materials and finished products.

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(b) Potentially hazardous foods as well as perishable foods shall be stored at a temperature not to exceed 45 degrees Fahrenheit.

(c) Frozen food shall be stored at a temperature to keep them in a solid frozen state.

(d) Refrigerated bakery product ingredients removed for processing purposes must not be left standing at room temperature for undue length of time. When practical only the amount or portion of refrigerated ingredients necessary for prompt processing use should be removed. Refrigerated food shall not be kept uncovered except when being dispensed for processing purposes.

(e) Frozen food ingredients shall be thawed for processing use by one of the following methods:

(1) Frozen food placed in refrigerated coolers which do not exceed 45°F and such food should be used within eight hours after thawing.

(2) Running water (potable) at a temperature not in excess of 60°F may be used if all frozen food will be used upon thawing.

§ 4814. Storage of Bakery Product Ingredients and Supplies.

(a) Adequate storage facilities shall be provided to protect bakery product ingredients and supplies from contamination and/or spoilage.

(b) Bulk bakery product ingredients may be stored in manufacturing rooms in properly constructed covered bins, cabinets or containers.

(c) Packaged bakery products, ingredients and packaging supplies shall be stored at least six inches off the floor and not less than 18 inches from the wall to facilitate cleaning and control of vermin.

(d) The storage areas shall be kept clean and free of vermin.

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(e) Detergents, bleaches, cleaning compounds and similar materials shall be properly stored separate from foods and pesticides and specifically labeled as to contents and use.

(f) Pesticides and rodenticide shall be stored in properly labeled containers in a closed cabinet outside food storage, manufacturing, packaging and retail sales room.

§ 4815. Food Supplies.

(a) General: Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relative to food and labeling. The use of food in hermetically sealed containers that was not prepared in an approved food processing establishment is prohibited.

(b) Special requirements:

(1) Fluid milk and fluid milk products used shall be pasteurized and shall meet the quality standards as established by law. Dry milk and dry milk products shall be made from pasteurized milk and milk products.

(2) Only clean whole eggs, with shell intact and without cracks or checks, or pasteurized liquid, frozen, or dry eggs or pasteurized dry egg products shall be used, except that hard-boiled, peeled eggs, commercially prepared and packaged, may be used.

§ 4816. Protection from Contamination.

(a) All ingredients used in the preparation of bakery products shall be wholesome, free from spoilage and properly stored as to be protected from contamination.

(b) No room of any bakery shall be used for domestic purposes.

(c) No live animal or fowl shall be permitted in any of the bakery rooms.

(d) Ice used in the preparation or cooking of bakery products must be from an approved source and made from potable water.

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(e) Only approved pesticides and rodenticide cleaning compounds and sanitizer shall be used in accordance, with, and used based on the manufacturer's directions.

(f) The bakery shall not be used for any other purposes than the manufacture and packaging of bakery products and the operations incident hereto, except as not detrimental to the manufacture of bakery products and public safety.

(g) There shall be no public passageway through manufacturing areas.

(h) There shall be no exposed overhead drain or waste disposal piping, or any other piping which may cause condensation problem in the manufacturing room and rooms where products and supplies are stored.

§ 4817. Insect and Rodent Control.

(a) General: Effective measures intended to minimize the presence of rodents, flies, cockroaches, and other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.

(b) Openings: Openings to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors shall be self-closing, an screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening materials shall not be less than 16 mesh to the inch.

§ 4818. Packaging and Transportation.

(a) Vehicles used in the transportation of bakery products shall be of an enclosed van type and constructed so as to give adequate sanitary protection from air- borne and manual contamination to the products being transported. All vehicles shall be kept clean and in good repair.

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(b) All potentially hazardous foods as defined herein carried in delivery vehicles, for wholesale and retail sales shall be stored and maintained at a temperature not to exceed 45°F.

§ 4819. Personnel Cleanliness and Health.

(a) Employee Health: Any person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection shall not work in a bakery establishment in any capacity in which there is a likelihood of such person contaminating food or food - contact surfaces with pathogenic organisms or transmitting disease to other persons.

(b) Personal Cleanliness: Employees shall thoroughly wash their hands and exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean, after smoking, eating, drinking, or using the toilet. Employees shall keep their fingernails clean and trimmed.

(c) Clothing:

(1) The outer clothing of all employees shall be clean.

(2) Employees shall use effective hair restraints to prevent the contamination of food or food-contact surfaces.

(d) Employee Practices:

(1) Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there may result in contamination of other food, equipment, utensils, or other items needing protection.

(2) Employees shall not use tobacco in any form while engaged in food preparation nor while in areas used for equipment or utensils washing or food preparation. Employee shall use tobacco only in designated areas. An employee tobacco use area shall not be designated for that purpose if the use of tobacco there may result in

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contamination of food, equipment, utensils, or other items needing protection.

(3) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the bakery establishment.

§ 4820. Bakery Product Labeling and Marking.

(a) Labeling or marking of containers and packages for bakery products must comply with the requirement of the Guam Food, Drug and Cosmetic Act and regulations adopted thereunder.

(b) Bakery products in packages sold at retail outlets shall be date coded in the following manner:

(1) The date of production shall be printed on or attached by tag to the product package giving the month, day, and year of production, or

(2) A colored tag shall be affixed to the product package to indicate the date of production. Only one color may correspond to one day of a week. When colored tags are used, the product manufacturer shall provide all retail outlets they service with a chart stating the meaning of the color tag corresponding to the day of the week the product is manufactured. A copy of the color code explanation chart shall also be provided to the Division of Environmental Health, and when any changes occur, the DEH shall be notified in writing within five working days.

§ 4821. Health Certificate.

Health Certificates must be obtained by all employees working in bakery establishment in accordance with separate regulations established by the Division of Environmental Health, Department of Public Health and Social Services for obtaining health certificates.

§ 4822. Repealer.

These regulations shall be effective 45 days after their adoption and publication in accordance with law. At that time, all

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regulations and parts of regulations that conflict with these regulations are repealed.

§ 4823. Separability.

If any provision or application of any provision of these regulations are held invalid, that invalidity shall not affect other provisions or applications of these regulations.

ARTICLE 9
COSMETOLOGY

NOTE: Rule-making authority cited for formulation of regulations for Cosmetic Establishments Section of the Department of Public Health and Social Services 10 GCA § 27101 to § 27107.

Exemptions (a) any person who on or before July 13, 1985 was engaged in activities requiring licensing under the provisions of 10 GCA Chapter 27 shall be permanently exempted from the examination and educational requirements of Chapter V if, prior to September 30, 1986, he provides the Board of Cosmetology with adequate proof of training or instruction in the art of cosmetology that is satisfactory to the Board. These Rules and Regulations were filed with the Legislative Secretary on April 24, 1984.

Attached herewith is Resolution No. 141 relative to disapproving the Board of Cosmetology's Rules and Regulations governing the licensure of cosmetologists and cosmetological establishments

- § 4901. General Provisions.
- § 4902. Permits
- § 4903. Disease Control
- § 4904. Health Certificates
- § 4905. Sanitary Controls and Facilities
- § 4906. Construction and Maintenance of Physical Facilities
- § 4907. Inspections
- § 4908. Posting of Documents.

§ 4901. General Provisions.

(a) Purpose: These regulations shall be liberally construed and applied to promote their underlying purpose of protecting the public health.

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(b) Definitions:

(1) Construction Permit shall mean a written document issued by the Department of Public Health and Social Services which gives permission to construct, extend, alter, or modify a structure or building to be used as a shop or school as defined below.

(2) Cosmetology shall mean the practice of any of the following:

(A) shaving, clipping, trimming or cutting human hair; or

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

(C) applying cosmetic preparations, antiseptics, powders, oils, clays, lotions or other preparations to the human scalp, face, neck or hands; or

(D) manicuring or pedicuring.

(3) Department shall mean the Department of Public Health and Social Services.

(4) Director shall mean the Director of the Department, or his/her authorized representative.

(5) Employee shall mean any person who works in a shop or school, as defined below, for the purpose of practicing cosmetology.

(6) Owner (operator or manager) shall mean any person having control of an establishment, a facility, or the employees therein where cosmetology is practice.

(7) Sanitary Permit shall mean a written document issued by the Department giving a designated person, association or corporation permission to operate a shop or school as defined below.

(8) School shall mean any establishment or facility where the practice of cosmetology is taught for fee or charge.

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The term includes, but is not limited to barber colleges, schools of cosmetology, or other closely related institutions or establishments teaching cosmetology for reimbursement.

(9) Shop shall mean any establishment or facility where cosmetology is practiced for fee or charge or hire. The term includes, but is not limited to barber shops, beauty shops, beauty salons, beauty parlors, hair styling salons, or other establishments where cosmetology is practiced for reimbursement.

(c) Captions. Section and other captions are part of these regulations.

(d) Repealer. These regulations are effective immediately upon their adoption and filing with the legislative secretary of the Guam Legislature. At that time all regulations and parts of regulations that conflict with these regulations are repealed, except that nothing contained in these regulations shall be construed as in anyway affecting, modifying, repealing, or superseding the provisions of other sections of Public Law 15-96, or regulations established thereunder.

(e) Separability. If any provision or application of any provision of these regulations is held invalid, that invalidity shall not affect the other provisions or applications of these regulations.

(f) Authority. Title 10 Guam Code Annotated Chapter 20 and Chapter 21 authorize the Director to establish regulations governing all cosmetic establishments, and to ensure that all provisions of P.L. 15-96 regarding permit issuance are carried out.

§ 4902. Permits.

(a) Sanitary Permits:

(1) No person, association or corporation shall directly or indirectly in any manner conduct, control, manage, maintain, or operate a shop or school unless a valid sanitary permit, issued by the Department to operate such an establishment, has been obtained and properly posted.

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(2) An application for a sanitary permit to operate all new or existing shops or schools shall be made in writing on a form prescribed by the Director, signed by the applicant or his/her authorized agent. The application shall be accompanied by an official inspection report citing the conditions found at the facility by the Director.

(3) Before the application for a sanitary permit shall be approved, the Director shall verify that the facility meets the minimum sanitary requirements and standards of these regulations. This shall involve the right of entry, inspection, and investigation.

(4) If upon inspection the Director is satisfied that the school or shop establishment meets the minimum requirements of these regulations or standards as the Director may prescribe, a non-transferable sanitary permit designating the type and location by address or lot number of establishment shall be issued.

(5) If the inspection for new application or renewal indicates that the establishment does not meet the minimum requirements and standards of these regulations, the sanitary permit shall be denied.

(6) All sanitary permits shall be issued for a maximum of no more than 12 months and renewed on June 30 of each year. An application for a new or renewal of sanitary permit shall be filed at least 15 days before a new school or shop intends to open, or before a current sanitary permit expires.

(7) Failure to comply with any regulation or standard listed below shall be reason to deny issuance of a sanitary permit. The same shall also be reason or cause to suspend or revoke a current permit:

(A) Employees working who have a contagious disease (Section 3.2).

(B) Employees working who do not have a valid Health Certificate;

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(C) Unapproved or inadequate water supply or plumbing;

(D) Denying access to inspections.;

(E) Receiving a demerit score of more than 40;

(F) Repeating a violation assigned 2, 4, or 6 demerit points;

(8) Any person or establishment denied a sanitary permit, or whose sanitary permit has been revoked may appeal the Director's action. The appeal shall be in accordance with 10 GCA § 21109.

(b) Construction Permit. Any person, association, or corporation, before constructing a shop or school, or before making an addition to or conversion or major alteration of an existing facility, shall first submit plans and specifications of such building or changes to the Department, Division of Environmental Health in accordance with separate regulations established for obtaining a construction permit from the Department.

§ 4903. Disease Control.

(a) Employee Practices, Hygiene.

(1) All employees and operators shall wear clean outer garments, maintain a high degree of personal cleanliness and conform to good hygienic practices while on duty.

(2) Employees' hands and arms which will normally come in contact with a customer shall be thoroughly washed before and after attending each customer.

(3) Employees shall not consume food while on duty or in any areas where patrons are attended to. An employee lounge or dining area shall be provided if foods are consumed on the premises.

(4) No employee or other person shall commit an insanitary act in any shop or school such as brushing teeth, expectorating, or gargling.

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(5) No employee shall remove or attempt to remove any wart, mole, pimple, ingrown hair, or undertake any like treatment unless properly trained and licensed in medical science. The practice of cleaning ears is prohibited.

(b) Control of Contagious Disease.

(1) The sanitary permit holder shall keep, maintain and operate the shop or school under permit in such a manner that the health of customers, the health of employees, and the public health is not endangered in any way.

(2) Notice shall be sent to the Department immediately by the owner of any shop or school in which any case of infectious, contagious or communicable disease occurs, or is suspected of occurring, and no person having or suspected of having such disease shall be employed or attended to as a customer.

(3) Employees afflicted with a contagious or infectious disease in a communicable form shall not be allowed to work until the Department receives a written statement from the employee's physician stating that the employee is free of any contagious or infectious disease.

(4) No employee shall serve any customer when the skin of the customer's neck, face, scalp, hands, lower arms, or feet appears infected with a contagious disease such as ringworm, barber's itch, etc., unless the customer submits a certificate signed by a duly licensed physician stating that such inflammation or eruption is not contagious.

(5) No employee infested with head lice (pediculosis capitis) shall serve any customer.

§ 4904. Health Certificates.

(a) General.

(1) No person shall operate, manage or work in a shop or school unless that person holds a valid health certificate issued by the Department.

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(2) No owner shall knowingly allow any person to work in a shop or school unless that person has a valid health certificate issued by the Department.

(3) No health certificate shall be issued, new, or renewal, unless the applicant also attends a yearly workshop given by the Department, or in lieu thereof, takes and passes a written examination administered by the Department, Division of Environmental Health.

(4) After meeting the above requirements a health certificate will be issued in accordance with other regulations established for the issuance of certificates in general.

§ 4905. Sanitary Controls and Facilities.

(a) Sanitary Practices - Prohibited Activities.

(1) The use of common neck dusters, hair brushes made of wood and bristle, shaving brushes, powder puffs, nail buffers, and sponges is prohibited.

(2) The reuse of single use items such as cotton pads or balls, absorbent cotton, permanent wave pads, and papers and similar items is prohibited.

(3) Making shaving lather in a wash basin or lavatory is prohibited.

(4) Removing creams or semi-solid preparations from containers with the fingers is prohibited.

(5) The use of any astringent in lump or styptic pencil is prohibited.

(6) The service of any food and drink, other than coffee or soft drinks, to a customer.

(b) Sanitary Practices - Requirements.

(1) Prior to serving any customer, the headrest of any chair to be used by the customer shall be covered with a clean, sanitized towel, or a clean sheet of barber's paper.

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(2) When a hair cape or shampoo case is used in serving a customer, a sanitary “neck strip”, a freshly laundered towel, or other suitable, sanitary protection shall be placed between the hair cape or shampoo cape and the neck of the patron.

(3) Any material used to stop the flow of blood must be used only in powder or liquid form, and applied only with sterile absorbent cotton. The used cotton shall be disposed of immediately after using one customer.

(4) Lotions, powders, fluid creams and other liquid preparations used on the customer shall be dispensed from shaker type, squeeze type, pump type, or aerosol type containers.

(5) Semi-solid creams and similar preparations shall be dispensed only with single use spatulas which are disposed of after each use, or with easily cleanable multi-use spoons or spatulas which are cleaned and sanitized after each use. Jars of creams shall be kept covered when not in use.

(c) Instrument Cleaning, Sterilizing, and Storing.

(1) All multi-use instruments and utensil shall be made so as to be easily cleanable after each use.

(2) Combs and brushes shall be thoroughly cleaned after each use with detergent and hot water, rinsed and sanitized by total immersion for at least ten minutes in a 1/1000 bichloride of mercury solution, 5% formaldehyde solution, 10% cresol solution, or 70% rubbing alcohol solution.

After sanitizing the combs and brushes shall be removed from the sanitizing solution and air dried. If such combs and brushes are not used immediately after sanitizing, they shall be stored in a closed cabinet where they shall be exposed to the fumes of formaldehyde until used.

(3) All plates, jars, glass, metallic containers, and metallic instruments with a cutting edge shall be cleaned with detergent and hot water, rinsed, and sanitized by one of the solutions in 5.3(b) above for at least ten minutes. Then they

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shall be kept in a closed cabinet exposed to the fumes of formaldehyde until used.

(4) Manicure instruments shall be washed with detergent and hot water, rinsed, and sanitized by immersion in a solution of 70% rubbing alcohol until used. During use, manicure instruments shall also be immersed in a 70% rubbing alcohol solution in a separate container.

(5) Every shop or school shall provide and use standard measuring cups or spoons when sanitizing solutions are prepared by the shop or school.

(6) Hair treatment utensils such as hair pins, head coverings, clips, rollers, curlers spacers, and rods shall be cleaned after each use with detergent and hot water, rinsed, air dried and stored in a clean container or cabinet until needed. Curling irons, and heaters shall be kept free or corrosion.

(7) Each shop or school must have adequate, clean cabinets or other approved storage facilities for the storage of cleaned and sanitized instruments and utensils; and adequate, properly constructed containers suitable for use as sterilizers. Sterilizing containers may be made of glass, plastic, or non-corrosive metal. During hours of operation, sterilizers shall contain a supply of approved disinfectant replenished at a frequency required by the Director, but no less than three times per week.

(8) Liners for storage cabinet shelves shall be limited to plastic materials capable of being easily cleaned and sanitized. Liners and other cloth materials shall not be used as lining material.

(d) Water Supply.

(1) Enough potable water at the correct temperature and pressure for the needs of the shop or school shall be provided.

(2) The water supply shall be from an approved source.

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(3) The water supply plumbing shall be sized, installed, and maintained according to the latest edition of the Uniform Plumbing Code at the time of construction, alteration or required change. There shall be no cross-connections between potable water supply and any non-potable system, nor shall there be any conditions which would allow backflow or back siphonage at any fixtures or equipment in the potable water supply system. Backflow prevention devices or measures shall be provided where necessary to protect the potable water supply.

(e) Lavatories

(1) Lavatories shall be provided, and shall at least be the minimum number required by law and shall be conveniently located.

(2) Lavatories shall be accessible to employees at all times.

(3) One lavatory shall be provided at each work station in the shop or school.

(4) Lavatories shall also be located in or immediately adjacent to toilet rooms or vestibules.

(5) Each lavatory shall be provided with hot and cold water tempered by means of mixing valve or combination faucet.

(6) A supply of hand cleansing soap or detergent shall be available at each lavatory. A supply of sanitary, disposable towels or a hand drying device providing heated air shall be conveniently located near each lavatory. The presence and use of common or roll towels is prohibited. Where disposal towels are used, easily cleanable waste containers shall be conveniently located near lavatories.

(7) Lavatories, soap dispensers, hand drying devices and all related fixtures shall be kept clean and in good repair.

(f) Toilet Facilities.

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(1) Enough toilet facilities shall be installed according to law, shall be conveniently located, and shall be accessible to employees and patrons at all times. Separate toilet facilities shall be provided for both sexes.

(2) Toilet rooms shall be completely enclosed and shall have self-closing doors. Toilet rooms shall be kept closed at all times when the establishment is open for business. Where necessary, doors shall be fitted with properly louvered ventilators to aid in providing proper ventilation.

(3) Toilet fixtures and rooms shall be designed to be easily cleanable, shall be kept clean, and shall be kept in good repair. Easily cleanable, covered waste containers shall be provided. Toilet tissue shall be provided at each toilet at all times. Toilet facilities shall not be used for the storage of personal belongings.

(g) Sewage Disposal. All sewage, including liquid waste of any kind, shall be disposed of by a public sewerage system or by a sewage disposal system constructed and operated according to law.

(h) Garbage and Refuse Disposal.

(1) Garbage and refuse shall be kept in durable, easily cleanable, insect proof and rodent proof containers that do not leak or absorb liquids.

(2) All garbage and refuse containers shall be provided with tight-fitting covers which shall be kept closed when not in use.

(3) There shall be a sufficient number of containers to hold all garbage and refuse shall be disposed of often enough to prevent odors, and the attraction of rodents and insects.

(4) Outside storage containers shall be kept off of the ground on rocks which provide at least 18" ground clearance, or in solid concrete or asphalt pads. Areas around outside storage containers shall be kept clean and litter free.

(i) Insect and Rodent Control.

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(1) All areas of shops and schools shall be kept free of insect and rodent harborage and feeding areas, and shall provide effective measures to minimize their presence.

(2) All openings to the outside used for ventilation shall be provided with #16 mesh screen. Doors to the outside shall be tight-fitting, self-closing, and shall remain closed. All other routes of insect or rodent ingress shall be sealed.

(j) Linens.

(1) All towels, washcloths and other fabrics, except for hair or shampoo caps, which come in contact with the hair and skin of a customer shall be thoroughly cleaned and properly sanitized after use on each customer, and before being used on the next customer.

(2) Where hair or shampoo capes are used, they need not be laundered after each use provided that they are used as required in section 6.2(b). All capes shall be cleaned and sanitized after each day's use, or sooner if they become unduly soiled. Cleaning and sanitizing shall be done as outlined in section 6.10(c) below.

(3) Methods of cleaning and sanitizing all fabrics and liner shall be approved by the Director, and may include the following:

(A) Having the used fabrics and linens cleaned and sanitized at a laundry and dry cleaning establishment with a valid sanitary permit, or

(B) Having the used fabrics and linen cleaned and sanitized at a coin operated laundromat by use of automatic washers and dryers. Dryer temperatures shall be at least 180°F, or

(C) Having the used fabrics and linen laundered at the shop or school by the proper use of automatic washers and dryers. Dryer temperatures shall be at least 180°F.

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(4) Laundry facilities on the premises shall be provided in a separate room away from other operations of the shop or school.

(5) Adequate and separate storage facilities shall be provided for the storage of cleaned and soiled fabrics and linen. Storage hampers for soiled fabrics and linen shall be provided with covers, easily cleanable, kept clean, and emptied at regular intervals when used, and shall be kept covered at all times.

(6) The supply of cleaned and sanitized fabrics and linen shall be adequate to prevent the establishment from running out between laundering periods.

(k) Premises.

(1) All parts of the premises used in connection with the operations of a shop or school shall be kept clean and free of litter.

(2) Only articles necessary for the operation and maintenance of shops and schools shall be stored on the premises.

(3) Storage lockers, closets, or rooms shall be provided for the storage of cleaning, maintenance, and cosmetology supplies. Cosmetology supplies shall be stored in separate lockers away from cleaning and maintenance supplies. All storage facilities shall be kept clean and orderly.

(l) Animals. Live animals, including birds, shall be excluded from all areas of the establishment. This exclusion shall not apply to patrol dogs accompanying security guards, nor to guide dogs accompanying their handlers, nor to fish in aquariums for decorative purposes only.

2019 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 4906. Construction and Maintenance of Physical Facilities.

(a) General.

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(1) No person shall operate a shop or school in connection with any other business or dwelling unless there is a solid, doorless partition from the floor to the ceiling and between such walls as will provide complete physical separation of the establishment from such other business or dwelling.

(2) All floor, walls, ceilings, fixtures and furnishings shall be constructed so as to be easily cleanable, shall be kept clean, and shall be kept in good repair.

(b) Lighting. Lighting shall be provided so that at least 30 ft. candles of light shall be available 30 inches from the floor in all operational areas. At least 20 feet candles of light shall be available, 30 inches from the floor in utility, storage, lavatory, toilet, and employee lounge areas.

(c) Ventilation. All rooms shall have sufficient ventilation to keep them free of excessive obnoxious odors, smoke, and moisture. Mechanical ventilation systems shall be installed and operated where natural ventilation is not adequate. Where mechanical ventilation is provided, adequate provisions shall be made to supply make-up air.

(d) Lockers and Dressing Areas.

(1) Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers may be located in either storage rooms, employee lounge areas, or in any other area approved by the Director.

(2) When employees routinely change clothes within the shop or school, a separate area, approved by the Director, shall be provided.

§ 4907. Inspections.

(a) Inspection Frequency. As often as may be deemed necessary for the enforcement of these regulations, and at least once every months, an inspection of all shops and schools shall be made by the Director.

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(b) Access. An employee or representative of the Department shall, after proper presentation of credentials, have access to any shop or school at any reasonable time for the purpose of making inspections to determine compliance with these regulations. Denial of access shall be reason for suspension of the sanitary permit until access is freely given by the owner, operator, or manager.

(c) Report of Inspections. Whenever an inspection of a shop or school is made, the findings shall be recorded on a report form authorized by the Director, and shall summarize the requirements of these regulations, the demerit value of each requirement violation, and the corrective action to be taken. One copy of the report shall be given to the owner, manager, or operator after it has been read and signed by him/her and the inspecting officer.

(d) Grading. Grades of shops and schools shall be as follows:

(1) Grade A An establishment having a demerit core of not more than (10),

(2) Grade B An establishment having a demerit of more than (10, but not more than (20),

(3) Grade C An establishment having a demerit score of more than (20), but not more than (40),

(4) Grade D An establishment having a demerit score of more than (40).

Notwithstanding the grade criteria established above, whenever a second consecutive violation of the same item of 2, 4, or 6 demerit points is discovered, the sanitary permit may be suspended, or the establishment shall be downgraded to the next lower grade.

2019 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 4908. Posting of Documents.

(a) General.

(1) The sanitary permit and one copy of the most recent inspection report shall be posted in a conspicuous place

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designated by the Director, and clearly visible to the public. No person other than the Director shall remove, deface, conceal, or destroy such a permit or report.

(2) The health certificates of all persons currently employed in a shop or school shall be posted in a conspicuous place designated by the Director.

2019 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

ARTICLE 10
HOTELS AND MOTELS

NOTE: Rule-making authority cited for formulation of regulations for the Hotels and Motels Section of the Department of Public Health and Social Services by the Director of Public Health and Social Services, 10 GCA, §26107. These Rules and Regulations were filed with the Legislative Secretary on July 23, 1984.

- § 41001. Definitions.
- § 41002. Compliance.
- § 41003. Guest Rooms.
- § 41004. Bedding.
- § 41005. Water Supply.
- § 41006. Ice.
- § 41007. Sewage Disposal.
- § 41008. Plumbing.
- § 41009. Food Service.
- § 41010. Laundry.
- § 41011. Refuse Dispose.
- § 41012. Personnel.
- § 41013. Contaminated Room.
- § 41014. Housekeeping.
- § 41015. Vector Control.
- § 41016. Safety.
- § 41017. Swimming Pools.
- § 41018. Sanitary Permit.
- § 41019. Construction Permit.
- § 41020. Lighting.

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- § 41021. Severability.
- § 41022. Repealer.
- § 41023. Authority.

§ 41001. Definitions.

(a) Construction Permit shall mean the official document issued by the Division of Environmental Health authorizing the owner to construct, alter, or modify any hotel, motel or TLA dormitory.

(b) Director shall mean the Director of Public Health and Social Services.

(c) Employee shall mean any person who in any manner serves a guest.

(d) Hotel shall mean any hotel, motel, dormitory place, building or structure used in connection with, maintained for or advertised to the public where sleeping accommodations are offered to guests for a fee.

(e) Health Certificate shall mean the official document issued by the Division of Environmental Health authorizing the employee to work in a hotel.

(f) Person shall mean any owner, firm, corporation or governmental agency operating a hotel.

(g) Sanitary Permit shall mean the official document issued by the Division of Environmental Health authorizing the establishment to operate.

§ 41002. Compliance.

(a) All new hotels, shall be in compliance with these regulations. The owner shall designate a responsible employee to manage the daily operation of the establishment.

(b) All hotels currently in operation shall comply with these regulations upon renovation, extension or remodeling of an existing building.

§ 41003. Guest Rooms.

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(a) Rooms shall be provided with adequate lighting for the comfort of the occupants.

(b) Rooms shall be adequately ventilated by natural or artificial means or both.

(1) All gas operated water heaters shall be completely enclosed, vented and equipped with automatic shut-off valves.

(2) All cooling units must be installed and maintained in a manner which will provide for the safety and comfort of the guests.

(c) Walls, ceilings, floors, and carpeting must be kept clean and in good repair.

(d) Rooms shall be furnished with adequate furniture for the comfort of the guests. Furnishing must be kept clean and in good repair.

(e) Soap and clean individual towels and wash cloths must be furnished to each guest daily.

(f) Single-service cups or sanitized drinking glasses must be furnished for each guest. If individual single service cups are provided, a suitable protective container must be provided for dispensing cups. All multiple-use eating and drinking utensils must be cleaned and sanitized in accordance with the regulations relative to eating and drinking establishments.

(g) Adequate and conveniently located toilet and bathing facilities shall be provided. All toilet and bathing fixtures shall be of sanitary design and easily cleanable. Toilet and bathing facilities, including rooms and fixtures, shall be kept in clean condition and in good repair.

§ 41004. Bedding.

(a) Clean and fresh bed linens must be furnished on all beds prior to the use by any guest.

(b) Top and under sheets shall be of sufficient size to cover completely the mattress and fold under on the sides and ends.

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(c) Beds, mattresses, bed coverings, and pillow shall be kept clean, free from dust, dirt and vermin.

(d) No bed linen shall be used which is badly worn, stained or aesthetically unfit for further use.

§ 41005. Water Supply.

(a) An adequate supply of potable water from an approved source and under pressure must be provided at all times.

(b) Drinking fountains shall conform to the Uniform Plumbing Code.

§ 41006. Ice.

(a) Ice shall be made in an approved ice making machine and from water meeting all of the requirements set forth in §41005 above.

(b) Ice shall be handled, transported and stored in such a manner as to be protected against contamination.

(c) Approved containers and utensils shall be provided for storing and serving ice in a sanitary manner. Ice buckets, other containers and scoops, unless they are of the single-service type, shall be smooth, impervious and designed to facilitate cleaning. They shall be kept clean, stored and handled in a sanitary manner. Only sanitary containers shall be used for the transportation or storage of ice. Cleaning and sanitizing shall be done in accordance with the regulations pertaining to Food Service Establishments.

§ 41007. Sewage Disposal.

(a) An approved sewage disposal system which is located, constructed, and operated in conformance with the standards established for such systems.

§ 41008. Plumbing.

(a) All plumbing shall be installed and maintained in accordance with the current Uniform Plumbing Code.

(b) There shall be no cross-connection within the plumbing system.

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§ 41009. Food Service.

(a) When food service facilities, food preparation and eating facilities are provided in connection with a hotel, they shall comply with the Regulations Pertaining to Food Service Establishments.

§ 41010. Laundry.

(a) Laundry facilities within the hotel must comply with the regulations pertaining to Laundries and Dry Cleaning Establishments.

(b) When laundering is not conducted at the hotel, the clean clothes and linen shall be stored in clean containers or cabinets which are protected from contamination.

(c) All laundry, pending removal to the laundry facility, shall be stored in non-absorbent containers or washable laundry bags.

§ 41011. Refuse Disposal.

(a) All refuse shall be disposed of as often as necessary and in such manner as to prevent a public health nuisance.

(b) Containers shall be adequate in number, provided with tight-fitting covers and be located away from service doors.

§ 41012. Personnel.

(a) No employee affected with any communicable disease shall be allowed to work until after receiving a medical examination certifying that the employee has recovered.

(b) All employees shall wear clean outer garments, maintain a high degree of personal cleanliness and conform to good hygienic practices while on duty.

§ 41013. Contaminated Room.

(a) Any room having been occupied by a person with an infectious or communicable disease, shall, together with the furnishings, be thoroughly cleaned with an approved cleansing agent of proper concentration or other suitable disinfecting agent. All furnishings shall be suitably aired.

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(b) The Department shall be notified of all reportable communicable diseases.

§ 41014. Housekeeping.

(a) All parts of the establishment and its premises shall be kept neat, clean and free of litter and rubbish.

(b) Janitorial rooms and sinks shall be located off from the main hallway and shall be properly maintained at all times.

(c) Employee lounges, locker rooms or dining areas when provided, shall be maintained regularly.

§ 41015. Vector Control.

(a) Effective measures shall be taken to protect against the entrance, breeding or presence of vectors which would transmit a communicable disease.

§ 41016. Safety.

(a) All necessary safety measures must be taken as stated by the Occupational Safety and Health Administration, the Department of Public Safety, Department of Public Works and other related agencies. This includes, but is not limited to: handrails on stairs, steps, rails and stairways of sound construction and in good repair; adequate fire safety measures such as fire extinguisher; clearly marked and adequate fire escapes; properly installed and maintained electrical switches and outlets; and anti-slip rugs.

§ 41017. Swimming Pools.

(a) All swimming pools used by guests shall comply with the Regulations pertaining to Public Swimming Pools.

(b) Policies and procedures for guest usage of the pool shall be posted in each room and shall be translated into the predominant languages of the guests.

§ 41018. Sanitary Permit.

(a) No person shall directly or indirectly, in any manner, control, manage, maintain or operate a hotel unless a valid sanitary

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permit, issued by the Department to operate such a facility has been obtained and is properly posted.

(b) An application for a sanitary permit to operate any new or existing hotel shall be made in writing on a form prescribed by the Director, signed by the applicant or authorized representative and shall contain such information that will determine that the facility and its operation are in compliance with the applicable provisions of these regulations.

(c) Before the application for a sanitary permit shall be approved, the Director shall verify that the facility meets the minimum sanitary requirements and standards of these regulations. This shall involve the right of entry, inspection, and investigation.

(d) If upon inspection the Director is satisfied that the hotel meets the minimum requirements of these regulations or standards as the Director may prescribe, a non-transferable sanitary permit designating the type and location by address or lot number of the establishment shall be issued.

(e) If the new application or renewal inspection indicates that the facility does not meet the minimum sanitary requirements and standards, the sanitary permit shall be denied or terminated.

(f) All sanitary permits shall be issued for a maximum of no more than 12 months and renewed on June 30 of each year. An application for a new or renewal of sanitary permit shall be filed at least 15 days before a current sanitary permit expires.

(g) Failure to comply with any regulation or standard listed below shall be reason to deny issuance of a sanitary permit. The same shall also be reason or cause to suspend or revoke a current permit.

(1) Employees working who have contagious disease (§ 41012).

(2) Unapproved or inadequate water supply or plumbing (§ 41995) or improper sewage disposal (§ 4 § 007).

(h) Any person or hotel denied a sanitary permit, or whose

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sanitary permit has been revoked, may appeal the Director's action. The appeal shall be in accordance with 10 GCA § 21111.

§ 41019. Construction Permit.

(a) It shall be unlawful for any hotel, motel or TLA dormitory to be constructed, extended, or modified in any manner without first obtaining a Construction Permit from the Department.

(b) A detailed blueprint of the work to be done and the schematic of the water lines and electrical wiring shall be submitted for approval by the Department.

§ 41020. Lighting.

(a) Each room shall have a window for natural lighting.

(b) Sources of light shall be available to provide a minimum light intensity 30 inches from the floor in the following areas:

(1) Toilet facilities - 10 foot candles

(2) Kitchenette - 20 foot candles

(3) Corridors, stairs, elevators and entryway - 5 foot candle

(4) Rooms - 40 foot candles.

(c) Minimum light intensity for food service areas, laundry, and swimming pool areas shall comply with the foot candle requirements in the appropriate regulations. These areas shall be identified as such by doors or entry alcoves which separate the hotel light requirements from the food service, laundry and swimming pool.

§ 41021. Severability.

If any provision of these regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of these regulations.

§ 41022. Repealer.

All regulations or parts of regulations in conflict with these regulations are hereby repealed.

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§ 41023. Authority.

Title 10 Guam Code Annotated § 20105 and § 21101 and § 21102 authorize the Director to establish rules and regulations to carry out the provisions of 10 GCA Division 2.

ARTICLE 11
LAUNDRY AND DRY CLEANING

NOTE: Rule-making authority cited for formulation of regulations for the Laundry and Dry Cleaning Section of the Department of Public Health and Social Services, 10 GCA §28101. These Rules and Regulations were filed with the Legislative Secretary on July 23, 1984.

- § 41101. General Provisions.
- § 41102. Construction Permit.
- § 41103. Sanitary Permit.
- § 41104. Materials and Construction of Physical Facilities.
- § 41105. Sanitary Facilities Plumbing.
- § 41106. Sewage.
- § 41107. Toilet Facilities.
- § 41108. Lavatory Facilities.
- § 41109. General Sanitary Requirements.
- § 41110. Waste Disposal.
- § 41111. Premises.
- § 41112. Animals.
- § 41113. Disease Control and Employee Hygiene.
- § 41114. Inspections.
- § 41115. Posting of Documents.
- § 41116. Health Certificate Required.

§ 41101. General Provisions.

(a) Purpose These regulations shall be liberally construed and applied to insure compliance with sanitary requirements for the protection of public health.

(b) Definitions.

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(1) Laundry or Dry Cleaning Establishment means anyplace, building, structure, room or portion thereof, used in the business of dyeing, washing, starching, ironing or dry cleaning wearing apparel, household linens and other fabric articles, including any establishment providing laundering equipment for use by customers for a fee such as a laundromat, wash-o-mat, launderette or coin laundromat.

(2) Home Laundry means any laundry business where no other person is employed other than the proprietor and member of his/her family and household at the place of residence.

(3) Owner means any person, operator, or manager, having control of the laundry and/or dry cleaning establishment or of the people working or employed therein.

(4) Department means the Department of Public Health and Social Services.

(5) Director means the Director of Public Health and Social Services or his/her designated representative.

(6) Construction Permit means the official document issued by the Department giving permission to construct, reconstruct, alter, remodel or convert a structure for use as a laundry or dry cleaning establishment.

(7) Sanitary Permit means a written non-transferable document issued by the Department giving a designated person, association, or corporation permission to operate a laundry and dry cleaning establishment.

(8) Employee shall mean any person who works for a laundry or dry cleaning establishment and who handles soiled or cleaned linens or other laundry items.

(c) Authority. Title 10 Guam Code Annotated Chapter 20 and Chapter 21 authorizes the Director to establish rules and regulations to carry out the provisions of 10 GCA Division 2 Part 1.

(d) Captions Section and other captions are part of these

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regulations.

(e) Repealer These regulations are effective 45 days after their adoption and filing with the Legislative Secretary of the Guam Legislature. At the time all regulations and parts of regulations that conflict with these regulations are repealed, except nothing in this regulation shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of other sections of Public Law 15-96, or regulations established thereunder.

(f) Severability If any provision or application of any provisions of these regulations is held invalid, that invalidity shall not affect the other provisions or application of these regulations.

§ 41102. Construction Permit.

Any person, association, or corporation, before constructing a laundry or dry cleaning facility or before making an addition to or conversion of or major alteration of an existing facility shall first submit plans and specifications of such building or changes to the Department, Division of Environmental Health in accordance with separate regulations established for obtaining a construction permit from the Department. Such construction permit shall be obtained before any construction or changes begin.

§ 41103. Sanitary Permit.

(a) No person, association, or corporation shall directly or indirectly in any manner control, manage, maintain, or operate a laundry and/or dry cleaning establishment unless a valid sanitary permit, issued by the Department to operate such a facility, has been properly obtained and properly posted.

(b) An application for a sanitary permit to operate any new or existing laundry and/or dry cleaning establishment shall be made in writing on a form prescribed by the Director, signed by the applicant or his/her authorized agent, and shall contain such information that will determine that the facility and its operation are in compliance with the applicable provisions of these regulations.

(c) Before the application for a sanitary permit shall be

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approved, the Director shall verify that the facility meets the minimum sanitary requirements and standards of these regulations. This shall involve the right of entry, inspection, and investigation.

(d) If upon inspection the Director is satisfied that the laundry and/or dry cleaning facility meets the minimum requirements of these regulations or standards as the Director may prescribe, a non-transferable sanitary permit designating the type and location by address or lot number of the establishment shall be issued.

(e) If the new application or renewal inspection indicates that the facility does not meet the minimum sanitary requirements and standards, the sanitary permit shall be denied or terminated.

(f) All sanitary permits shall be issued for a maximum of no more than 12 months and renewed on June 30 of each year. An application for a new or renewal of sanitary permit shall be filed at least 15 days before a new establishment intends to open, or before a current sanitary permit expires.

(g) Failure to comply with any regulation or standard listed below shall be reason to deny issuance of a sanitary permit. The same shall also be reason or cause to suspend or revoke a current permit:

- (1) Employees working who contagious disease.
- (2) Unapproved or inadequate water supply or plumbing, or improper sewage disposal.
- (3) Denying access to inspectors.
- (4) Receiving a demerit score of more than 40.
- (5) Repeating a violation assigned 2,4 or 6 demerit points.

(h) Any person or establishment denied a sanitary permit, or whose sanitary permit has been suspended or revoked may appeal the Director's action. The appeal shall be in accordance with 10 GCA Chapter 21.

(i) There shall be a \$5.00 charge for any duplicate sanitary

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permit issued.

§ 41104. Materials and Construction of Physical Facilities.

(a) Floors.

(1) Floors and floor coverings shall be constructed of durable materials, smooth, tight in construction, in good repair, and easily cleanable.

(2) In all new or extensively remodeled establishment, where floors are subjected to water flushing for cleaning or receive discharges of water or other fluid waste from equipment, flooring shall be constructed of smooth durable sealed concrete, ceramic tiles or similar materials and the base junctures between walls and floors shall be covered and sealed. In all other cases, the juncture between walls and floors shall present an open seam of not more than 1/32 inch.

(b) Walls and Ceilings.

(1) Walls and ceilings, including doors, windows, non-supporting partitions, and similar closures shall be light colored, smooth, non-absorbent and easily cleanable.

(2) Studs and joists shall not be exposed. If exposed, they shall be smooth finished to provide an easily cleanable surfaces.

(3) Wall and ceiling covering materials shall be attached and sealed so as to be easily cleanable.

(c) Lighting.

(1) Permanently fixed artificial light sources shall be installed to provide a minimum of 30 foot candles light intensity at a distance of 30 inches from the floor in the room where the washers and dryers are located.

(2) At least 20 foot candles of light shall be provided in equipment storage areas, in toilet areas and at least 10 foot candles of light in all other areas.

(3) Light fixtures, vent covers and wall-mounted fans attached to the walls and ceilings shall be easily cleanable

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and shall be kept in good repair.

(d) Ventilation.

(1) All rooms shall be provided with sufficient ventilation to keep them free of excessive heat and obnoxious odors.

(2) In new or extensively remodeled laundry and dry cleaning establishments, all rooms from which obnoxious odors, vapors or fumes originate shall be mechanically vented to the outside.

§ 41105. Sanitary Facilities Plumbing

(a) Sufficient potable water for the needs of the laundry and/or dry cleaning establishment shall be provided from a source constructed, maintained, and operated according to law.

(b) All potable water must be delivered under pressure through pipes, and the system shall be designed and constructed in accordance with the latest Uniform Plumbing Code.

(c) There shall be no cross-connection between the potable water supply and any questionable water supply nor any source of pollution through which the potable water supply might become contaminated.

(d) Approved backflow and/or back-siphonage devices shall be provided at all fixtures and equipment where backflow and/or back-siphonage may occur and where a minimum air gap cannot be provided between the water outlet to the fixture or equipment and its flood-level rim.

(e) A sufficient supply of running cold water and hot water shall be provided in all washing machines with a minimum temperature of 120° F and maximum temperature of 140° F for self-service laundromats, and a minimum temperature of 140° F for laundry and dry cleaning establishments.

(f) Exposed utility service pipes shall be installed in a way that they will not obstruct or prevent cleaning of walls and floors, and at least one (1) inch from walls and four (4) inches from the floor. In all new or extensively remodeled establishment,

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installation of exposed horizontal utility lines and pipes on the floor is prohibited.

§ 41106. Sewage.

(a) All sewage, including liquid waste, shall be disposed of by a public sewage system constructed and operated according to law.

§ 41107. Toilet Facilities.

(a) Toilet facilities shall be installed according to law, conveniently located and shall be accessible at all times.

(b) Separate toilet rooms shall be provided for female and male personnel, if five or more employees are employed.

(c) Toilet rooms shall be completely enclosed and shall have tight-fitting and self-closing doors, windows with louvers, or sliding glass used for ventilation, shall be provided with at least no. 16 mesh screen.

(d) A hand washing notice shall be posted in each toilet room.

(e) Toilet facilities, including toilet fixtures and any related vestibules, shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable waste receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

§ 41108. Lavatory Facilities.

(a) Lavatories shall be installed according to law and shall be accessible to employees at all times.

(b) Each lavatory shall be provided with sufficient running potable water, a supply of hand soap or detergent, sanitary towels or heated air hand drying device. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the hand washing facility. Common towels are prohibited.

§ 41109. General Sanitary Requirements.

(a) All laundry and/or dry cleaning establishments shall be

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located in a room or rooms separated from any other business or dwelling by solid partitions from the floor to the ceiling and between such walls as will provide complete separation.

(b) The laundry and/or dry cleaning establishment shall not be used for cooking, living, food storage or sale, or sleeping activities.

(c) All equipment, furniture, cabinets, floors, walls, windows, toilet rooms, adjoining rooms and all articles within the establishment, shall be kept clean and orderly at all times.

(d) Clean clothes and linens shall be stored in clean containers or cabinets protected from contamination.

(e) Soiled or dirty clothes and linens shall be stored in non-absorbent containers or washable laundry bags until removed for laundering.

(f) The spraying of wearing apparel or other items of laundry with liquid projected from the mouth as part of laundry procedure is prohibited.

(g) Laundry items shall not be dried on the ground or hung for drying within the establishment or within the immediate surrounding of establishment.

§ 41110. Waste Disposal.

(a) Garbage and refuse shall be kept in durable, easily cleanable, insect-proof and rodent-proof container. Plastic bats and wet- strength paper bags may be used to line these containers.

(b) Containers stored outside the establishment, shall be easily cleanable, shall be provided with tight-fitting lids, doors or covers, and shall be kept covered when not in actual use.

(c) There shall be a sufficient number of containers to hold the garbage and refuse that accumulates.

(d) Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents

(e) The exterior areas of laundry and dry cleaning

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establishments and all parts of property used in connection with its operation shall be kept free of litter and overgrown vegetation.

§ 41111. Premises.

(a) The walking and driving areas of the establishment shall be surfaced with concrete or asphalt or similar materials to facilitate maintenance and minimize dust.

(b) Only articles necessary for the operation and maintenance of the laundry and dry cleaning establishment shall be stored on the premises.

§ 41112. Animals.

(a) No dogs, cats, or other pets of any kind shall be allowed in laundry and dry cleaning

establishment, except patrol dogs or guide dogs accompanying their handlers.

§ 41113. Disease Control and Employee Hygiene.

(a) Employee Practices.

(1) All employees of laundry and/or dry cleaning establishments who handle soiled or cleaned laundry shall wear clean outer garments, maintain a high degree of personal cleanliness, and conform to good hygienic practices while on duty.

(2) Employees' hands and arms that come in contact with cleaned laundry shall be kept clean, and shall be washed as often as necessary to keep them clean. Hand shall be washed after touching soiled laundry or unclean objects; after using the toilet; and after smoking, eating and drinking.

(b) Control of Contagious Disease.

(1) The sanitary permit holder shall maintain, and operate the establishment under permit in such a manner that the health of customers, employees, and the general public are not endangered in any way.

(2) Employees afflicted with a contagious or infectious

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disease in a communicable form shall not be allowed to work until the owner receives a written statement from the employee's physician indicating that the employee is free of any communicable disease in an infectious or a contagious form. Copies of such statements shall be kept on file for two years by the establishment. In the event the establishment closes, such documents shall be turned over to the Department to be kept on file for the remaining portion of the two year period.

§ 41114. Inspections.

(a) Inspection Frequency. As often as may be deemed necessary for the enforcement of these regulations, and at least once every three (3) months, inspections shall be made by the Director.

(b) Access. An employee or representative of the Department shall, after proper presentation of credentials, have access to make inspections of any laundry or dry cleaning establishment to determine compliance with these regulations.

(c) Report of Inspections. Whenever an inspection of a laundry or dry cleaning establishment is made, the findings shall be recorded on a report form authorized by the Director, and shall summarize the requirements of these regulations, the demerit value for each requirement violation, and the corrective action to be taken. One copy of the report shall be given to the owner after it has been read and signed by him/her and the inspecting officer.

(d) Grading. Grades of laundry and/or dry cleaning establishments shall be as follows:

(1) Grade A An establishment having a demerit score of not more than 10.

(2) Grade B An establishment having a demerit score of more than 10 but not more than 20.

(3) Grade C An establishment having a demerit score of more than 20 but not more than 40.

(4) Grade D An establishment having a demerit score of

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more than 40.

Notwithstanding the grade criteria established above, whenever a consecutively repeated violation of 2,4, or 6 demerit points occurs during the current inspection, the letter grade assigned for the current inspection shall be one grade lower than the grade given in the most recent inspection. If, however, the total demerits given during the current inspection would result in a lower grade being given that is two letter grades lower than the previous grade, then the lower grade shall be given when a repeated violation occurs.

§ 41115. Posting of Documents.

General.

(a) The Sanitary Permit and one copy of the most recent inspection report shall be posted in a conspicuous place designated by the Director, and clearly visible to the public. No person other than the Director shall remove, deface, conceal, or destroy such a permit or report.

(b) The Health Certificates of all persons currently employed by laundry or dry cleaning establishments shall be posted in a conspicuous place designated by the Director.

§ 41116. Health Certificate Required.

(a) Employees of laundry and dry cleaning establishments who are engaged in sorting, folding, washing, starching, ironing, dyeing or dry cleaning wearing apparel, household linens and other fabric articles are required to obtain a Health Certificate from the Department of Public Health and Social Services which shall be renewed every twelve (12) months.

(b) To acquire a Health Certificate the applicant shall provide a physical examination from a licensed physician indicating that the individual is free from any communicable disease and is in good health. The applicant shall also show evidence that he/she has the basic knowledge and skills in regards to the sanitation requirements for the operation of laundry and dry cleaning establishment.

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ARTICLE 12
MESSAGE PARLORS

NOTE: Rule-making authority cited for the formulation of regulations for Massage Parlors by the Department of Public Health and Social Services, § 20185, 10 GCA. These Rules and Regulations were filed with the Legislative Secretary on August 6, 1984.

- § 41201. General Provisions.
- § 41202. Permits.
- § 41203. Public Access.
- § 41204. Disease Control.
- § 41205. Health Certificates.
- § 41206. Sanitary Controls and Facilities.
- § 41208. Construction and Maintenance of Physical Facilities.
- § 41209. Inspections.
- § 41209. Posting of Documents.

§ 41201. General Provisions.

(a) Purpose. These regulations shall be liberally construed and applied to promote their underlying purpose of protecting the public health.

(b) Definitions.

(1) Construction Permit shall mean a permit issued by the Department of Public Health and Social Services giving permission to construct, extend, alter or modify a structure or building to be used as a massage parlor.

(2) Department means the Guam Department of Public Health and Social Services.

(3) Director means the Director of the Department, or his/her authorized representative.

(4) Employee shall mean any person who works in a massage parlor for the purpose of practicing massage.

(5) Massage means any method of treatment or therapy of the superficial soft parts of the body by rubbing, stroking,

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tapping, pressing, shaking, or kneading with the hands, feet, or elbow, and whether or not aided by any mechanical or electrical apparatus, appliances, or supplementary aids such as rubbing alcohol, liniments, antiseptic oils, powders, creams, lotions, ointments, or other similar preparations commonly used in this practice.

(6) Massage Parlor or Establishment means premises occupied and used for the purpose of practicing massage, provided that when any massage establishment is situated in any building used for residential or sleeping purposes, the massage establishment premises shall be set apart and shall not be used for any other purpose.

(7) Owner, Operator, (Manager) shall mean any person having control of the establishment and/or of the persons working or employed therein.

(8) Sanitary Permit shall mean a written nontransferable document issued by the Department giving a designated person, association, or corporation permission to operate a massage parlor.

(c) Captions. Section and other captions are part of these regulations.

(d) Repealer. These regulations are effective immediately upon their adoption and filing with the legislative secretary of the Guam Legislature. At that time all regulations and parts of regulations that conflict with these regulations are repealed, except that nothing contained in this regulation shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of other sections of Public Law 15-96, or regulations established thereunder.

(e) Severability. If any provision or application of any provision of these regulations is held invalid, that invalidity shall not affect the other provisions or applications of these regulations.

(f) Authority. Title 10 Guam Code Annotated § 20105 and §§ 21101 and 21102 authorizes the Director to establish rules and regulations to carry out the provisions of 10 GCA Division 2.

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§ 41202. Permits.

(a) Sanitary Permit.

(1) No person, association, or corporation shall directly or indirectly in any manner conduct, control, manage, maintain, or operate a massage parlor unless a valid sanitary permit, issued by the Department, to operate such a facility has been obtained and properly posted.

(2) An application for a sanitary permit to operate any new or existing massage parlor shall be made in writing on a form prescribed by the Director, signed by the applicant or his/her authorized agent, and shall contain such information that will determine that the facility and its operation are in compliance with the applicable provisions of these regulations.

(3) Before the application for a sanitary permit shall be approved, the Director shall verify that the facility meets the minimum sanitary requirements and standards of these regulations. This shall involve the right of entry, inspection, and investigation.

(4) If upon inspection the Director is satisfied that the massage parlor facility meets the minimum requirements of these regulations or standards as the Director may prescribe, a non-transferable sanitary permit designating the type and location by address or lot number of establishment shall be issued.

(5) If the application or renewal inspection indicates that the facility does not meet the minimum sanitary requirements and standards, the sanitary permit shall be denied or terminated.

(6) All sanitary permits shall be issued for a maximum of not more than 12 months and renewed on June 30 of each year. An application for a new or renewal of sanitary permit shall be filed at least 15 days before a new establishment intends to open, or before a current sanitary permit expires.

(7) Failure to comply with any regulation or standard

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listed below shall be reason to deny issuance of a sanitary permit. The same shall also be reason or cause to suspend or revoke a current permit:

(A) Locking of doors. (§ 41203)

(B) Employees working who have contagious disease. (§ 41204)

(C) Employees working who do not have a valid Health Certificate. (§ 41205(a)(1) &(2))

(D) Unapproved or inadequate water supply or plumbing. (§ 41206(a)(2) & (3) and § 41206(e))

(E) Denying access to inspectors.(§ 41208(b))

(F) Receiving a demerit score of more than 40. (§ 41208(d))

(G) Repeating a violation assigned 2, 4, or 6 demerit points. (§ 41208(d))

(8) Any person or establishment denied a sanitary permit, or whose sanitary permit has been revoked may appeal the Director's action. The appeal shall be in accordance with 10 GCA § 21109.

(b) Construction Permit Any person, association or corporation, before constructing a massage parlor, or before making an addition to or conversion of or major alteration of an existing facility shall first submit plans and specifications of such building or changes to the Department, Division of Environmental Health in accordance with separate regulations established for obtaining a construction permit from the Department.

§ 41203. Public Access.

Public Access Any and all massage parlors permitted to operate under these regulations are hereby declared to be public places, and shall not, during business hours, have the doors to any rooms, exits or entrances of said establishments locked or obstructed in any way so as to prevent free ingress or egress of persons, except as otherwise authorized by the Director.

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2019 NOTE: Subsection designation altered pursuant to authority granted by 1 GCA § 1606.

§ 41204. Disease Control.

(a) Employee Practices, Hygiene.

(1) All employees and operators shall wear clean outer garments, maintain a high degree of personal cleanliness and conform to good hygienic practices while on duty.

(2) Employees' hands and other parts of the body normally used in giving massage shall be thoroughly washed before and after attending each customer.

(3) Employees shall not consume food while on duty or in any areas where patrons are attended to. An employee lounge or dining area shall be provided if foods are consumed on the premises.

(b) Control of Contagious Disease.

(1) The sanitary permit holder shall keep, maintain, and operate the establishment under permit in such a manner that the health of customers, the health of persons employed therein and the public health is not endangered in any way.

(2) Notice shall be sent to the Department immediately by the operator of any massage parlor or establishment in which any case of infectious contagious or communicable disease occurs, or is suspected of occurring, and no person having or suspected of having such disease shall be employed or attended to as a patron.

(3) Operators or employees afflicted with a contagious or infectious disease in a communicable form shall not be allowed to work until the Department receives a written statement from the employee's physician stating that the employee is free of any contagious or infectious disease.

(4) All operators shall submit to the Department a current list of all persons employed in the establishment. This list of employees shall contain the name, the date of birth, the sex and all addresses of said employees and shall indicate any

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and all names ever used by the employees so listed.

(5) No person shall practice massaging for fee in any place other than at a massage establishment with a valid sanitary permit; except that he/she may practice on sick or infirm persons, who are not afflicted with contagious or infectious disease, in hospitals, or private homes of such persons; or in hotel rooms.

§ 41205. Health Certificates.

(a) General.

(1) No person shall operate, manage, or work in a massage parlor, or establishment, or practice massaging unless the person holds a valid health certificate issued by the Department.

(2) No owner, proprietor, operator, or manager of a massage parlor or establishment shall knowingly allow any person to practice massage in such facility unless that person has a valid health certificate issued by the Department.

(A) No health certificate shall be issued, new or renewal and no current health certificate shall remain valid unless the applicant undergoes and passes a physical examination once every three months. The physical shall include, among other examination requirements, a skin test for tuberculosis, RPR or VDRL blood tests, and a culture test for gonorrhea. The results of the physical exam shall be reported to the Department on a report form provided by the Department. One copy of the physical examination report shall be kept on file by the permit holder at the massage establishment where the person works.

(B) All information provided on statements made on the physical exam report form shall be true, accurate, and shall provide the information requested. Falsification of any physical exam report by a Health Certificate applicant or holder shall cause the health certificate to be denied or suspended respectively until

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the correct information is provided.

(3) No health certificate shall be issued, new or renewal, unless the applicant also attends a yearly workshop given by the Department, or in lieu thereof, takes and passes a written examination administered by the Department, Division of Environmental Health.

(4) When a person applies for a new health certificate, or renewal to work in a massage establishment, he/she shall submit two photographic portraits of themselves. Each photograph shall measure at least 1.25 inches on a side, and no more than 1.5 inch on a side.

(b) After meeting the above requirements, a health certificate will be issued in accordance with other regulations established for the issuance of certificates in general.

2019 NOTE: Subsection designations altered pursuant to authority granted by 1 GCA § 1606.

§ 41206. Sanitary Controls and Facilities.

(a) Water Supply.

(1) Enough potable water at the correct temperature and pressure for the needs of the massage establishment shall be provided.

(2) The water supply of the massage establishment shall be from an approved source.

(3) The water supply plumbing shall be sized, installed, and maintained according to the latest edition of the Uniform Plumbing Code at the time of construction, alteration or required change. There shall be no cross- connections between the potable water supply and any non-potable system, nor shall there be any conditions which would allow back flow or back siphonage at any fixtures or equipment in the potable water supply system. Back flow prevention devices or measures shall be provided where necessary to protect the potable water supply.

(b) Lavatories.

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(1) Lavatories shall be provided, and shall be at least the minimum number required by law and shall be conveniently located.

(2) Lavatories shall be accessible to employees at all times.

(3) Lavatories shall also be located in or immediately adjacent to toilet rooms or vestibules.

(4) Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet.

(5) A supply of hand cleansing soap or detergent shall be available at each lavatory. A supply of sanitary towels or a hand drying device providing heated air shall be conveniently located near each lavatory. The presence and use of common or roll towels is prohibited. Where disposable towels are used, easily cleanable waste containers shall be conveniently located near lavatories.

(6) Lavatories, soap dispensers, hand drying devices and all related fixtures shall be kept clean and in good repair.

(7) In all new or extensively remodeled massage establishments, a hand washing lavatory shall be provided in each massage room or cubicle.

(c) Toilet Facilities.

(1) Enough toilet facilities shall be installed according to law, shall be conveniently located, and shall be accessible to employees and patrons at all times. Separate toilet facilities for both sexes shall be provided.

(2) Toilet rooms shall be completely enclosed and shall have self-closing doors. Toilet room doors shall be kept closed at all times when the establishment is open for business. Where necessary doors shall be fitted with properly louvered ventilators to aid in providing proper ventilation.

(3) Toilet fixtures and rooms shall be designed to be easily cleanable, shall be kept clean, and shall be kept in good

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repair. Easily cleanable, covered waste containers shall be provided. Toilet tissue shall be provided at each toilet at all time. Toilet facilities shall not be used for the storage of personal belongings.

(d) Shower Facilities. Where shower facilities are provided they shall be designed to be easily cleanable, shall be kept clean, and shall be kept in good repair.

(e) Sewage Disposal. All sewage, including liquid waste of any kind, shall be disposed of by a public sewage system or by a sewage disposal system constructed and operated according to law.

(f) Garbage and Refuse Disposal.

(1) Garbage and refuse shall be kept in durable, easily cleanable, insect-proof and rodent proof containers that do not leak or absorb liquids.

(2) Containers stored outside the establishment shall be cleanable, shall be provided with tight-fitting covers, and shall be covered when not in actual use.

(3) There shall be a sufficient number of containers to hold all garbage and refuse that accumulates, and garbage and refuse shall be disposed of often enough to prevent odors and the attraction of rodents and insects.

(4) Outside storage containers shall be kept off of the ground on racks which provide at least 18" ground clearance, or on solid concrete or asphalt pads. Areas around outside storage containers shall be kept clean and litter free.

(g) Insect and Rodent Control.

(1) All areas of massage establishments shall be kept free of insect and rodent harborage and feeding areas, and shall provide effective measures to minimize their presence.

(2) All openings to the outside used for ventilation shall be provided with #16 mesh screen. Doors to the outside shall be tight-fitting, self-closing and shall remain closed. All other routes of insect or rodent ingress shall be sealed.

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(h) Linens.

(1) All towels, washcloths, sheets, pillow cases, and other fabrics which come in contact with the hair and skin of a patron shall be thoroughly cleaned and properly sanitized after each use on or by a patron.

(2) Methods of cleaning and sanitizing all fabrics and linen shall be approved by the Director, and may include the following:

(A) Having the used fabrics and linen cleaned and sanitized at a laundry and dry cleaning establishment with a valid sanitary permit.

(B) Having the used fabrics and linen cleaned and sanitized at a coin operated laundromat by use of automatic washers and dryers. Dryer temperatures shall be at least 180°F.

(C) Having the used fabrics and linen laundered at the massage establishment by the proper use of automatic washers and dryers. Dryer temperatures shall be at least 180°F.

(3) Laundry facilities and services on the premises shall be provided in a separate room away from other operations of the establishment.

(4) Adequate and separate storage facilities shall be provided for the storage of cleaned and soiled fabrics and linen. Storage hampers for soiled fabrics and linen shall be easily cleanable, kept clean, and emptied at regular intervals when used.

(5) The supply of cleaned and sanitized fabrics and linen shall be adequate to prevent the establishment from running out between laundering periods.

(6) Bedding and pillow shall be protected with plastic slip covers or other covers approved by the Department. All such covers shall be kept clean and in good repair.

(i) Dispensing of Powders, Lotions, Creams and Similar

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Preparations.

(1) Lotions, powders, fluid creams and other similar preparations shall be dispensed from shaker type, squeeze type, pump type, or aerosol type containers.

(2) Semi-solid or solid creams shall be dispensed only with the use of a spatula or spoon which either cleanable or disposal, and is either cleaned or disposed of respectively after each days use. Jars of creams shall be kept covered when not in used.

(j) Instruments. All instruments that come in contact with the skin or hair of the customer shall be thoroughly cleaned and sanitized after use on each customer. All sanitizing agents and methods shall be approved by the Director.

(k) Food. Food and drink other than coffee or soft drinks, shall not be served to any customer.

(l) Premises.

(1) Massage establishments and all parts of the premises and property used in connection with their operations shall be kept clean and free of litter.

(2) Only articles necessary for the operation and maintenances of the massage establishment shall be stored on the premises.

(3) Storage lockers, closets, or rooms shall be provided for the storage of cleaning and maintenance supplies, and they shall be kept clean and orderly.

(m) Animals. Live animals, including birds, shall be excluded from all areas of the massage establishment. This exclusion shall not apply to patrol dogs accompanying security guards, nor to guide dogs accompanying their handlers, nor to fish in aquariums for decorative purposes only.

§ 41207. Construction and Maintenance of Physical Facilities.

(a) General.

(1) No person shall operate a massage establishment in

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connection with any other business or dwelling unless there is a solid, doorless partition from the floor to the ceiling and between such walls as will provide complete physical separation of the establishment from such other business or dwelling.

(2) All floors, walls, ceilings, fixtures and furnishings shall be constructed so as to be easily cleanable, shall be kept clean, and shall be kept in good repair.

(b) Lighting. Lighting shall be provided so that at least 20 ft. candles of light shall be available in utility, storage, lavatory, toilet and employee lounge areas. At least 10 ft. candles of light shall be available in all other areas.

(c) Ventilation. All rooms shall have sufficient ventilation to keep them free of excessive obnoxious odors, smoke, and moisture. Mechanical ventilation systems shall be installed and operated where natural ventilation is not adequate. Where medical ventilation is provided, adequate provision shall be made to supply make-up air.

(d) Lockers and Dressing Areas.

(1) Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers may be located in either storage rooms, employee lounge areas, or in any other area approved by the Director.

(2) When employer routinely change clothes within the massage establishment, a separate area, approved by the Director, shall be provided.

§ 41208. Inspections.

(a) Inspection Frequency. As often as may be deemed necessary for the enforcement of these regulations, and at least once every (3) months, an inspection of the massage establishment shall be made by the Director.

(b) Access. An employee or representative of the Department shall, after proper presentation of credentials, have access to any

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massage establishment at any reasonable time for the purpose of making inspections to determine compliance with these regulations. Denial of access shall be cause for suspension of the sanitary permit until access is freely given by the owner, operator, or manager.

(c) Report of Inspections. Whenever an inspection of a massage establishment is made, the findings shall be recorded on a report form authorized by the Director, and shall summarize the requirements of these regulations, the demerit value for each requirement violation, and the corrective action to be taken. One copy of the report shall be given to the owner, manager or operator after it has been read and signed by him/her and the inspecting officer.

(d) Grading. Grades of massage establishment shall be as follows:

(1) Grade A An establishment having a demerit ore of not more than 10,

(2) Grade B An establishment having a demerit score of more than 10 but not more than 20,

(3) Grade C An establishment having a demerit score of more than 20 but not more than 40,

(4) Grade D An establishment having a demerit score of more than 40.

Notwithstanding the grade criteria established above, whenever a second consecutive violation of the same item of 2, 4, or 6 demerit points is discovered, the permit may be suspended or the establishment shall be downgraded to the next lower grade.

§ 41209. Posting of Documents.

(a) General.

(1) The sanitary permit and one copy of the most recent inspection report shall be posted in a conspicuous place designated by the Director, and clearly visible to the public. No person other than the Director shall remove, deface, conceal, or destroy such a permit or report.

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(2) The health certificates of all persons currently employed in a massage establishment shall be posted in a conspicuous place designated by the Director.

ARTICLE 13
TATTOO SHOPS

- § 41301. Definitions.
- § 41302. Authority.
- § 41303. Construction Permit.
- § 41304. Sanitary Permit.
- § 41305. General Sanitary Requirements.
- § 41306. Sanitary Controls and Facilities.
- § 41307. Construction and Maintenance of Physical Facilities.
- § 41308. Cleaning, Sterilization/Sanitation of Tattooing Instruments and Equipment Storage.
- § 41309. Equipment and Materials Used.
- § 41310. Aseptic Technique.
- § 41311. Hygiene.
- § 41312. Control of Contagious Disease.
- § 41313. Records.
- § 41314. Health Certificate.
- § 41315. Repealer.
- § 41316. Separability.

§ 41301. Definitions.

(a) Tattoo Shop means any premises where a Tattoo artist does tattooing for a fee or for other consideration.

(b) Tattoo Artist means one who engages in tattooing.

(c) Tattooing means to mark or to color the skin by pricking and introducing subcutaneously, non-toxic dyes, pigments, or by the production of scars to form indelible marks and figures.

(d) Aseptic Technique means the practices which prevent and hinder the transmission of disease producing micro-organisms from one person or place.

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(e) Adequate, Approved, and Proper means the procedure or materials are acceptable to the Director based on the determination as to their conformity with aseptic techniques.

(f) Department means the Guam Department of Public Health and Social Services.

(g) Director means the Director of the Department of Public Health and Social Services or his/her authorized representative.

(h) The term Owner (Operator, Manager) shall mean any person having control of the establishment or of persons working or employed therein.

(i) Construction Permit shall mean a permit issued by the Department of Public Health and Social Services giving permission to construct, extend, alter, or modify a structure or building to be used as a Tattoo Shop.

(j) Sanitary Permit shall mean a written document issued by the Department of Public Health and Social Services giving a designated person, association, or corporation permission to operate a Tattoo Shop, 10 GCA § 76205.

§ 41302. Authority.

Title 10 Guam Code Annotated § 10102 and §§ 21101 and 21102 authorizes the Department to establish Rules and Regulations governing Tattoo Shops and to ensure that all provisions of 10 GCA Division 2 regarding permit issuance are carried out.

§ 41303. Construction Permit.

Any person, association or corporation, before constructing a Tattoo Shop or before making an addition to or conversion of or major alteration of an existing facility shall first submit plans and specifications of such building or changes to the Department of Public Health and Social Services, Division of Environmental Health in accordance with separate regulations established for obtaining a Construction Permit from the Department.

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§ 41304. Sanitary Permit.

(a) No person, association, or corporation shall directly or indirectly in any manner, conduct, control, manage, maintain or operate a Tattoo Shop or operation unless a valid Sanitary Permit issued by the Department to operate such a facility has been obtained and posted.

(b) An application for a Sanitary Permit to operate all new or existing facilities shall be made in writing on a form prescribed by the Department, signed by the applicant or his/her authorized agent.

(c) Before the application for a Sanitary Permit shall be approved, the Director shall verify that the facility meets the minimum sanitary requirements and standards: This will involve right of entry, inspection, and investigation. The Sanitary Permit application shall be accompanied by inspection report citing conditions of the establishment.

(d) If upon inspection the Department is satisfied that the Tattoo Shop reasonably meets the requirements and standards prescribed, a non-transferable Sanitary Permit designating the type of facility shall be issued. Said Sanitary Permit shall be posted in a conspicuous area designated by the Director. All Sanitary Permits shall be valid for 12 months and renewed on June 30 of each year.

(e) If the application or renewal indicates that the facility does not meet the minimum sanitary requirements and standards, the Sanitary Permit shall be denied or terminated.

(f) An application for renewal of a Sanitary Permit shall be filed at least 15 days prior to its expiration date and upon approval by the Division, a new Sanitary Permit shall be issued.

(g) Failure to comply with any regulation or standard listed below shall be reason to deny issuance of a Sanitary Permit. The same shall also be reason or cause to suspend or revoke a current Sanitary Permit.

(1) Employees working who have a contagious disease (§ 41312).

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(2) Employees working who do not have a valid Health Certificate (§ 41312).

(3) Unapproved or inadequate water supply or plumbing (§ 41306(a)(2) & (3) and § 41306(d)).

(h) Any person denied a permit, or whose permit has been revoked for cause may appeal from the Director's action. The appeal shall be in accordance with 10 GCA § 21109.

(i) There shall be a \$5.00 charge for any duplicate permits issued.

§ 41305. General Sanitary Requirements.

(a) Tattoo Shops shall be located in areas least subjected to dust contamination. The Tattoo Shop shall not be used as or in connection with a living, cooking or sleeping facility.

(b) The shop shall be maintained in a sanitary condition by the owner or operator.

(c) The walls and ceilings shall be kept clean and in good repair.

(d) All floors shall be of smooth non- absorbent materials and constructed so as to be easily cleanable. All floors shall be kept clean and in good repair.

§ 41306. Sanitary Controls and Facilities.

(a) Water Supply.

(1) Enough potable water at the correct temperature and pressure for the needs of the Tattoo Shop shall be provided.

(2) The Water supply of the Tattoo Shop shall be from an approved source.

(3) The water supply plumbing shall be sized, installed and maintained according to the latest edition of the Uniform Plumbing Code at the time of construction, alteration or required change. There shall be no cross- connections between the potable water supply and any non-potable system, nor shall there be any conditions which would allow

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backflow or back siphonage at any fixtures or equipment in the potable water supply system. Backflow prevention devices or measures shall be provided where necessary to protect the potable water supply.

(b) Lavatories.

(1) Lavatories shall be provided, and shall be at least the minimum number required by law and shall be conveniently located.

(2) Lavatories shall be accessible to employees at all times.

(3) Lavatories shall also be located in or immediately adjacent to toilet rooms or vestibules.

(4) Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet.

(5) A supply of hand cleansing soap or detergent shall be available at each lavatory. A supply of sanitary towels or an automatic hand drying device providing heated air shall be conveniently located near each lavatory. The presence and use of common or roll towels is prohibited. Where disposable towels are used, easily cleanable waste containers shall be conveniently located near lavatories.

(6) Each Tattoo Shop shall be provided with a sink for exclusive use of the tattoo artist adequate for hand washing and preparing the customers for tattooing. The sink shall be provided with adequate hot and cold running water under pressure with mixing valve or combination faucet. There shall also be available at the sink approved soap, clean single use towels dispensed from an approved dispenser and refuse containers which are easily cleanable and provided with the tight fitting lids.

(7) Lavatories, soap dispensers, hand drying devices and all related fixtures shall be kept clean and in good repair.

(8) In all new or extensively remodeled Tattoo Shops, a

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hand washing lavatory shall be provided within the tattooing area or room.

(c) Toilet Facilities.

(1) Enough toilet facilities shall be installed according to law, shall be conveniently located, and shall be accessible to employees and patrons at all times. Separate toilet facilities for both sexes shall be provided.

(2) Toilet rooms shall be completely enclosed and shall have self-closing doors. Toilet room doors shall be kept closed at all times when the establishment is open for business. Where necessary doors shall be fitted properly louvered ventilators to aid in providing proper ventilation.

(3) Toilet fixtures and rooms shall be designed to be easily cleanable, shall be kept clean, and shall be kept in good repair. Easily cleanable, covered waste containers shall be provided. Toilet tissue shall be available for each toilet at all times. Toilet facilities shall not be used for the storage of personal belongings.

(d) Sewage Disposal. All sewage, including liquid waste of any kind, shall be disposed of by a public sewerage system or by a sewage disposal system constructed and operated according to law.

(e) Garbage and Refuse Disposal.

(1) Garbage and refuse shall be kept in durable, easily cleanable, insect proof and rodent proof containers that do not leak or absorb liquids.

(2) Containers stored outside the establishment shall be cleanable, shall be provided with tight-fitting covers, and shall be covered when not in actual use.

(3) There shall be a sufficient number of containers to hold all garbage and refuse that accumulates.

(4) Garbage and refuse shall be collected often enough to prevent odors and the attraction of rodents and insects.

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(5) Outside storage containers shall be kept off of the ground on racks which provide at least 18" ground clearance, or on solid concrete or asphalt pads. Areas around outside storage containers shall be kept clean and litter free.

(f) Food. Food and drink, other than coffee or soft drinks, shall not be served to any customer.

(g) Premises.

(1) Tattoo Shops and all parts of the premises and property used in connection with their operations shall be kept clean and free of litter.

(2) Only articles necessary for the operation and maintenance of the Tattoo Shop shall be stored on the premises.

(3) Storage lockers, closets, or rooms shall be provided for the storage of cleaning and maintenance supplies, and they shall be kept clean and orderly.

(4) "No Smoking" signs shall be posted in the tattooing area.

(5) "Only Tattooing" shall be permitted in a Tattoo Shop.

(h) Animals. Live animals, including birds, shall be excluded from all areas of the Tattoo Shop. This exclusion shall not apply to patrol dogs accompanying security guards, nor to guide dogs accompanying their handlers, nor to fish in aquariums for decorative purposes only.

§ 41307. Construction and Maintenance of Physical Facilities.

(a) General.

(1) No person shall operate a Tattoo Shop in connection with any other business or dwelling unless there is a solid, doorless partition from the floor to the ceiling and between such walls as will provide complete physical separation of the establishment from such other business or dwelling.

(2) Each tattoo artist shall be provided with an adequate

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work table and storage cabinets. The surface of all work tables shall be constructed of metal or other material which is smooth, light colored, nonabsorbent, corrosive-resistant and easily cleaned.

(3) The work tables shall be located at least ten feet from observers and waiting customers or shall be at least six feet high. The panel may be constructed with glass, solid plastic, wood or similar material. Where wood is used it shall be painted or sealed to be non-absorbent and easily cleanable.

(4) All floors, walls, ceilings, fixtures and furnishings shall be constructed so as to be easily cleanable, shall be kept clean and shall be kept in good repair.

(b) Lighting. Lighting shall be provided so that at least 50 foot candles of light shall be available in the immediate tattooing areas, and at least 20 foot candles of light shall be available in all other areas.

(c) Ventilation. All rooms shall have sufficient ventilation to keep them free of excessive, obnoxious odors, smoke, and moisture. Mechanical ventilation systems shall be installed and operated where natural ventilation is not adequate. Where mechanical ventilation is provided, adequate provisions shall be made to supply make-up air.

(d) Lockers and Dressing Areas.

(1) Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers may be located in either storage rooms, employee lounge areas, or in any other area approved by the Director.

(2) When employees or customers routinely change clothes within the Tattoo Shop, separate areas approved by the Director, shall be provided.

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§ 41308. Cleaning, Sterilization/Sanitization of Tattooing Instruments and Equipment Storage.

(a) All multi-use instruments in tattooing human beings, shall be wrapped and sterilized in steam in an autoclave with at least 15 pounds pressure per square inch for at least 15 minutes at 240°F before each use; or

(b) By immersion in an approved germicidal solution for an approved period of time; or

(c) Any other method approved by the Director.

(d) Needles are considered disposal and shall be destroyed after use, and shall be used on only one customer.

(e) Approved closed cabinets for the exclusive storage of instrument, dyes, pigments, carbon, stencils, and other paraphernalia used in the shop shall be provided for each tattoo artist.

§ 41309. Equipment and Materials Used.

(a) Not less than 12 sets of sterilized needles and tubes or tips shall be on hand for an eight hours operation per tattoo artist.

(b) All dyes or pigments used in tattooing shall be from sources approved by the Department.

(c) Each tattoo artist shall have a hand brush and finger nail file, each of which shall be cleaned and disinfected after each use.

§ 41310. Aseptic Technique.

(a) Before working on a customer the Tattoo artists shall clean their hands in the following manner:

(1) Thoroughly scrub hands and fingernails with appropriate hand cleanser, warm water, and a hand brush.

(2) Rinse hands under warm running water.

(3) Rinse hands in an approved antiseptic solution such as seventy percent rubbing alcohol, or other approved antiseptic solution.

(b) The area of the customer's skin to be tattooed shall be

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prepared by:

(1) Washing with warm water and approved cleanser. A sterile hand brush shall be used to produce a clean skin area.

(2) Shaving shall be done with a sterile razor blade.

(3) The shaved area shall be thoroughly cleaned with warm water and approved cleanser.

(c) Before placing the design on the customer's skin, the tattoo artist shall treat the skin area with seventy percent rubbing alcohol or other approved germicidal solution which shall be applied with sterile cotton or sterile gauze.

(d) Only petroleum jelly shall be applied to the area to be tattooed and it shall be dispensed from collapsible metal or plastic tubes. The application may be spread by the use of sterile gauze but not directly with the fingers.

(e) The stencil for transferring the design to the skin shall be thoroughly cleaned and rinsed in an approved germicidal solution and dried with sterile gauze.

(f) Single-service or individual portion dyes or pigments in sterilized containers or single-service containers shall be used for each customer. After tattooing, the remaining unused dye or pigments in the single service or individual containers shall be discarded.

(g) As the tattoo operation progresses, any excess dye or pigment applied to the skin shall be removed with sterile cloth or paper.

(h) The completed tattoo shall be washed with a piece of sterile cloth or paper saturated with an approved germicidal solution. Antibiotic ointments registered under United States Pharmacopoeia or National Formulary shall be applied from a collapsible metal or plastic tube and the entire area covered with a piece of sterile dressing, which may in turn be covered with a piece of sterile dressing, which may in turn be covered with a piece of tissue, and fastened to the site with an approved type of adhesive.

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(i) Immediately after tattooing, the tattoo artist shall advise the customer on the care of the tattoo and instruct the customer to consult a physician at the first sign of infection.

§ 41311. Hygiene.

(a) Employee Practices, Hygiene.

(1) All employees and operators shall wear clean outer garments, maintain a high degree of personal cleanliness and conform to good hygienic practices while on duty.

(2) Employees' hands shall be thoroughly washed before and after attending each customer.

(3) All employees and operators shall wear socks and oxford or similar style shoes.

(4) The tattoo artist shall use standards of aseptic technique in tattooing, dressing, and other operations that are approved by the Director.

(5) The tattoo artist shall use only supplies and equipment approved by the Director.

(6) The minimum standards of §41306 through § 41309 shall be observed at all times.

(b) Restrictions.

(1) It shall be unlawful to tattoo any person who is under the influence of intoxicating substances. These substances include but shall not be limited to alcohol, drugs, paints, and glues.

(2) It shall be unlawful to tattoo any person under the age of eighteen years old without the written consent of the parents or legal guardian. All written consent shall be kept on file in the tattoo shop.

§ 41312. Control of Contagious Disease.

(a) The Sanitary Permit holder shall keep, maintain, and operate the establishment under permit in such a manner that the health of customers, the health of persons employed therein and

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the public health is not endangered in any way.

(b) Notice shall be sent to the Department immediately by the operator of any Tattoo Shop in which any case of infections contagious or communicable disease occurs, or is suspected of occurring, and no person having or suspected of having such disease shall be employed or attended to as a patron.

(c) Operators or employees afflicted with a contagious or infectious disease in a communicable form shall not be allowed to work until the Department receives a written statement from the employee's physician stating that the employee is free of any contagious or infectious disease.

(d) No person shall practice tattooing for fee in any place other than at a Tattoo Shop with a valid Sanitary Permit.

§ 41313. Records.

(a) The permit holder shall maintain proper records of each customer. The records shall include the following information.

(1) The date when the tattoo was applied.

(2) The name, address, and age of the customer.

(3) The branch of service, rate of rank, and serial number of the customer if in the armed forces.

(4) The design and location of the tattoo.

(5) The name of the tattoo artist.

(6) The signature of the customer.

(b) The information required in § 41313(a) shall be permanently recorded, in ink or indelible pencil, in a bound book kept solely for this purpose. This book shall be available at reasonable hours for examination by the Director and shall be kept in the Tattoo Shop for two years from the date of last entry.

(c) Written consents for persons under eighteen years of age shall be kept on file for two years in the Tattoo Shop.

(d) The permit holder shall surrender to the Department of Public Health and Social Services, Division of Environmental

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Health records of each customer upon closure of the establishment.

§ 41314. Health Certificate.

(a) No person shall practice the art of tattooing unless he or she holds a valid Health Certificate issued by the Department.

(b) Any person desiring to engage in tattooing shall apply in writing to the Director on the form provided by the Department for this purpose. No Health Certificate shall be issued or renewed unless the applicant has undergone a physical examination using report forms provided by the Department. The examination shall include a chest x-ray or tuberculin skin test and a blood test for syphilis. The physical examination record shall be kept on file in the tattoo shop by the permit holder.

(c) Each applicant shall pay a fee of ten dollars (\$10.00) after passing the physical examination and a Health Certificate will be issued.

(d) All Health Certificates shall expire each year.

(e) For each duplicate issue, a one dollar (\$1.00) fee shall be charged.

§ 41315. Repealer.

These regulations are effective immediately upon their adoption and filing with the Legislative Secretary of the Guam Legislature. At that time all regulations and parts of regulations that conflict with these regulations are repealed, except that nothing contained in this regulation shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of other sections of Public law 15-96, or regulations established thereunder.

§ 41316. Separability.

If any provision or application of any provision of these regulations is held invalid, that invalidity shall not affect the other provisions or applications of these regulations.

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ARTICLE 14
GARBAGE FEEDING

NOTE: Rule-making authority cited for formulation of regulations for the Garbage Feeding Section of the Department of Public Health and Social Services, 10 GCA §36101.

These Rules and Regulations were filed with the Legislative Secretary on January 21, 1986.

- § 41401. Purpose.
- § 41402. Authority.
- § 41403. Definitions.
- § 41404. Sanitary Permit.
- § 41405. Construction Permit.
- § 41406. Compliance.
- § 41407. Prohibited Acts.
- § 41408. Location of Edible Garbage Feeding Establishments.
- § 41409. Record Keeping, Registration and Distribution of Edible Garbage by Garbage Collection Sites.
- § 41410. Sanitary Control and Facilities.
- § 41411. Cooking or Treatment of Edible Garbage.
- § 41412. Feeding Facilities.
- § 41413. Severability.
- § 41414. Repealer.
- § 41415. Supplemental.

§ 41401. Purpose.

The purpose of these Rules and Regulations is to prohibit the feeding of untreated garbage to any livestock to prevent the transmission of viral, bacterial, and parasitical diseases to humans and animals.

§ 41402. Authority.

Title 10 Guam Code Annotated § 20105 and § 33108 authorize the Director to establish rules and regulations to carry out the provisions of 10 GCA Division 2.

§41403. Definitions.

- (a) Approved shall mean acceptable to the Department of

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Public Health and Social Services, and other Government agencies having applicable regulatory jurisdiction.

(b) Construction Permit shall mean the official document issued by the Division of Environmental Health authorizing the owner to construct, alter or modify any Edible Garbage Feeding Establishment.

(c) Department shall mean the Department of Public Health and Social Services.

(d) Division shall mean the Division of Environmental Health, Department of Public Health and Social Services.

(e) Director shall mean the Director of Public Health and Social Services.

(f) Edible Garbage shall mean swill or leavings of food or any abandoned, spoiled, condemned meat, fish, fowl, vegetable matter or offal from slaughtered animals, liquid or solid, which is free of toxic, or deleterious substances, and is deemed by the Director as being suitable for use solely as animal feed.

(g) Edible Garbage Collection Site shall mean the establishment, location, facility, premises or any place where edible garbage is sold, issued, distributed, or otherwise may be obtained.

(h) Edible Garbage Feeding Establishment shall mean a farm, ranch, facility, premise site or any place approved by the Director for operation to process edible garbage for the purpose of livestock feeding.

(i) Person shall mean an individual, firm, partnership, joint venture, group or combination acting as a unit, agency, company, corporation, etc., for the purpose of maintaining, managing or operating an Edible Garbage Feeding Establishment.

(j) Premises shall mean areas within the property boundaries where an Edible Garbage Feeding Establishment is located exclusive of any building used solely for human habitation.

(k) Public Nuisance or Nuisance shall mean anything that is determined by the Director to be dangerous to life, injurious to

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health, or that which renders soil, air, water and food to become impure, unwholesome, repugnant or detrimental to humans or to the environment.

(l) Sanitary Permit shall mean a written document issued by the Department which authorizes a person to own, and operate an Edible Garbage Feeding Establishment.

(m) Vectors shall mean arthropods or other invertebrates capable of incubating, transporting and ultimately transmitting disease to humans and animals.

§ 41404. Sanitary Permit.

(a) It shall be unlawful for any person to feed edible garbage, other than edible garbage obtained from his/her own household, to livestock, or to operate an edible garbage feeding establishment which has not been approved by the Director, unless a valid sanitary permit, issued by the Department, has been obtained, for each separate approved edible garbage feeding establishment.

(b) Application, payment, duration, and renewal shall be made in accordance with separate regulations established for obtaining Sanitary Permits.

§ 41405. Construction Permit.

(a) No person shall construct a facility, reconstruct or convert an existing facility for use as an edible garbage feeding establishment without first obtaining a construction permit from the Department.

(b) To apply for a construction permit the applicant must submit a complete set of plans and specifications for the proposed work. The plans and specifications shall include required information stipulated in separate regulations for obtaining construction permits, as well as any additional information deemed necessary to make a thorough evaluation.

§ 41406. Compliance.

(a) Any person not complying with these Rules and Regulations after being duly instructed and issued a written notice within a reasonable time, shall be denied to continue all

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operations. Title 10 Guam Code Annotated §20106 through §20113 shall be upheld and enforced.

(b) The Director shall deny any permit application if structural, premises and other requirements are incomplete or below health and sanitation standards.

(c) Any person found to be illegally operating an edible garbage feeding establishment in any manner or fashion shall be immediately directed to cease all operations, and he/she may be subjected to any penalty as the courts may direct.

(d) In case of an outbreak of any communicable disease directly or indirectly associated with livestock and poultry, the Director shall immediately close any or all edible garbage feeding establishments as deemed necessary to protect the health of the general public and livestock. The Director shall formally announce when such establishments can safely resume operation.

§ 41407. Prohibited Acts.

(a) The use of garbage from a hospital, nursing home or convalescent home for animal feed is prohibited.

(b) The collection for use of edible garbage as animal feed by any person who has not obtained a valid sanitary permit is prohibited.

(c) The slaughtering of any livestock or other animals at any edible garbage feeding establishment is prohibited.

(d) The slaughtering of diseased animals for livestock consumption is prohibited.

(e) The use of garbage as animal feed if it contains any toxic, deleterious, or inedible materials in quantities the Director deems unsafe is prohibited.

§ 41408. Location of Edible Garbage Feeding Establishments.

Edible garbage feeding establishments shall be located only in designated agricultural zones and any facility connected with the operation shall not be less than twenty (20) feet away from the property boundaries, notwithstanding the separate set back

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requirements for livestock and poultry.

§ 41409. Record Keeping, Registration and Distribution of Edible Garbage by Garbage Collection Sites.

(a) All edible garbage collection sites shall register with the Division when engaging in any manner with any person collecting edible garbage. All site shall maintain a record of all edible garbage collectors for at least two years. Records shall consist of information such as the date of collection and name and address of collectors, collectors permit numbers, etc. These records shall be made available to the Director during inspections or investigations upon request.

(b) Edible garbage feeding establishments shall maintain a record for at least two years of where edible garbage was collected from and to whom animals were sold to or given. These records shall be made available to the Director during inspections or investigations upon request.

§ 41410. Sanitary Control and Facilities.

(a) Appropriate enclosure or confinement shall be provided and shall be in good repair at all times so that animals are not capable of running loose. Loose animals are governed under 10 GCA Chapter 35 and its regulations.

(b) Edible garbage and other animal feed shall be stored in clean and rodent-proof containers.

(c) There shall be no other type of health regulated activity or operation of any kind on the premises which includes any activity such as food catering, or those preparing and selling foodstuffs.

(d) Waste water disposal shall be in compliance with 10 GCA Chapter 39, as well as other appropriate requirements of other regulatory agencies.

(e) Waste water shall not be deposited in any natural water source stream, river, etc. nor shall it be recycled for human or animal consumption and other domestic purposes unless it has been treated in a manner approved by the Guam Environmental

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Protection Agency.

(f) Adequate potable water from an approved source shall be provided.

(g) No cross-connection shall exist which could permit the back flow or back-siphonage of any non-potable substances into the potable water supply by improper plumbing, installation, physical connection, location, maintenance or operation.

(h) Edible Garbage shall be collected in leak-proof containers equipped with tight-fitting lids which shall be securely covered at all times and securely maintained to prevent spillage at the collection site, which enroute to the edible garbage feeding establishment, and at the establishment.

(i) Premises shall be free from overgrown vegetation an unnecessary equipment and articles to prevent insect and rodent harborage.

(j) Approved refuse containers with tight-fitting covers, adequate in number shall be provided and utilized, and shall be placed on an impermeable, cleanable surface of asphalt or concrete which is properly drained.

(k) Refuse disposal areas shall be kept clean of accumulations of any litter, food waste, liquids, etc. that may attract rodents, insects, other vermin and feeding scavengers.

(l) Refuse shall be disposed of at a frequency of at least once a week or more often in order to prevent an excessive accumulation of refuse that would attract rodents and insects, and other vermin and create odor and other nuisance problems.

(m) Refuse shall be disposed of as required and in an approved disposal facility.

(n) All dead animals shall be disposed of with 24 hours after death by movement to an approved disposal area or landfill. Before such action is taken, the Department of Agriculture, Territorial Veterinarian shall be notified to determine if any other specific action is required.

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§ 41411. Cooking or Treatment of Edible Garbage.

(a) Only approved potable water shall be used for cooking or processing of edible garbage for livestock.

(b) Garbage cooking equipment and facilities shall be adequate for the type, size and location of the garbage feeding operation.

(c) Cooking equipment and facilities shall be constructed to be easily cleanable, maintained in good repair, and kept in sanitary condition.

(d) Cooking containers shall be either of stainless steel, aluminum or other materials approved by the Director and shall be constructed to be easily cleanable. The use of galvanized iron drums or other containers are prohibited.

(e) Cooking areas shall be segregated from feeding and housing or hog lot sections by fencing adequate to prevent access to raw garbage by swine, other livestock and poultry.

(f) Cooking operations shall be so located and protected to insure proper cooking under varying weather conditions.

(g) The cooking platform, fire pit, firebox, or oven shall be made of durable fire resistant material and shall be enclosed or sufficiently protected by heat reflector or windbreaks, to keep heat concentrated on the cooking container, and to minimize fire hazards.

(h) Garbage shall be cooked throughout to at least 212°F for at least thirty (30) minutes. Reheating shall also reach 212°F for thirty (30) minutes.

(i) In the cooking operation, the container used shall not be filled to more than 90% of the full capacity of said container.

(j) A thermometer or temperature gauge shall be provided to take an accurate temperature reading of all cooked garbage. Such thermometer or temperature gauge shall be accurate to within Å 5° F of the actual temperature.

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§ 41412. Feeding Facilities.

(a) All feeding areas shall be surfaced with concrete or other approved materials impervious to liquids and shall be free of cracks and crevices. Feeding areas shall be constructed in such a manner that flood cleaning can easily be performed, and all surfaces can be easily cleaned.

(b) Feeding areas shall be designed so as to prevent feet of any pigs from getting into the troughs during the feeding process.

(c) The entire feeding area shall be adequately protected from dust, litter, or other debris.

(d) Troughs made of wooden materials used as feeding equipment are prohibited.

(e) Feeding areas shall be maintained in good repair, kept clean, and disinfected. Edible garbage not consumed shall be removed from the feeding area within forty-eight (48) hours after completion of feeding.

§ 41413. Severability.

If any provision of these regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of these regulations.

§ 41414. Repealer.

All regulations or parts of regulations in conflict with these regulations are hereby repealed.

§ 41415. Supplemental.

The following are applicable requirements which were not entirely included herein. Therefore pertinent references are included herein which shall also be enforceable under these Rules and Regulations.

Guam Code Annotated Title 10
Chapter 20 General Provision
Chapter 33 Solid Waste

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Chapter 35 Livestock and Poultry

Chapter 36 Mosquito Control

Chapter 37 Rodent Control

Chapter 38 Miscellaneous

§ 38103. Fly Prevention

Chapter 39 Wastewater and Toilet

ARTICLE 15
RETAIL FOOD STORE SANITATION REGULATIONS

NOTE: Rule-making authority cited for the Retail Food Store Sanitation Regulations of Department of Public Health and Social Services, 10 GCA §21102. These Rules and Regulations were filed with the Legislative Secretary on March 26, 1987.

- § 41501. General Provisions.
- § 41502. Food.
- § 41503. Personnel.
- § 41504. Equipment and Utensils.
- § 41505. Cleaning, Sanitizing and Storage of Equipment and Utensils.
- § 41506. Sanitary Facilities and Controls.
- § 41507. Construction and Maintenance of Physical Facilities.
- § 41508. Compliance Procedures.

§ 41501. General Provisions.

(a) Purpose. These regulations shall be liberally construed and applied to promote their underlying purpose of protecting the public health.

(b) Definitions. For the purpose of these regulations:

(1) Corrosion-Resistant Materials means those materials that maintain their original surface qualities under the prolonged influence of foods, the normal use of cleaning compounds and sanitizing solutions, and other conditions of

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use within the establishment that may be reasonably expected during normal use.

(2) Department means the Department of Public Health and Social Services.

(3) Director means the Director, Department of Public Health and Social Services.

(4) Division means the Division of Environmental Health, Department of Public Health and Social Services.

(5) Easily Cleanable means that surfaces are readily accessible and made of such material and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

(6) Employee means the permit holder, individual having supervisory or management duties, and any other person working in a retail food store.

(7) Equipment means stoves, ovens, hoods, slicers, mixers, meat blocks, tables, counters, refrigerators, freezers, sinks, warewashing machines, ice makers, and similar items, other than utensils, used in the operation of a retail food store.

(8) Food means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human or animal consumption.

(9) Food Contact Surfaces means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.

(10) Food Processing Establishment means a commercial establishment in which food is manufactured or packaged for human or animal consumption. The term does not include a food service establishment or retail food store.

(11) Hermetically Sealed Container means a container which is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility

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of its contents.

(12) Kitchenware means all multi-use utensils.

(13) Law includes Federal and local statutes and regulations.

(14) Packaged means bagged, bottled, boxed, canned, cartoned, or securely wrapped.

(15) Person includes an individual, partnership, corporation, association, or other legal entity.

(16) Person In Charge means the individual present in a retail food store who is the apparent supervisor of the retail food establishment at the time of inspection. If no individual is the apparent supervisor, then any employee is the person in charge.

(17) Potentially Hazardous Food means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic micro-organisms. The term does not include: clean, whole uncracked, odor-free shell eggs; or foods which have a ph level of 4.5 or below or a water activity (Aw) value of 0.85 or less under standard conditions; food products in hermetically sealed containers processed to prevent spoilage; or dehydrated, dry, or powdered food products so low in moisture content as to preclude development of micro-organisms.

(18) Reconstituted means recombining dehydrated food products with water or other liquids.

(19) Regulatory Authority means the Department of Public Health and Social Services.

(20) Retail Food Store means any establishment where food and food products are offered for sale to the ultimate consumer and intended for off-premise consumption. Such food or food products may be exposed to varying degrees of

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preparation and may often need further preparation or processing after it has been purchased. The term *Retail Food Store* shall include any warehouse facility, under administrative control of the Retail Food Establishment, used for the storage of that establishments food and food products; and any vehicle owned by that establishment used to transport food and food products. Retail Food Store shall not mean any Food Service Establishment as defined in 10 GCA § 23101(b).

(21) Safe Materials means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. If materials used are food additives or color additives as defined in Section 201(s) or (t) of the U.S. Food, Drug, and Cosmetic Act, or Section 9720.1(w) or (x) of the Guam Food, Drug, and Cosmetic Act, they are "safe" only if they are used in conformity with regulations established now or hereafter under the above Acts or 10 GCA Division 2.

(22) Sanitization means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce bacterial count, including pathogens, to a safe level on cleaned food contact surfaces of utensils and equipment.

(23) Sealed means free of cracks or other openings that permit the entry or passage of moisture.

(24) Single Service Articles means cups, containers, lids and packaging materials, including bags and similar articles intended for use in contact with food that are designed for one-time use and this discarded.

(25) Transportation (transported) means movement of food within the retail food store or delivery of food from a retail food store to another place while under control of the person in charge.

(26) Utensil means any implement used in the storage, preparation, transportation or dispensing of food.

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(27) Warewashing means the cleaning and sanitization of food contact surfaces of all equipment and utensils.

(c) Captions. Sections and other captions are part of these regulations.

(d) Repealer. These regulations shall be effective twelve months after they are adopted and published in accordance with law. At that time, all rules and regulations and parts of rules and regulations in conflict with these regulations are repealed.

(e) Separability. If any provision or application of any provision of these regulations is held invalid, that invalidity shall not affect other provisions or applications of these regulations.

§ 41502. Food

(a) Food Supplies.

(1) General. Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human or animal consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The sale or use of hermetically sealed food that was not prepared in a food processing establishment regularly inspected by the Department or other health regulatory agency is prohibited.

(2) Special Requirements.

(A) Milk and milk products used or sold shall be pasteurized and shall meet quality standards as established by law. Dry milk and dry milk products shall be made from pasteurized milk and milk products.

(B) Fresh and frozen shucked shellfish (oysters, mussels, or clams) shall be packed in non-returnable packages identified with the name and address of the original shell stock processor, shuck-packer, or repacker, and the interstate certification number issued according to law. Shell stock and shucked shellfish shall be kept in the container in which they were received until they are used or sold. Each container of unshucked

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shell stock (oysters, clams, and mussels) shall be identified by an attached tag to be retained for 90 days, that states the name and address of the original shell stock processor, the kind and quantity of shell stock, and an interstate certification number issued by the Department, State, or Foreign shellfish control agency.

(C) Only clean shell eggs, without cracks or checks, and meeting applicable grade standards, or pasteurized liquid, frozen or dry eggs, or pasteurized dry egg products shall be used or sold.

(D) Only ice which has been manufactured from potable water and handled in a sanitary manner shall be used or offered for sale. Ice offered for sale shall be packaged in a clean sanitary manner.

REASON: The quality and safety of products used or offered for sale by the retail food store is based on the condition of the food at the time it is received from the supplier. Food must first have been protected during production, processing, packaging, storage, and transportation if it is to be acceptable for the consumer following food store operations. Even the best quality control and public health measures at the food store cannot improve food which is marginal or unacceptable when received.

The requirements of this section are designed to reduce the risk of receiving food which is of unacceptable quality and safety. The use or sale of non-commercially packaged hermetically sealed food is prohibited because of the history of such food in causing foodborne illness. The special requirements for eggs and egg products and for milk and milk products are included because these products are exceptionally good media for the growth of pathogens. Labeling requirements for shellfish provide a means of assuring that the source of the shellfish is under the control of a

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regulatory authority.

(b) Food Protection.

(1) General. At all times, including while being stored, prepared, displayed, dispensed, or transported, food shall be protected from potential contamination by all agents, including cross contamination from foods, unsafe or foreign materials, insects, rodents, unclean equipment and utensils, probe type price or identification tags, unnecessary handling, coughs and sneezes, flooding, drainage and overhead leakage or condensation. The temperature of potentially hazardous foods shall be 45°F or below, or 140°F or above, at all times, except as otherwise provided in these regulations. Retail food stock shall be properly rotated. Hermetically sealed packages shall be properly handled to maintain container integrity.

(2) Emergency Occurrences. In the event of an occurrence, such as a fire, flood, power outage, earthquake, typhoon, or similar event, that creates a reasonable probability that food in the retail food store may have been contaminated, or which might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the Department. Upon receiving notice of this occurrence, the Department shall take whatever action that it deems necessary to protect the public health.

REASON: Food which is wholesome and safe when received from the supplier can become contaminated with filth, pathogenic micro-organisms, and toxic chemicals if it is mishandled within the retail food store. The requirements contained in this section are designed to protect food from the numerous potential sources of contamination that may occur during the various retail food store operations and are intended to place emphasis on food temperature control of potentially hazardous foods.

(c) Food Storage.

(1) General.

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(A) Food, whether raw or prepared, if removed from the container or package in which it is obtained, shall be stored in a clean, covered container, except during necessary periods of preparation. Whole and unprocessed fresh raw vegetables and fruits shall be exempted from this requirement. Container covers shall be impervious and non-absorbent. Solid cuts of meat shall be protected by covering with single service wrapping material during storage, except that quarter cuts or sides of meat may be stored to hang freely and uncovered on clean, sanitized hooks or placed on clean, sanitized metal racks in such a manner that will not allow the contamination of other foods in storage.

(B) Containers of food shall be stored a minimum of six inches above the floor in a manner that permits easy cleaning of the storage area, or on dollies, racks, or pallets, provided such equipment is easily movable, either by hand or with the use of pallet-moving equipment that is available and used.

(C) Food and containers of food shall not be stored under exposed or unprotected sewer or water lines, except for automatic fire protection sprinkler heads that may be required by law.

(D) Packaged food shall not be stored in contact with water or undrained ice. Wrapped sandwiches shall not be stored in direct contact with ice.

(E) Bulk food shall be stored in a container identifying it by common name.

(F) Spoiled, damaged, returned, or detained (distressed) food items shall be stored separately from and isolated from foods in good condition.

(G) Food storage in toilet rooms or vestibules, and garbage or mechanical rooms is prohibited.

(2) Refrigerated/Frozen Storage.

(A) Enough conveniently located refrigeration

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facilities or effectively insulated facilities shall be provided to assure the maintenance of potentially hazardous food at required temperatures during storage. Each mechanically refrigerated facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to $\pm 3^{\circ}\text{F}$, located to measure the air temperature in the warmest part of the facility and located to be easily read. Recording thermometers, accurate to $\pm 3^{\circ}\text{F}$ may be used in lieu of indicating thermometers.

(B) Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 45°F or below. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container so that the cooling period shall not exceed four hours. Potentially hazardous food to be transported shall be prechilled and held at a temperature of 45°F or below unless maintained in accordance with § 41502(c)(3) of these regulations. Clean, uncracked, odor-free shell eggs shall be refrigerated at an ambient temperature not to exceed 60°F .

(C) Frozen foods shall be kept frozen and should be stored at an ambient temperature of 0°F or below.

(D) Ice used as a cooling medium for food storage shall not be used or sold for human consumption.

(3) Hot Food Storage.

(A) Enough conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food storage facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to $\pm 3^{\circ}\text{F}$, located to measure the air temperature in the coolest part of the

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facility, and located to be easily read. Recording thermometers accurate to $\pm 3^{\circ}\text{F}$ may be used in lieu of indicating thermometers. When it is impractical to install thermometers or equipment such as heat lamps, cal-rod units, or insulated food transport carriers, a product thermometer must be available and used to check internal food temperature.

(B) The internal temperature of potentially hazardous foods requiring hot storage shall be 140°F or above, except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of 140°F or above unless maintained in accordance with § 41502(c)(2) of these regulations.

REASON: Proper care during storage is important in assuring that the condition of food when received is maintained and protected. Requirements of this section are intended to prevent contamination of food, and to control the growth of naturally occurring disease-causing micro-organisms. Food must be covered in order to provide physical protection of the food. Containers and covers must be impervious and non-absorbent to eliminate the possibility of their being a factor for contamination. Food storage locations are restricted to minimize risk of food contamination from other foods, equipment, routine employee activities, and environmental systems. Labeling of bulk ingredients is required to prevent confusion which could lead to inadvertent contamination of food during preparation. Provisions covering the availability of hot and refrigerated/frozen food storage facilities, and the parameters defining the cooling period for foods in storage, are included since controlling product temperature is the best means available for controlling growth of pathogens in food. Thermometers are required in or on equipment to provide a means for monitoring air temperatures around potentially hazardous foods.

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(d) Food Preparation.

(1) General.

(A) Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use, have been cleaned, rinsed, and sanitized to prevent cross contamination.

(B) Potentially hazardous foods that are in a form to be consumed without further cooking such as salads, sandwiches, and filled pastry products shall be prepared when possible from chilled products.

(C) Salads and other ready-to-eat foods prepared in the retail food store shall be prepared in areas that are separated by a barrier or open space from the fresh raw meat and poultry department processing areas. If it is impossible to provide separate areas and equipment because of lack of space, the food-contact of equipment to be used for processing shall be cleaned and sanitized each time there is a change from the processing of raw to ready-to eat food and food product or there is a change in processing of raw pork, or raw poultry, or raw fish, and before processing any different kind of product.

(2) Raw Fruits and Vegetables. Raw fruits and raw vegetables that will be cut or combined with other ingredients or will otherwise be processed into food products in the retail food establishment shall be thoroughly washed with potable water before being used.

(3) Cooking Potentially Hazardous Foods. Potentially hazardous foods being processed within the retail food establishment and that require cooking shall be cooked to heat all parts of the food to a temperature of at least 140°F, except that

(A) Poultry, poultry stuffing, stuffed meats and stuffing containing meat, shall be cooked to heat all parts of the food to at least 165°F with no interruption

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of the cooking process.

(B) Pork and products containing pork shall be cooked to heat all parts of the food to at least 150°F. The use of microwave ovens is prohibited.

(C) When beef roast under 10 pounds in weight are cooked in a still dry heat oven, the oven shall be preheated to and held at an air temperature of at least 350°F throughout the process. If cooked in a convection oven, the oven shall be preheated to and held at an air temperature of at least 325°F throughout the process.

When beef roast of 10 pounds or over in weight are cooked in a dry heat oven, the oven shall be preheated to and held at an air temperature of at least 250°F throughout the process.

Further, in order to meet public health requirements for the processes cited above, the following table lists the minimum internal temperature of the beef roast for the minimum time the roast needs to be held at such temperature.

Minimum Holding Times for Beef Roasts at Various
 Minimum Internal Temperatures

Minimum Holding		Time in Minutes
Minimum Internal Temperature		
°F	°C	
130	54.4	121
131	55.0	97
132	55.6	77
133	56.1	62
134	57.7	47
135	57.2	37
136	57.8	32
137	58.4	24

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138	58.9	19
139	59.5	15
140	60.0	12
141	60.6	10
142	61.1	8
143	61.7	6
144	62.2	5

(D) Beef roasts, if cooked in a microwave oven, shall not be served rare because of the size and density of the product.

(4) Bakery Product Fillings. Custards, cream fillings, including synthetics, and similar products shall meet the temperature requirement in subparagraph (d)(2) of this section following preparation and maintain thereat during storage, transportation, and display. Synthetic filled products may be excluded from this requirement if:

(A) the food, including the interface between the bakery product and its filling, has a ph level of 4.6 or below or a water activity (aw) value of 0.85 or less under standard conditions; or

(B) it is handled in such a manner as to preclude contamination with and the growth of pathogenic micro-organisms after heat processing; or

(C) other scientific evidence is on file with the regulatory agency demonstrating that the specific product will not support the growth of pathogenic micro-organisms. These synthetic filled products may be labeled to indicate that refrigeration is not required.

(5) Dry Milk, Dry Eggs, Liquid Eggs and Frozen Eggs. When incorporated into finished products or reconstituted, dry milk, dry milk products, dry eggs, dry egg products, liquid eggs and frozen eggs shall be used only if the finished products are heated to 140°F or above.

(6) Reheating. Potentially hazardous foods that have

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been cooked and then refrigerated, shall be reheated rapidly to 165°F or higher throughout before being placed in a hot food storage facility. Food warmers, and other hot food holding facilities shall not be used for the rapid reheating of potentially hazardous foods.

(7) Product Thermometers. Metal stem- type numerically scaled indicating thermometers, accurate to $\pm 2^{\circ}\text{F}$ shall be provided and used to assure attainment and maintenance of proper internal cooking holding or refrigeration temperatures of all potentially hazardous foods.

(8) Thawing Potentially Hazardous Foods. Potentially hazardous foods shall be thawed:

(A) In refrigerated units at a temperature not to exceed 45°F; or

(B) In a microwave oven only when the food will be immediately transferred to conventional cooking units as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

(C) As part of the conventional cooking process.

REASON: Food preparation is the process of necessary manipulation during which food is subjected to potential contamination from the greatest number of sources. Requirements of this section are intended to reduce the likelihood of contamination during preparation as much as practicable and to destroy micro-organisms or prevent their rapid growth in foods which may have become contaminated.

(e) Food Display.

(1) Potentially Hazardous Foods. Potentially hazardous foods shall be kept at an internal temperature of 45°F or below or at an internal temperature of 140°F or higher during display except that rare roast beef offered for sale hot shall be held at a temperature of at least 130°F.

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(2) Frozen Foods. Foods intended for sale in a frozen state should be stored at an ambient temperature of 0°F or below, with a tolerance of 10°F for short periods of time such as defrost cycles or loading or unloading. Frozen foods on display shall be stored below or behind product lines according to the cabinet manufacturer's specifications. Potentially hazardous foods which have been thawed shall not be refrozen.

(3) Raw Fruits and Vegetables. Raw fruits and raw vegetables may be rinsed in clean vegetable sinks with potable water followed by adequate drainage prior to display for sale.

(4) Food Display. Food on display, other than whole, unprocessed raw fruits and unprocessed raw vegetables, shall be protected from contamination by packaging, counter protector devices, display cases or similar equipment. All food shall be displayed a minimum of six inches above the floor. Enough hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous food on display.

(5) Dispensing Utensils. To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves unpackaged bulk processed foods such as pickled products or dried foods. These dispensing utensils shall be:

(A) Stored in the food with the dispensing utensil handle extended out of the food; or

(B) Stored clean and dry; or

(C) Stored in running potable water.

(6) Food Sample Demonstrations and Food Promotions. When food sample demonstrations and food promotions are authorized in the retail food store, the person in charge shall ensure that such activities comply with the applicable sanitation provisions of this ordinance.

REASON: Any relaxation or lapse in concern for

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protecting food during display and service can negate all earlier efforts to maintain quality of food that has been carefully purchased, stored, and prepared. Requirements in this section are intended to:

..... assure continued control of the product temperatures of potentially hazardous foods; and

..... direct the efforts of store employees toward use of sanitary display and dispensing procedures; and

..... protect food from contamination by store patrons.

(f) Food Transportation.

(1) General. During transportation, food other than hanging primal cuts, quarters, or sides of meat, and raw fruits and vegetables, and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination. Foods in original individual packages do not need to be over-wrapped or covered if the original package has not been torn or broken. During transportation, food shall meet all the requirements of these regulations relating to food protection and storage.

REASON: Special circumstances that arise during the transportation of food can make protection of food maintenance of proper food temperatures more difficult. There is a corresponding increase in the possibility of contamination and microbial growth. Requirements of this section are intended to assure that food is as carefully protected while being transported as it is during other retail food store operations.

§ 41503. Personnel.

(a) Employee Health

(1) General. No person shall work in a retail food store if:

(A) they are infected with a disease in a communicable form that can be transmitted by foods; or

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(B) they are a carrier of organisms that cause such a disease; or

(C) they are affected with a boil or infected sore on the hands, arms, face, or neck areas; or

(D) they are affected with an acute respiratory infection if there is a possibility of such person contaminating food or food-contact surfaces with pathogenic organisms, or transmitting disease to other persons.

REASON: A whole range of communicable disease and infections may be transmitted by infected retail food store personnel to other employees and to the consumer through contamination of food or food utensils.

(b) Personal Cleanliness.

(1) General. Employees shall thoroughly wash their hands and the exposed portions of their arms with soap or detergent and warm water before starting work, during work as often as is necessary to keep them clean, and after smoking, eating, using the toilet, handling trash, using wiping rags, before and after handling raw meat, poultry or seafood, or after any other activity which contaminates the hands or arms. Employees shall keep their fingernails trimmed and clean.

REASON: The hands are particularly important as a potential vehicle of contamination of food and foodcontact surfaces.

(c) Clothing.

(1) General

(A) Employees shall wear clean outer clothing.

(B) Employees shall use effective hair restraints where necessary to prevent the contamination of food or food-contact surfaces.

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REASON: Clothing and falling hair can be direct or indirect vehicles of contamination. Consumers react negatively when store employees handling food have soiled clothing, and are particularly sensitive to having food contaminated with hair.

(d) Employee Practices.

(1) General.

(A) Employees shall consume food only in designated areas such that the contamination of other food, equipment, utensils or materials will not occur.

(B) Employees shall not use tobacco while performing food handling operations, nor while in warewashing or in food preparation areas. Employees shall use tobacco only in designated areas.

(C) When food is handled during a preparation process, all hand jewelry which cannot be adequately sanitized, and all insecure jewelry shall be removed.

(D) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the retail food store.

REASON: Hygienic practices must be utilized by employees in keeping personally clean and in performing assigned duties, in order to maintain the integrity of food and to minimize the possibility of transmitting disease to other employees and consumers. Smoking or eating by employees in food preparation areas is prohibited because of the probability of contamination of the hands, food, and food-contact surfaces. Insanitary and unsightly personal practices such as scratching the head, placing the fingers in or about the mouth or nose, and indiscriminate and uncovered sneezing or coughing may result in food contamination, and adversely affect consumer confidence in the establishment.

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§ 41504. Equipment and Utensils.

(a) Materials.

(1) General. Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials, using safe methods; and shall be corrosion resistant and shall be nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Single service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and single-service articles shall not import odors, color or taste, nor contribute to the contamination of food.

(2) Solder. If solder is used, it shall be composed of safe materials and be corrosion resistant.

(3) Wood. Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in 4.101 of these regulations may be used for cutting blocks, cutting boards, and bakers tables. The use of wood as a food-contact surface under other circumstances is prohibited except when used for storing shell nuts.

(4) Plastics and Rubber Materials. Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scouring, decomposition, crazing chipping, and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal warewashing methods, and which meet the general requirements set forth in § 41504(a) of these regulations are permitted for repeated use.

(5) Single-Service. Re-use of single- service articles is prohibited.

(6) Cutting Surfaces. Scratching and scouring of cutting surfaces that interfere with effective cleaning and sanitization shall constitute violations of § 41504(3) and (4).

REASON: Materials which are absorbent or have rough imperfect surfaces will harbor filth and microorganisms and are not cleanable. Food poisoning has occurred as a result of

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ingestion of acidic food or drink that has been in contact with equipment or utensils containing metals such as copper, cadmium, lead, and zinc, or the salts of these metals. Unsafe materials used in the manufacture of equipment and utensils may migrate into food.

(b) Design and Fabrication.

(1) General. All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing.

(A) Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficulty-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is used for cooking. Threads shall be designed to facilitate cleaning; ordinary “V” type threads are prohibited in foodcontact surfaces, except that in equipment such as ice makers, hot oil cooking equipment, or hot oil filtering systems, such threads shall be minimized.

(B) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip or be forced into food or onto food-contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food- contact surfaces.

(C) Sinks and drainboards shall be self draining.

(2) Accessibility. Unless designed for in-place cleaning, food contact surfaces shall be accessible for cleaning and inspection:

(A) Without being disassembled; or

(B) By disassembling without the use of tools; or

(C) By easy disassembling with the use of only

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simple tools, such as mallets, screwdrivers, or open-end wrenches which are kept near the equipment.

(3) In-Place Cleaning. Equipment designed for inplace cleaning shall be so designed and fabricated that:

(A) Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and

(B) Cleaning and sanitizing solutions will contact all interior food-contact surfaces; and

(C) The system is self draining or capable of being completely evacuated.

(4) Pressure Spray Cleaning. Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches and connections.

(5) Thermometers. Indicating thermometers required for immersion into food or cooking media shall be of metal stem type construction, numerically scaled, and accurate to $\pm 2^{\circ}\text{F}$.

(6) Non-Food-Contact Surfaces. Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

(7) Ventilation Hoods. Ventilation hoods and devices, where required, shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto foodcontact surfaces. Filters or other grease extracting equipment shall be readily removable for cleaning and replacement, if not designed to be cleaned in place.

(8) Existing Equipment. Equipment which was installed

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in a retail food store prior to the effective date of these regulations, and which does not meet fully all of the design and fabrication requirements of this section, shall be deemed acceptable in that establishment if it is in good repair, capable of being maintained in a sanitary condition, and the foodcontact surfaces are non-toxic. Upon replacement, all equipment shall meet the requirements of these regulations.

REASON: Food equipment and utensils which have been designed and fabricated without regard for surface characteristics, durability, and accessibility can be difficult to clean, making build-up of food residues likely. Accumulation of food soil supports bacterial growth, contaminates fresh foods, attracts insects and rodents, causes unpleasant odors, and can be responsible for accelerated food spoilage and foodborne illness. The potential for food contamination from overhead dripping, and fire prevention systems are additional reasons for the proper design of hoods and ventilation systems. The special requirements for equipment with bearings and gears, and the criteria for acceptability of lubricants are intended to prevent toxic petroleum products from becoming part of food. Thermometers made of glass and filled with mercury or other fluids are prohibited because of the problem of breakage and the risk of contaminating a batch of food or vat of hot cooking oil with glass and toxic liquid.

(c) Equipment Installation and Location.

(1) General. Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines, or water lines that are leaking, open stairwells, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler heads that may be required by law.

(2) Table-Mounted Equipment.

(A) Table-mounted equipment shall be installed to facilitate the cleaning of the equipment and the adjacent areas.

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(B) Equipment that is mounted on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a 4-inch clearance between the table or counter except that if no part of the table under the equipment is more than 18 inches from cleaning access, the clearance space shall be three inches or more; or if no part of the table under the equipment is more than three (3) inches from cleaning access, the clearance space shall be two (2) inches or more.

(C) Equipment is portable within the meaning of § 41504(2)(B) above if:

(i) It is small and light enough to be moved easily by one person; and

(ii) It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning; and

(iii) It is table-mounted, such as powered mixers, grinders, slicers, tenderizers, and similar equipment, and:

(iv) does not exceed 80 pounds, or

(v) is equipped with a mechanical means of safely tilting the unit for cleaning.

(3) Floor-Mounted Equipment.

(A) Floor-mounted equipment, unless easily movable, shall be:

(i) Sealed to the floor; or

(ii) Elevated on legs to provide at least 6-inch clearance between the floor and equipment, except that equipment may be elevated to provide at least a 4-inch clearance between the floor and equipment if no part of the floor under the equipment is more

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than six inches from cleaning access.

(iii) Display shelving units, display refrigeration units, and display freezer units will be exempt from the provisions of § 41504(3)(A) above if they are installed so that the floor beneath the units can be cleaned.

(B) Equipment is easily movable if:

(i) It is mounted on wheels or casters; and

(ii) It has no utility connection or has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.

(C) Unless sufficient space is provided for easy cleaning between, behind, and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall be not more than 1/32 inch and, if - exposed to seepage, the space shall be sealed.

(4) Aisles and Working Spaces. Aisles and working spaces between units of equipment and between equipment and walls, shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.

REASON: Food debris and litter frequently accumulate under, above, around, and behind equipment. It is in these areas, especially along the floor and wall junctures, that insects and rodents harbor, run, and feed. The requirements of this section are intended to assure that regular and effective cleaning is possible. They are also intended to assure that employees have enough space to perform their duties without inadvertently contaminating food and clean surfaces.

§ 41505. Cleaning, Sanitizing and Storage of Equipment and

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Utensils.

(a) Equipment and Utensil Cleaning and Sanitization.

(1) Cleaning Frequency.

(A) Utensils and food-contact surfaces of equipment shall be cleaned and sanitized after any interruption of operations during which time contamination may have occurred; between processing raw pork, or raw poultry, or raw fish, and before processing any different kind of product; and between processing of raw and ready-to-eat food and food products; and after final use each working day.

(B) Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food-contact surfaces or equipment shall be washed, rinsed, and sanitized, in that order, at intervals through the day on a schedule based on food temperature, type of food, and amount of food particle accumulation.

(C) The food-contact surfaces of cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day; except that this shall not apply to hot oil cooking equipment and hot oil filtering systems. The food-contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.

(D) Non-food-contact surfaces of equipment, including all cargo areas of transport vehicles, shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

(2) Wiping Cloths.

(A) Moist cloths or sponges used for wiping food spills on food-contact surfaces of equipment shall be clean and rinsed frequently in one of the sanitizing solutions permitted in § 41505(a)(3)(E) of these

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regulations and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

(B) Moist cloths or sponges used for cleaning non-food contact surfaces of equipment shall be clean and rinsed as specified in § 41505(a)(2)(A) of these regulations and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

(C) Single-service disposable towels are permitted in lieu of wiping cloths or sponges if they are discarded after each use.

(3) Manual Cleaning and Sanitizing.

(A) For manual washing, rinsing and sanitizing of utensils and equipment, a sink with not fewer than three compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartment shall be washed manually or cleaned by pressure spray methods.

(B) Easily movable dish tables or drain boards of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the warewashing facilities.

(C) Equipment and utensils shall be preflushed or pre-scraped and, when necessary, pre-soaked to remove gross food particles and soil.

(D) Sinks shall be cleaned prior to use.

(E) When a three compartment sink is utilized for warewashing, the operation shall be conducted in the

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following sequence:

(i) Equipment and utensils shall be thoroughly wash in the first compartment with a hot detergent solution that is kept clean, with adequate scrubbing by hand to remove food and soil; and

(ii) Equipment and utensils shall be rinsed free of detergent and abrasive with clean water in the second compartment; and

(iii) Equipment and utensils shall be sanitized in the third compartment according to one of the methods included in § 41505(a)(3) (items 1 through 4) of these regulations.

(F) When a two-compartment sink is utilized for warewashing, one of the following two methods shall be used:

(i) Equipment and utensils shall be thoroughly cleaned in the first compartment with a hot detergent solution that is kept clean and at a concentration indicated on the manufacturer's label; and shall be sanitized in hot water in the second compartment in accordance with § (a)(3)(H) below; or

(ii) Equipment and utensils shall be thoroughly cleaned in the first compartment with a hot detergent-sanitizer solution that is kept clean and at a concentration indicated on the manufacturer's label; and shall be sanitized in the second compartment in hot water in accordance with § 41505(a)(3)(H) below, or with a solution containing that same detergent-sanitizer in accordance with § 41505(a)(H) (Items 2-5) below.

(G) When pressure spray methods are utilized for cleaning and sanitizing, the equipment an utensils shall be thoroughly flushed with a detergent-sanitizer solution until the article being cleaned is free of visible

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food particles and soil. The detergent-sanitizer shall be used in accordance with the manufacturer's instructions and shall be of the types that does not require a potable water rinse when used according to those instructions.

(H) The food-contact surfaces of all equipment and utensils shall be sanitized by:

(i) Immersion for at least one-half minute in clean, hot water of a temperature of at least 170°F; or

(ii) Immersion for at least one minute in a clean solution containing at least 50 parts per million (ppm) of available chlorine as hypochlorite and having a temperature of at least 75°F; or

(iii) Immersion for at least one minute in a clean solution containing at least 12.5 ppm of available iodine and having ph not higher than 5.0 and a temperature of at least 75°F; or

(iv) Immersion for at least 1 minute in a clean solution containing 200 parts per million of a quaternary ammonium compound and having a temperature of at least 75°F. The quaternary ammonium compound used shall have been compounded by the manufacturer to assure effectiveness in waters up to 500 parts per million hardness at use concentration; or

(v) Immersion in a clean solution containing any chemical sanitizing agent allowed under 21 CFR 178.1010 that will provide the equivalent bactericidal effect of a solution containing at least 50 ppm of available chlorine as a hypochlorite at a temperature of at least 75°F for one minute; or

(vi) Treatment with steam free from materials or additives other than those specified 21 CFR 173.310 in the case of equipment too large to sanitize by immersion, but in which steam can be

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confined.

(vii) Rinsing, spraying or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under § 41505(a)(3) of these regulations in the case of equipment too large to sanitize by immersion.

(viii) Treatment with steam free from materials or additives other than those specified in 21 CFR 173.310 in the case of equipment too large to sanitize by immersion, but in which steam can be confined.

(ix) Rinsing, spraying or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under § 41505(a)(3)(H)(5) of these regulations in the case of equipment too large to sanitize by immersion.

(I) When hot water is used for sanitizing, the following facilities shall be provided and used:

(i) An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170°F; and

(ii) A numerically scaled indicating thermometer, accurate to Å 3°F, convenient to the sink for frequent checks of water temperature; and

(iii) Dish baskets of such size and design to permit complete immersion of utensils and equipment in the hot water.

(J) When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under 21 CFR 178.1010, and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used.

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(4) Mechanical Cleaning and Sanitizing. Cleaning and sanitizing may be done by spray type or immersion warewashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed, operated and maintained in good repair. The installation and operation shall be in accordance with requirements of 10 GCA Chapter 23.

(5) Drying. After sanitization, all equipment and utensils shall be air-dried. Towel drying shall not be permitted.

(6) Retail Food Stores Without Equipment and Utensil Cleaning Facilities. All retail food stores which do not have facilities for proper cleaning and sanitizing utensils and equipment shall not prepare or package food for sale or dispense processed unpackaged foods.

REASON: Regular, effective cleaning and sanitization of equipment, utensils, and work surfaces minimizes the probability of food contamination, accelerated food spoilage, and the transmission of disease organisms to toxing or employees and consumers. Effective cleaning removes soil and prevents the accumulation of food residues that may decompose or support the rapid growth of food poisoning organisms or toxins. Effective sanitization procedures destroy organisms of public health importance that may be present on wiping cloths, food equipment, or utensils after cleaning, or which have been introduced into the rinse solution.

The requirements of this section are intended to assure that all facilities and testing equipment necessary for effective cleaning and sanitization are provided. They are also intended to provide operating procedures which are known to be safe and effective.

(b) Equipment and Utensil Handling and Storage.

(1) Handling. Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination.

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(2) Storage.

(A) Cleaned and sanitized utensils and equipment shall be stored at least six inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. The food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed sewer lines, or water lines that are leaking or on which water has condensed, except for automatic fire protection sprinkler heads that may be required by law.

(B) Utensils shall be air dried before being stored or shall be stored in a self draining position.

(C) Stored utensils shall be covered or inverted, wherever practical.

(3) Single Service Articles.

(A) Single service articles shall be stored at least six inches above the floor in closed cartons or containers which protect them from contamination and shall not be placed under exposed sewer lines or water lines that are leaking or on which water has condensed, except for automatic fire protection sprinkler heads that may be required by law.

(B) Single service articles shall be handled in a manner that prevents contamination of surfaces which may come in contact with food.

(4) Prohibited Storage Areas. The storage of food equipment, utensils or single-service articles in locker rooms, garbage rooms, mechanical rooms, toilet rooms, or vestibules is prohibited.

REASON: Single-service items, and equipment and multi-use utensils which have been properly cleaned and sanitized, can become contaminated in a variety of ways prior to their intended use. Contamination can be caused by moisture from absorption, flooding, drippage, or splash. It

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can also be caused by food also be caused by food debris, toxic materials, litter, dust, and other materials. The contamination is often related to unhygienic employee practices, unacceptable high risk storage locations, improper construction of storage facilities, and poorly designed and managed consumer self-service operations. The requirements of this section are provided to assure that clean items are protected during necessary handling and while being protected.

§ 41506. Sanitary Facilities and Controls.

(a) Water Supply.

(1) General. Enough potable water for the needs of the retail food store shall be provided from a source constructed, maintained, and operated according to law.

(2) Transportation. All potable water not provided directly by pipe from the island water supply system to the retail food store shall be transported in a bulk water transport system and shall be delivered to a closed water system. Both of these systems shall be constructed, maintained, and operated according to law.

(3) Water Under Pressure. Water under pressure at the required temperatures shall be provided to all fixtures and equipment that use water.

(4) Steam. Steam used in contact with food or food-contact surfaces shall be free from any materials or additives other than those specified in 21 CFR 173.310.

REASON: Water and steam may serve as vehicles of contamination to food or food-contact surfaces. Pressure and temperature determine their effectiveness for cleaning, sanitization and other store operations. The requirements in this section are intended to assure that sufficient volumes of water and steam are provided from supplies known to be safe, and through distribution systems which are protected. The requirements are also intended to assure that fixtures and equipment designed to use water will be supplied with water

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at necessary pressures and temperatures.

(b) Sewage.

(1) General. All sewage, including liquid wastes from foods or waste water shall be disposed of by a public sewerage system or by a sewage disposal system constructed and operated in accordance with 10 GCA Chapter 39 and 10 GCA Division 3. Nonwater carried sewage disposal facilities are prohibited, except as permitted by the Department in remote areas or because of special situations.

REASON: Many diseases can be transmitted from one person to another through fecal contamination of food and water. Proper disposal of human wastes greatly reduces the risk of fecal contamination. The requirements of this section are intended to assure that wastes will not: contaminate ground surfaces and water supplies; be accessible to children, or to pets, rodents, and insects; pollute surface waters; or otherwise create an odorous and unsightly nuisance.

(c) Plumbing.

(1) General. Plumbing shall be sized, installed, and maintained according to law. There shall be crossconnection between the potable water supply and any non-potable or questionable water supply nor any source of pollution through which the potable water supply might become contaminated.

(2) Non-potable Water Systems. Non- potable water systems are permitted only for purposes such as air-conditioning, equipment cooling systems and fire protection and only if the system is installed according to law and the non-potable water does not contact, directly or indirectly, food, potable water, equipment that contacts food, or utensils. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

(3) Backflow. The potable water system shall be installed to preclude the possibility of backflow and back-

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siphonage at all fixtures and equipment where an air-gap at least twice the diameter of the water system inlet is not provided between the water supply inlet and the fixture's flood level rim. A hose shall not be attached to a faucet unless a backflow preventive device has been installed.

(4) Grease Traps. If used, grease traps shall be located to be easily accessible for cleaning, and installed and maintained so as not to create any nuisances.

(5) Garbage Grinders. If used, garbage grinders shall be installed and maintained so as not to create any nuisances.

(6) Drains. Except for properly trapped open sinks, there shall be no direct connection between the sewerage system and any drains originating from equipment in which food, portable equipment, or utensils are placed.

REASON: Water and waste lines that are in conveniently located, underdesigned, or in disrepair can make necessary store operations either difficult or impossible. Improper plumbing systems have a long history of being implicated in illness outbreaks involving toxic chemicals and pathogenic organisms. They require continuous attention since piping systems and equipment and fixtures designed to use water are continually being extended, altered, or replaced.

The requirements of this section are intended to assure that plumbing is designed and installed so that equipment and facilities requiring water will have sufficient volume and pressure to properly perform their functions. Required measures also are intended to protect potable water systems, fixtures, and equipment from contamination caused by backflow. The requirement that grease traps, if used, be accessibly located is based on their need for frequent cleaning.

(d) Toilet Facilities.

(1) Toilet Installation. Toilet facilities shall be installed so that there is an adequate number as required by law,

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conveniently located, and accessible to employees at all times. Separate toilet rooms shall be provided for male and female employees if five or more persons of both sexes are employed.

(2) Toilet Design. Toilets and urinals shall be designed to be easily cleanable.

(3) Toilet Rooms. Except as provided by law, toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing solid doors which shall be kept closed except during cleaning or maintenance.

(4) Toilet Facility Maintenance. Toilet facilities, including fixtures and vestibules shall be kept clean and in good repair. A supply of toilet tissue shall be made available at all times. Easily cleanable, during, fire proof waste receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

REASON: Toilet facilities are necessary for the proper disposal of human waste. Fecal waste has been found to be a prime source of pathogenic organisms of most importance in the spread of enteric disease from one person to another. The cleanliness of toilet facilities affects employees and patron attitudes about sanitary practices and conditions throughout the retail food store.

The requirements of this section are intended to assure that properly designed and conveniently accessible toilet facilities are provided, and that they are kept in good repair, clean, and properly supplies.

(e) Handwashing Facilities.

(1) Handwashing Facility Installation. Handwashing facilities shall be adequate in number, shall be installed according to law, and shall be located to permit convenient use by all employees in food preparation and utensil washing areas.

Handwashing facilities shall be accessible to employees

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at all times. Handwashing facilities shall also be located in or immediately adjacent to toilet rooms or vestibules. Sinks used for food preparation or for washing equipment or utensils shall not be used for handwashing or for any other purpose.

(2) Handwashing Facility Faucets. Each handwashing facility shall be provided with running water by means of a faucet. Any self-closing, slowclosing or metering faucet used shall be designed to provide a flow of water for at least fifteen seconds without the need to reactivate the faucet. Steam mixing valves are prohibited at handwashing facilities.

(3) Handwashing Supplies. A supply of handcleansing soap or detergent shall be available at each handwashing facility. A supply of sanitary towels or a hand drying device providing heated air shall be conveniently located near each handwashing facility. Common towels including cloth roll towels, are prohibited. If disposable towers are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.

(4) Handwashing Facility Maintenance. Handwashing facilities, soap or detergent dispensers, hand-drying devices, and all related facilities shall be kept clean and in good repair.

REASON: Hands are probably the most common vehicle for the transmission of contamination to food and food- contact surfaces. Hands can become soiled with a variety of contaminants during routine food store operations. Some employees are unlikely to wash their hands even when the need is apparent unless properly equipped handwashing facilities are conveniently accessible in the immediate work area. Handwashing facilities which are improperly located may often be blocked off by portable equipment or stacked full of soiled utensils or a variety of other items rendering them unavailable for regular employee use. Sinks used for food preparation and warewashing can themselves become vehicles of contamination if indiscreetly used as handwashing facilities by employees returning from the toilet, or from other sources of contamination to the hands.

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Common towels and cloth roll towels are not permitted as they are an avoidable source of contamination to the hands. Steam mixing valves are prohibited on handwashing facilities because of the risk of scalding. The requirements of this section are intended to assure that there are sufficient handwashing facilities, properly equipped and located, in the store for convenient employee use.

(f) Garbage and Refuse

(1) Containers.

(A) Garbage and refuse shall be kept in durable, easily cleanable, insect-proof, and rodent proof containers that do not leak and do not absorb liquids. Containers shall be of the type approved by law. Plastic bags and wet strength paper bags may be used to line these containers, and maybe used for storage inside the retail food store.

(B) Containers used in food preparation and utensil washing areas shall be kept covered after they are filled, and during non-working hours.

(C) Containers stored outside the establishment, including dumpsters, compactors and compactor systems shall be easily cleanable, shall be provided with tight- fitting lids, doors, or covers; and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.

(D) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

(E) Soiled containers shall be cleaned at frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food equipment, utensils or food preparation areas. Suitable facilities for cleaning containers shall be provided including hot water detergent.

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(F) Liquid waste resulting from refuse disposal and container cleaning operations shall be disposed of as sewage.

(2) Storage.

(A) Garbage and refuse on the premises shall be stored in a manner to make them inaccessible to insects and rodents. Outside storage of nonrodent resistant containers, unprotected bags or wet strength paper bags or baled units containing garbage or refuse is prohibited. Cardboard, or other packaging material not containing garbage or food wastes need not be stored in covered containers.

(B) Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect and rodent proof, and shall be large enough to store all the garbage and refuse containers needed before the refuse is hauled away.

(C) Outside storage areas or enclosures shall be large enough to store all the garbage and refuse containers used and shall be kept clean. Garbage and refuse containers, dumpsters, and compactor systems located outside, shall be stored on or above a smooth surface of non- absorbent material, such as concrete or machine-laid asphalt, that is kept clean and maintained in good repair.

(3) Disposal.

(A) Garbage and refuse shall be disposed of often enough to prevent the development of objectionable odors and the attraction of insects and rodents.

(B) Where garbage or refuse is burned on the premises, it shall be done by controlled incineration in accordance with law. Areas around incineration facilities shall be kept clean and orderly.

REASON: Proper storage and disposal of garbage

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and refuse is necessary to prevent them from becoming an attractant, harborage, or breeding place for insects, rodents, and other animals. Improperly handled garbage creates obnoxious odors and other nuisance conditions, makes housekeeping and ground keeping difficulty and can become a source of contamination to food, equipment, and utensils.

(g) Insect and Rodent Control.

(1) General. Effective measures intended to minimize the entry, breeding and presence of rodents, flies, cockroaches, or other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.

(2) Openings. Openings to the outside shall be effectively protected against the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening materials shall be at least sixteen (16) mesh to the inch.

REASON: Insects and rodents are capable of transmitting disease to man by contaminating food and food-contact surfaces. Because insects and rodents need food, water, and shelter in order to survive, requirement in this section are intended to block their access into the retail food store and to eliminate harborage and feeding opportunities, both in the retail food store and on the premises.

§ 41507. Construction and Maintenance of Physical Facilities.

(a) Floors.

(1) Floor Construction.

(A) Except as specified in paragraph (2) below, floors and floor coverings of all food preparation, food storage and warewashing areas, and the floors of all walk-in refrigerators, dressing rooms, locker rooms,

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toilet rooms and vestibules shall be constructed of smooth, durable materials such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or tightfitting wood impregnated with plastic, and maintained in good repair. Nothing in this section shall prohibit the use of anti-slip floor covering in areas where necessary for safety reasons.

(B) Floors which are water flushed or which receive discharges of water or fluid wastes or are in areas where pressure spray methods for cleaning are used, shall be provided with trapped drains, properly installed. Such floors shall be constructed only of sealed concrete, terrazzo, ceramic tile or similar materials and shall be graded to drain.

(C) In all new or extensively remodeled establishments utilizing concrete, terrazzo, ceramic tile or similar flooring materials, and where water flush cleaning methods are used, the junctures between walls and floor shall be covered and sealed. In all other cases, the juncture between walls and floors shall not present an open seam of more than 1/32 inch.

(2) Floor Carpeting. Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable and maintained in good repair. Carpeting is prohibited in food preparation and warewashing areas where it would be exposed to and accumulate large amounts of food residue, grease and water; in food storage areas; and in toilet room areas where urinals or toilet fixtures are located.

(3) Prohibited Floor Covering. The use of sawdust, wood shavings, or similar loose materials as a floor covering is prohibited, except where they are used as absorbent to immediately clean spot spills.

(4) Mats and Duckboards. Mats and duckboards shall be of non-absorbent, grease resistant materials, and of such size, design, and construction to facilitate cleaning. Duckboards

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shall not be used as storage racks.

(5) Utility Line Installation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent floor cleaning. In all new or extensively remodeled establishments, installation of exposed horizontal utility service lines and pipes on the floor is prohibited.

REASON: Floors that are of smooth durable construction and non-absorbent are more easily cleaned. Special materials, sealing, covering, and grading to drains are required for floors which are cleaned or by spraying or flushing so that liquid wastes are quickly carried away and pooling and other nuisances and hazards are avoided. The requirements and restrictions regarding floor coverings, utility lines, and floor-way junctures are intended to assure that regular and effective cleaning is possible and that insect harborage is minimized. Sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, and similar materials are prohibited in order to prevent unnecessary dustborne contamination; because they may create a growth media for microorganisms when combined with food scraps and fluids; and because they make effective floor cleaning more difficult and less likely. Small amounts of materials, such as a sawdust, granular salt, baked clay, and diatomaceous earth may be used for immediate spot clean-up of spills or drippage to allow for reasonable floor maintenance in between routine floor cleaning.

(b) Walls and Ceilings.

(1) Construction. The walls, including nonsupporting partitions, wall coverings, and ceilings in walk-in refrigerators, food preparation areas, warewashing areas, toilet rooms and vestibules shall be light colored, smooth, non-absorbent and easily cleanable. Concrete block or similar material used for interior wall construction these locations shall be finished and sealed to provide an easily cleanable surface.

(2) Exposed Construction. Rafters, joists and studs shall

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not be exposed in those areas listed in § 41507(b)(1) of these regulations. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.

(3) Utility Line Installation. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in those areas listed in § 41507(b)(1) of these regulations. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings.

(4) Maintenance. Walls and ceilings, including doors, windows, skylights, and similar closures, shall be maintained in good repair.

(5) Attachments. Light fixtures, vent covers, wall mounted fans, decorative materials, and other equipment attached to walls and ceilings shall be easily cleanable and shall be maintained in good repair.

(6) Covering Material Installation. Wall and ceiling covering materials shall be attached and sealed in a manner to be easily cleanable.

REASON: Walls and ceilings that are of smooth construction, non-absorbent, and in good repair can be easily and effectively cleaned. The special requirements provided for the installation of utility lines, attachment of accessories, and the application of covering materials, are intended to assure that the cleanability of these surfaces is retained.

(c) Cleaning Physical Facilities.

(1) General. Cleaning of floors and walls, except emergency cleaning of floors, shall be done as often as necessary but preferably when the least amount of food is exposed, such as after closing. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of dust-arresting sweeping compounds with brooms.

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(2) Service Sinks. In new or extensively remodeled establishments, at least one service sink on curbed cleaning facility with a floor drain shall be provided and used for the cleaning of mops or similar wet floor cleaning tools, and for the disposal of mop water or similar mop water or similar liquid wastes. The use of handwashing or warewashing facilities or food preparation sinks for this purpose is prohibited.

REASON: Cleanliness of the retail food store is important to minimize attractants for insects and rodents, aid in preventing the contamination of food and equipment, and prevent nuisance conditions. A clean and orderly retail food store is also conducive to positive employee attitudes which can lead to increased attention to personal hygiene and improved food handling practices. The availability of appropriate service facilities and the use of specified cleaning procedures are important in order to preclude avoidable contamination of food and equipment.

(d) Lighting.

(1) General.

(A) Permanently fixed artificial light sources shall be installed to provide at least 20 foot candles of light on all food preparation surfaces and at warewashing work levels.

(B) Permanently fixed light sources shall be installed to provide, at a distance of 30 inches from the floor:

(i) At least 20 foot candles of light in sales areas, utensil and equipment storage areas and in handwashing and toilet areas;

(ii) At least 10 foot candles of light in walk-in refrigerators, dry food storage areas, and in all other areas.

(2) Displayed Foods. Displayed foods shall not be illuminated in such a manner as to alter their actual

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appearance.

(3) Protective Shielding.

(A) Shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over, by, or within food storage, preparation and display facilities, and facilities where utensils and equipment are cleaned and stored.

(B) Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

REASON: Properly distributed light makes the need for cleaning apparent by making accumulations of soil conspicuous. Lighting levels are specified to: facilitate reading labels; discern the color of substances; identify toxic materials; recognize the condition of foods, utensils, and supplies; and aid in storage, warewashing, and general store cleaning. Shielding is important for protecting light bulbs and fluorescent tubes against preventable breakage. In addition, shields protect employees, food, and equipment from glass fragments when breakage occurs.

(e) Ventilation.

(1) General. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems shall be installed and operated according to law and, when vented to the outside, shall not create an unsightly, harmful, or unlawful discharge. Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.

(2) Special Ventilation. In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors, or fumes originate shall be mechanically vented to the outside as may be required.

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REASON: Ventilation can be important in protecting food from contamination; making effective cleaning possible; preventing hazards and nuisances; and assuring the safety of inside air for employees and patrons. Ventilation protects food from contamination by controlling condensation. Moisture from condensation is conducive to mold and bacterial growth. Drillage caused by condensation and by accumulations of fats and oils can carry contaminants to food or foodcontact surfaces. When mechanical ventilation is necessary, a properly designed and installed system assures: that soiling of walls, ceilings, and other equipment is minimized; that obnoxious odors or toxic fumes are effectively removed; that the system itself is readily cleanable; and that no hazards or nuisances involving accumulation of fats, oils, and similar wastes will be created if properly operated. Special consideration is given to intake ducts used for make-up air in the establishment because they can be an important source of airborne contaminants if either improperly designed to poorly located with respect to equipment placement or operating modes.

(f) Dressing Rooms and Locker Areas.

(1) Dressing Rooms and Areas. If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, storage, display, or for warewashing or storage of utensils and equipment.

(2) Locker Areas. Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may only be located in the designated dressing rooms or, in food storage rooms or areas containing only completely packaged food or packaged single service articles.

REASON: Street clothing and personal belongings can contaminate food, food equipment, and food preparation surfaces. Lockers or suitable facilities are required in order

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to provide for the proper storage of personal belongings such as purses, coats, shoes, and personal medications.

(g) Poisonous or Toxic Materials.

(1) Materials Permitted. Only those poisonous or toxic materials necessary for the maintenance of the establishment, the cleaning and sanitization of equipment and utensils, and the control of insects and rodents, shall be present in retail food stores, except those items being offered for sale as described in § 41507(g)(7) below.

(2) Labeling of Materials. Containers of poisonous or toxic materials, shall be prominently and distinctly labeled according to law for easy identification of contents.

(3) Storage of Materials. Poisonous or toxic materials necessary for the maintenance of the establishment consist of the following three categories:

(A) Insecticides and rodenticide.

(B) Detergents, sanitizer and related drying or cleaning agents.

(C) Caustics, acids, polishes and other chemicals. Materials in each of these categories shall be stored and located to be physically separated from each other. All poisonous or toxic materials shall be stored in cabinets or in similar physically separated compartments or facilities used for no other purpose. To preclude potential contamination, poisonous or toxic materials shall not be stored above food, food equipment, utensils or single service articles, except that this requirement does not prohibit the convenient availability of detergent or sanitizer at warewashing facilities.

(4) Use of Materials.

(A) Sanitizer, cleaning compounds, or other compounds intended for use on food- contact surfaces shall not be used in a way that leaves toxic residue on surfaces, nor in a way that constitutes a hazard to

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employees or other persons.

(B) Poisonous or toxic materials shall not be used in a way that contaminates food, equipment or utensils, nor in a way that constitutes a hazard to employees or other persons, nor in a way other than in full compliance with the manufacturer's labeling.

(5) Personal Medications. Personal medications shall not be stored in food storage, preparation, or display areas.

(6) First-Aid Supplies. First-aid supplies shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

(7) Display of Materials. Poisonous or toxic materials offered for retail sale shall be segregated from food, and materials which come in contact with food or the human body.

REASON: The inadvertent contamination of food or food-contact surfaces with pesticides, toxic cleaning compounds, other poisons, or medicinal can be responsible for a serious foodborne illness outbreak. The requirements of this section are intended to assure that only those toxic materials which are necessary to the store's operation are present; and that they are clearly labeled, safely stored, and properly used.

(h) Premises.

(1) General.

(A) Retail food stores and all parts of the property used in connection with operations of the establishment shall be kept free of litter.

(B) The walking and driving surfaces of all exterior areas of retail food stores shall be surfaced or effectively treated to facilitate maintenance and minimize dust. These surfaces shall be graded to prevent pooling of water.

(C) Only articles necessary for the operation and

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maintenance of the retail food store shall be stored on the premises.

(D) The presence of unnecessary persons passing through or in the food preparation and warewashing areas is prohibited.

(2) Living Areas. No operation of a retail food store shall be conducted in any room used as living or sleeping quarters. Retail food operations shall be separated from any living or sleeping quarters by complete partitioning and solid, self-closing, tightfitting doors.

(3) Laundry Facilities.

(A) If provided, laundry facilities in a retail food store shall be restricted to the washing and drying of linens, cloths, uniforms, and aprons necessary to the operation. If such items are laundered on the premises, an electric or gas dryer shall be provided and used.

(B) Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods or packaged single service articles.

(4) Linens and Work Clothes Storage.

(A) Clean work clothes and linens shall be stored in a clean place and protected from contamination until used.

(B) Soiled clothes and linens shall be kept in non-absorbent containers or washable laundry bags until removed for laundering and shall be stored to prevent contamination of food equipment and utensils.

(5) Cleaning Equipment Storage. Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment shall be maintained and stored in a way that does not contaminate food utensils, equipment, or linens and shall be stored in an orderly manner to facilitate the cleaning of that storage location.

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(6) Animals.

(A) Live animals shall be excluded from within the retail food operational premises, and from immediately adjacent areas under the control of the permit holder. This exclusion does not apply to live edible fish, crustacea, or shellfish, or other fish in aquariums. Patrol dogs accompanying security or police officers shall also be permitted in offices, storage areas, and outside store premises. Sentry dogs may be permitted to run loose in outside fenced areas for security reasons. Guide dogs accompanying blind persons shall be permitted in sales areas.

(B) Persons employed in the food operational areas of an establishment shall not care for or handle any pets, or patrol/ sentry dogs while on duty.

REASON: The presence of unnecessary articles, including equipment which is no longer used, makes regular and effective cleaning more difficult and less likely. It can also provide harborage for insects and rodents. The requirements for outside areas are intended to prevent the creation of conditions suitable for insect and rodent feeding, breeding, and harborage; and to minimize nuisances involving dust and the pooling of water. The requirements involving animals, separation of store operations from living or sleeping quarters, laundry operations and facilities, and the storage of linens and cleaning equipment are all intended to minimize the possibility of disease transmission to employees and consumers through direct or indirect contamination of food and food-contact surfaces.

§ 41508. Compliance Procedures.

(a) Sanitary Permits and Health Certificates.

(1) General. No person shall operate a retail food store who does not have a valid sanitary permit issued to him or her by the Division. Only a person who complies with the requirements of these regulations

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shall be entitled to receive or retain such a sanitary permit. Sanitary permits are not transferable. A valid sanitary permit shall be posted in public view in every retail food store.

(2) Issuance of a Sanitary Permit.

(A) Any person desiring to operate a retail food store shall make written application for a sanitary permit on forms provided by the Division. Such application shall include the name and address of each applicant, the location and type of the proposed retail food store and the signature of each applicant.

(B) Prior to approval of an application for a sanitary permit, the Division shall inspect the proposed retail food store to determine compliance with the requirements of these regulations.

(C) The Division shall issue a sanitary permit to the applicant if its inspection reveals that the proposed retail food store complies with the requirements of these regulations.

(3) Suspension of a Sanitary Permit.

(A) The Division may, without prior hearing, suspend any sanitary permit to operate a retail food store if the holder of the sanitary permit does not comply with the requirements of these regulations, or if the operation of the retail food store otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of the notice required by § 41508(a)(3)(B) of these regulations. When a sanitary permit is suspended, retail food operations shall immediately cease. Whenever a permit is suspended, the holder of the sanitary permit shall be afforded an opportunity for hearing within 20 days of receipt of a request for hearing.

(B) Whenever a sanitary permit is suspended,

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the holder of the permit, or the person in charge shall be notified in writing that the sanitary permit is, upon service of the notice, immediately suspended and that an opportunity for hearing will be provided if a written request for hearing is filed with the Department by the holder of the sanitary permit. The Division may end the suspension at any time if reasons for suspension no longer exist.

(4) Revocation of Sanitary Permit.

(A) The Division may, after providing opportunity for hearing, revoke a sanitary permit for serious or repeated violations of any of the requirements of these regulations, or for the interference with the Division in the performance of duty.

(B) The hearing shall be conducted in accordance with the provisions of the Administrative Adjudication Law.

(5) Application After Revocation. Whenever a revocation of a sanitary permit has become final, the holder of the revoked sanitary permit may make written application for a new sanitary permit.

(6) Health Certificates. Health Certificates must be obtained by all retail food store employees in accordance with separate regulations established by the Department for obtaining health certificates.

(b) Inspections.

(1) Inspection Frequency. An inspection of a retail food store shall be performed at least once every three months. Additional inspections of the retail food store shall performed as often as necessary for the enforcement of these regulations.

(2) Access. Representatives of the Department, after proper presentation of credentials shall be permitted to enter any retail food store at any reasonable time for the purpose of making inspections to determine compliance with these

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regulations. The representatives shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received or used.

(3) Report of Inspections. Whenever an inspection of a retail food store is made, the findings shall be recorded on the inspection report form set out in § 41508(b)(7) of these regulations. The inspection report form shall summarize the requirements of these regulations and shall set forth a demerit value for each requirement. Inspectional remarks shall be written to reference, by section number, the section violated and shall state the correction to be made. The rating score of the establishment shall be the total of the demerit values for all violations. A copy of the completed inspection report form shall be furnished to the person in charge of the store at the conclusion of the inspection. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.

(4) Grading.

(A) Every retail food store shall display in a place designated by the Director, a placard approved by him or her stating the grade received at the time of the most recent inspection of the retail food store. Only the Director or his/her representative may remove such placard.

(B) Grades shall be assigned to retail food stores based upon the demerit score received as follows:

- (i) Grade A - 0 to 10 demerits total
- (ii) Grade B - 11 to 20 demerits total
- (iii) Grade C - 21 to 40 demerits total
- (iv) Grade D - 41 or more total demerits

Notwithstanding the above grading criteria, whenever there is a consecutive repetition of any 2,

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4 or 6 demerit violation, the retail food store shall be downgraded to the next lower grade.

(C) The permit holder or operator of any retail food store, the grade of which has been lowered may at any time request an inspection for the purpose of regrading the store. Within 10 days following the receipt of a request, including a signed statement that the conditions responsible for the lowering of the grade have, in the applicant's opinion, been corrected, the Director shall make an inspection; and thereafter, as many additional inspections as may be deemed necessary to be assured that the applicant is complying with the higher grade requirements. If findings indicate compliance, the higher grade shall be awarded.

(5) Posting. Copies of the inspection report and grade placard shall be posted in a place designated by the Director's representative where they will be in full view of the public. Failure to post, or unauthorized removal will result in appropriate demerits being given.

(6) Correction of Violations.

(A) The completed inspection report form shall specify a reasonable period of time for the correction of the violations found; and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

(i) If an imminent health hazard exists, such as complete lack of refrigeration, or sewage back-up into the retail food store, the establishment shall immediately cease operations. Operations may not resume until authorized by the Division.

(ii) All violations of six demerit items shall be corrected as soon as possible, but in any event, within 10 days following inspection. Within 15 days after the inspection, the holder of the sanitary permit shall notify the Division stating the six demerit violations have been corrected. A follow-

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up inspection shall be conducted to confirm correction.

(iii) If the demerit score of the retail food store is 20 demerits or less, all 1, 2, and 4 demerit violations must be corrected within 30 days. If the demerit score is more than 20 but less than 40, all 1, 2, and 4 demerit violations which are non-structural shall be corrected within 15 days. Structural violations shall be corrected within 30 days.

(iv) When the demerit score of a retail food store is more than 40, the sanitary permit shall be immediately suspended.

(B) The inspection report shall state that failure to comply with anytime limits for corrections may result in permit suspension or downgrading. An opportunity for hearing on the inspection findings or the time limitations or both will be provided if a written request is filed with the Director within the period of time established in the notice of corrections. If a request for hearing is received, a hearing shall be held within 20 days of receipt of the request.

(C) Whenever a retail food store is required under the provisions of § 41508(b)(6) to cease operations, it shall not resume operations until it is shown on reinspection that conditions responsible for the order to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time.

(7) Inspection Report Form. See Appendix A.

(c) Examination and Condemnation of Food.

(1) General. Food may be examined or sampled by the Director as often as necessary for enforcement of these regulations. The Director may, upon written notice to the owner or person in charge, specifying with particularity the reasons therefore, place a hold order on any food which he or

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she believes is in violation of § 41502(a)(1), § 41502(a)(2), or any other section of these regulations. The Director shall tag, label or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served, or moved from the establishment. The Director shall permit storage of food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed within ten days and that if no hearing is requested the food shall be destroyed. If a request for hearing is received, the hearing shall be held within 20 days after receipt of the request. On the basis of evidence produced at the hearing, the hold order may be vacated, or the owner or person in charge of the food may be directed by written order to denature or destroy such food or bring it into compliance with the provisions of these regulations.

(d) Review of Plans and Construction Permit Issuance.

(1) Submission of Plans. No person shall construct, reconstruct or alter, or convert any retail food store without first submitting plans and specifications to the Department. To apply for a construction permit, the applicant must submit complete, properly prepared plans and specifications for such construction, remodeling, or alteration to the Department, Division of Environmental Health for review and approval before construction, remodeling or alteration is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The Division of Environmental Health shall approve the plans and specifications approved by the Division of Environmental Health. The requirements of this subsection are in addition to the building permit program administered by the Department of Public Works. Construction permit issuance and approval by the Department, Division of Environmental Health does not imply Department of Public Works acceptance or approval.

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(2) Construction Permit. A construction permit will be issued once approval has been given in accordance with § 41508(d)(1), and with separate regulations established relating to construction permits.

(3) Pre-Operational Inspection. Whenever plans and specifications are required by § 41508(d)(1) of these regulations to be submitted to the Department, the Division of Environmental health shall inspect the retail food store prior to the start of operations, to determine compliance with the approved plans and specifications and with the requirements of these regulations.

(e) Procedure When Infection is Suspected.

(1) General. When the Director has reasonable cause to suspect possible disease transmission by an employee of a retail food store, he or she may secure a morbidity history of the suspect employee or make any other investigation as may be indicated and shall take appropriate action. The Director may require any or all of the following measures:

(A) The immediate exclusion of the employee from employment in retail food stores;

(B) The immediate closing of the retail food store concerned until, in the opinion of the Director, no further danger of disease outbreak exists.

(C) Restriction of the employee's services to some area of the store where there would be no danger of transmitting disease;

(D) Adequate medical and laboratory examination of the employee and of other employees and of their body discharges.

(f) Remedies.

(1) Penalties. (10 GCA § 20118) Any person who violates any provisions of this Part or any valid rule or regulation promulgated under this Part or who refuses or neglects to comply with any order issued by the Director or

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other officers and personnel of the Department in the carrying out of the provisions of this Part, the penalty for which is not otherwise prescribed in this Part, is guilty of a misdemeanor.

(2) Injunctions. The Department may seek to enjoin violations of these regulations.

ARTICLE 16
RULES GOVERNING THE MANUFACTURE, DISTRIBUTION, AND
DISPENSING OF CONTROLLED SUBSTANCES

SOURCE: These rules were submitted to the Legislature on Oct. 23, 2017, and became effective Jan. 21, 2018, pursuant Guam's Administrative Adjudication Law (5 GCA, Ch. 9, Art. 3).

2019 NOTE: The Department of Public Health and Social Services had submitted rules in 2010 to the 30th Legislature, but they were disapproved pursuant to Legislative Resolution No. 497-30 (LS). The rules were resubmitted to the 31st Legislature on Feb. 15, 2011 and designated as Doc. 31GL-11-209. The 2011 version of the rules are substantially different from the version submitted in 2017.

- § 41601. Purpose.
- § 41602. Authority.
- § 41603. Title.
- § 41604. Definitions.
- § 41605. Guam Controlled Substances Registration.
- § 41606. Separate Registrations for Separate Locations, and Transfer of Locations.
- § 41607. Application.
- § 41608. Filing of Application.
- § 41609. Additional Information.
- § 41610. Amendments to and Withdrawals of Applications.
- § 41611. Fee Amounts.
- § 41612. Persons Exempt from Fee.
- § 41613. Exemption of Agents and Employees; Affiliated Practitioners.
- § 41614. Exemption of Certain Military and Other Personnel.

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- § 41615. Exemption of Law Enforcement Officials.
- § 41616. Exemption of Civil Defense Officials.
- § 41617. Administrative Review Generally.
- § 41618. Certificate of Registration.
- § 41619. Suspension or Revocation and Registration.
- § 41620. Suspension of Registration Pending Final Order.
- § 41621. Extension of Registration Pending Final Order.
- § 41622. Order to Show Cause.
- § 41623. Hearings Generally.
- § 41624. Response to Order to Show Cause.
- § 41630. Serving of Other Materials.
- § 41631. Amended or Supplemental Orders.
- § 41632. Time and Place of Hearing.
- § 41633. Order to Show Cause Form.
- § 41634. Subpoena.
- § 41635. Depositions.
- § 41636. Power to Administer Oaths and Affirmation by DPHSS.
- § 41637. Hearing Officer.
- § 41638. Disqualification.
- § 41639. Granting of Continuance.
- § 41640. Evidences and Witnesses.
- § 41641. Admission of Relevant Evidence.
- § 41642. Matter not Covered in Administrative Law and Uniform Controlled Substances Act.
- § 41643. Security Requirements Generally.
- § 41644. Physical Security for all Registrants.
- § 41645. Security for Pharmacies.
- § 41646. Increase in Security Requirements.
- § 41647. Inspection: How Often, Authority, and Consent.
- § 41648. Prescription Information.
- § 41649. Printing and Signing of Prescription.
- § 41649.1 Electronic Transmission of Prescriptions of Controlled Substances.
- § 41650. Identification.
- § 41651. Submitting of Prescription by Third Party.
- § 41652. Acquisition of Signature.
- § 41653. Effective Date.
- § 41654. Separability.

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§ 41601. Purpose.

(a) The purpose of these rules is to regulate the lawful manufacture, distribution, and dispensing of controlled substances through registration and control to prevent the diversion of legitimately produced controlled substances into illegitimate channels.

(b) The closed system of distribution established under the CSA for controlled substances relies on certain fundamental principles, including registration, security, and accountability (i.e., inventories, recordkeeping, and reporting), to achieve a system of controls that allows for legitimate commerce while minimizing the potential for diversion.

(c) These rules do not provide a comprehensive, regulated framework for providing medical cannabis to individuals, in which the Joaquin (KC) Concepcion II Compassionate Cannabis Use Act of 2013 identifies nine (9) debilitating medical conditions for which a patient may receive medical cannabis. These rules also do not regulate practitioners, patients and organizations that participate in the medical cannabis system, nor does it establish specific standard and procedures for registering medical cannabis patients, designated caregivers, physicians for humans, producers, and dispensaries to protect the health, safety and welfare of the residents and patients of Guam, by prescribing the manner in which medical cannabis is regulated.

(1) Nothing in these rules and regulations is intended to address any matters related to requiring a physician to certify the use of medical cannabis for a patient; require the accommodation or protection for any employee for the medical use of cannabis in any place of employment; any matters involving banking and financial services of a medical cannabis facility or business; any matters involving local or federal law enforcement actions; or any matters involving the medical use of cannabis by an immigrant or foreign national.

(2) The Department or its employees shall not be liable for any deleterious outcomes from the medical use of cannabis by any patient, or from an individual's participation

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as a caregiver, employee or physician, or from the operation of a cannabis dispensary, cultivation site, or laboratory.

2019 NOTE: Subsection designations added pursuant to the authority granted by 1 GCA § 1606.

§ 41602. Authority.

Section 67.301 of P.L. 24-149, an Act to Repeal and Reenact Chapter 67 of Title 9, Guam Code Annotated, authorizes the Director to promulgate rules providing for the registration and control of the manufacture, distribution, and dispensing of controlled substances within Guam.

§ 41603. Title.

The rules and regulations shall be known and cited as the Rules Governing the Manufacture, Distribution, and Dispensing of Controlled Substances or the Rules for Pharmaceutical Controlled Substances.

§41604. Definitions.

As used in these rules:

(a) ‘*Act*’ shall mean P.L. 24-149, an Act to Repeal and Reenact Chapter 67, Title 9, Guam Code Annotated, which is also known as the Uniform Controlled Substances Act.

(b) ‘*Cannabis*’ or ‘*Marijuana*’ or ‘*Marihuana*’ means all parts of the plant of the genus *Cannabis sp.*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seed, or its resin, including marijuana concentrate. *Cannabis sp.* does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

(c) ‘*CSR*’ shall mean the Guam Controlled Substances Registration issued by the Department.

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(d) *'DEA'* shall mean the United States Drug Enforcement Administration.

(e) *'Department'* or *'DPHSS'* shall mean the Department of Public Health and Social Services.

(f) *'Director'* shall mean the Director of the Department of Public Health and Social Services, or his designee.

(g) *'Dispense'* means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling or compounding necessary to prepare the substance for delivery. The term *'dispenser'* means a practitioner who so delivers a controlled substance to an ultimate user or research subject.

(h) *'Distribute'* means to deliver (other than by administering or dispensing) a controlled substance or a listed chemical. The term "distributor" means a person who so delivers a controlled substance or a listed chemical.

(i) *'Individual registrant'* shall mean a physician, dentist, veterinarian, podiatrist or other lawfully licensed person permitted on Guam to dispense controlled substances in the course of his professional practice, but does not include an institutional registrant, a pharmacy, or a pharmacist.

(j) *'Institutional registrant'* shall mean a hospital, clinic, or other lawfully licensed establishment wherein dispensing of controlled substances are permitted by Guam in the course of that establishment's business, but does not include a pharmacy.

(k) *'Manufacture'* means the production, preparation, propagation, compounding, or processing of a drug or other substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of such substance or labeling or relabeling of its

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container; except that such term does not include the preparation, compounding, packaging, or labeling of a drug or other substance in conformity with applicable State or local law by practitioner as an incident to his administration or dispensing of such drug or substance in the course of his professional practice. The term “manufacturer” means a person who manufactures a drug or other substance.

(l) *‘Pharmacist’* means any pharmacist licensed by the Department of Public Health and Social Services’ Health Professional Licensing Offices to dispense controlled substances and shall include any other person (e.g. pharmacist intern) authorized by the Department of Public Health and Social Services’ Health Professional Licensing Office to prescribe, dispense or store controlled substances under the supervision of a pharmacist licensed by Department of Public Health and Social Services’ Health Professional Licensing Office.

(m) *‘Pharmacy’* shall mean a lawfully licensed pharmacy permitted on Guam to dispense controlled substances in the course of that establishment’s business.

(n) *‘Practitioner’* means a physician, dentist, veterinarian, scientific investigator, pharmacist, pharmacy, hospital, government operated or government contracted animal shelter, or other person licensed, registered, or otherwise permitted, by Guam, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(o) *‘Registrant’* shall Registrant shall means any person or establishment registered pursuant to the Guam Uniform Controlled Substances Act.

(p) *‘Regulated person’* means a person who manufactures, distributes, dispensed, imports, or exports a listed chemical, a tableting machine, or an encapsulating machine or who acts as a broker or trader for a transaction involving a listed chemical, a tableting machine, or an

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encapsulating machine (including doing business as a Reverse Distributor or Reverse Processor).

(q) *‘Reverse distributor’* or *‘Reverse processor’* means a person who receives controlled substances acquired from another Drug Enforcement Administration and CSR registrant for the purpose of returning unwanted, unusable, or outdated controlled substances to the manufacturer or the manufacturer’s agent, or where necessary, processing such substances or arranging for processing such substances for disposal.

Unless otherwise stated in these rules, the definitions in the Act shall also be the definitions of these rules and regulations.

§ 41605. Guam Controlled Substances Registration.

(a) Every person who manufactures, distributes, dispenses, imports, or exports any listed chemical compound contained in the controlled substance listing or any controlled substance other than Cannabis and Cannabis products, or who owns and operates a tableting machine, and encapsulating machine or who acts as a broker or trader for an transaction involving a listed chemical, a tableting machine, or an encapsulating machine (including doing business as a reverse distributor or reverse processor) shall annually obtain a Guam Controlled Substances Registration unless exempted by law or as otherwise exempted by these rules. Only persons or institutions directly engaged in such activities are required to obtain a registration. (For example, a stockholder or parent corporation of a corporation manufacturing controlled substances are not considered directly engaged in such activities, and need not be registered.)

(b) A practitioner must be registered with DPHSS before dispensing a controlled substance or conducting research with respect to a controlled substance included in Schedules II through V. DPHSS need not require separate registration under this Article for a practitioner engaging in research with non-narcotic substances included in Schedules II through V if the registrant is already registered under this Act in another capacity, or if the practitioner is already legally registered in Guam to dispense or

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conduct research on Cannabis. A practitioner registered under Federal law to conduct research with a substance included in Schedule I may conduct research with the substance in Guam upon furnishing DPHSS evidence of the Federal registration.

(c) A reverse distributor or reverse processor must be registered with DEA and DPHSS before receiving controlled substances acquired from another DEA and CSR registrant for the purpose of returning unwanted, unusable, or outdated controlled substances to the manufacturer or the manufacturer's agent; or where necessary, processing such substances or arranging for processing such substances for disposal.

(1) The registration and other requirements for reverse distributors or reverse processors shall be the same as those currently imposed on distributors, to include but not limited to, accountability, security, inventory, recordkeeping, and reporting requirements.

(d) Upon approval by DPHSS, the registrant shall receive a Guam Controlled Substances Registration certificate that shall state:

(1) Name of the registrant;

(2) Controlled substance schedules the registrant is authorized to handle;

(3) Physical location of the principal place of business/practice, and mailing address if different from the physical address;

(4) Guam Controlled Substances Registration number, as provided by DPHSS, and its expiration date;

(5) Signature of the Director; and

(6) Other applicable information determined by the Director.

(e) Registrant shall post the Guam CSR certificate at the physical location of practice or business where an authorized inspector, as designated by DPHSS, will be able to inspect the certificate.

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§ 41606. Separate Registrations for Separate Locations, and Transfer of Locations.

(a) A separate registration is required for each principal place of business of professional practice where controlled substances are manufactured, distributed, or dispensed by a person or business.

(b) The following locations shall be deemed not to be places where controlled substances are manufactured, distributed, or dispensed.

(1) An office used by agents of a registrant where sales of controlled substances are solicited, made, or supervised, but which neither contains such substances nor serves as a distribution point for filling sales orders; and

(2) An office used by a practitioner (who is registered at another location) where controlled substances are prescribed but neither administered nor otherwise dispensed as a regular part of the professional practice of the practitioner at such office, and where no supplies of controlled substances are maintained; and

(3) A warehouse where controlled substances are stored by or on behalf of the registered person, unless such substances are distributed directly from such warehouse to registered locations other than the registered location from which the substances were delivered or to a person not required to register by virtue of the Guam Uniform Controlled Substances Act.

(c) A registrant who intends to move his place of practice or business must request a modification of his Guam CSR certificate. The request must be made in writing and approved prior to the effective date of the move. If any registrant moves his place of business or practice without requesting and obtaining prior approval in the form of a modification of his Guam CSR certificate by DPHSS, then his registration shall automatically become invalid regardless of the expiration date.

§ 41607. Application.

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(a) Any practitioner who is required to be registered and who is not so registered may apply for registration at any time. No practitioner required to be registered shall engage in any activity for which registration is required until the application for registration is granted and a CSR is issued by the Director to such person.

(b) Interested persons may pick up the application for the CSR at the Division of Environmental Health of DPHSS or may request the application to be mailed.

(c) The application shall state the following:

- (1) Name of applicant;
- (2) Name of business or practice;
- (3) Physical and mailing address of business or practice;
- (4) Telephone and facsimile numbers;
- (5) Schedule(s) of controlled substances utilized;
- (6) Licensed profession; and

(7) Any other information, or materials, deemed necessary by DPHSS, including but not limited to, any surrender, suspension, or revocation of controlled substances privileges from the U.S. DEA or DPHSS, or from any other state or federal agency, and any conviction record involving any controlled substances at any time and under any law governing the same.

(d) Renewal application for CSR will be mailed to the address indicated on the registrant's last application at least sixty (60) days prior to the date of expiration. Any registrant not receiving the renewal application 45 days prior to date of expiration should immediately notify DPHSS.

(e) Any person who is registered may apply for a renewal, provided it is not more than 60 days from the expiration date stated on his CSR.

(f) Any person applying for a renewal after 30 days or more from the expiration date stated on his CSR shall be considered a

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new applicant.

§ 41608. Filing of Application.

(a) All applications shall be delivered to the Division of Environmental Health of the Department of Public Health in Mangilao or mailed to the Division of Environmental Health, the Department of Public Health and Social Services, 123 Chalan Kareta Mangilao, Guam 96913-6304.

(b) The post-marked date shall be considered the date of receipt by DPHSS for all applications received by mail. The date of acknowledged payment for application shall be considered the date of receipt by DPHSS for all other applications not received by mail.

(c) Only the original, complete application with appropriate payment shall be accepted and processed. Any photocopy, incomplete or illegible application, or any application not written in indelible ink, or missing a required document or payment, shall not be processed and shall be returned via mail.

§ 41609. Additional Information.

(a) DPHSS may require an applicant to submit such documents or written statements of fact as DPHSS deems necessary to determine whether the application should be granted. The failure of the applicant to provide such documents or statements within ten working days after being requested to do so shall be deemed a waiver by the applicant to present such documents or facts for consideration by DPHSS in granting or denying the application.

(b) All registrants applying for the Guam Controlled Substances Registration with DPHSS, or already registered with DPHSS, must provide a copy of their most recent D E A Controlled Substances Registration Certificate (federal registration) once that certificate become available to the registrant.

§ 41610. Amendments to and Withdrawals of Applications.

An application may be amended or withdrawn without

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permission of DPHSS at any time before the applicant receives an order to show cause pursuant to the Act. An application may be amended or withdrawn as a matter of course due to a change in the applicant's federal controlled substances status or registration.

§ 41611. Fee Amounts.

(a) For each initial Controlled Substances Registration:

(1) To manufacture controlled substances, the applicant shall pay a fee of One Thousand Dollars (\$1000).

(2) To distribute controlled substances, the applicant shall pay a fee of Five Hundred Dollars (\$500).

(3) To dispense, conduct research or instructional activities with, or to conduct chemical analysis with any controlled substance, the individual and institutional registrants shall pay a fee of Five Hundred Dollars (\$500), and a pharmacy shall pay a fee of Five Hundred Dollars (\$500).

(b) For each renewal of Controlled Substances Registration:

(1) To manufacture controlled substances, the registrant shall pay fee of One Thousand Dollars (\$1000).

(2) To distribute controlled substances, the registrant shall pay fee of Five Hundred Dollars (\$500).

(3) For each renewal registration to dispense, conduct research or instructional activities with, or to conduct chemical analysis with any controlled substance, the individual and institutional registrants shall pay a fee of Five Hundred Dollars (\$500), and pharmacy shall pay a fee of Five Hundred Dollars (\$500).

(c) Any registrant who submits its renewal application thirty days after the expiration date shall be considered a new applicant and shall pay the required initial fee.

(d) Any registrant who has a current CSR and is required to correct or update such CSR due to change of address or any other reasons requiring the re-issuance of another CSR, shall pay a fee

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of Ten Dollars (\$10.00).

(e) Registration and renewal fees shall be paid at the time when application for registration or renewal is submitted for filing. Payment shall be made in the form of a certified or cashiers check, money order, or personal or business check drawn through a locally existing bank. Initial application and renewal application fees are non-refundable.

§ 41612. Persons Exempt from Fee.

(a) Department of Public Health and Social Services shall be exempt from payment of a fee for registration or renewal-
registration any official, employee, or entity of DPHSS who or which is authorized to purchase controlled substances, to obtain such substances from official stocks, to dispense such substances, to conduct research and instructional activities or chemical analysis with such substances or any combination thereof in the course of his or its official duties or employment.

(b) Department of Public Health and Social Services shall exempt from payment of a fee for registration or renewal any official, employee or entity of a law enforcement agency laboratory, including laboratories of the DEA which is authorized to obtain an transfer controlled substances for use as standards in chemical analysis, Guam Police Forensic Laboratory, who or which is authorized under the Attorney General of Guam or the Judiciary of Guam to carry out educational and research programs directly related to enforcement of the laws under his jurisdiction concerning drugs or other substances which are or may be subject to control under this subchapter. The Attorney General of Guam may authorize an official, employee or entity to possess controlled substances, by obtaining such substances from investigations, examination of scenes of crime, recovery of evidence, laboratory examinations, interpretation of findings and presentation of the conclusions reached for intelligence purposes or for use in court, and to conduct research or chemical analysis with such substances or any combination thereof in the course of his or its official duties or employment. Such laboratories shall obtain annually a registration to conduct chemical analysis, Such laboratories shall be exempted from payment of a fee for registration.

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(c) In order to claim exemption from payment of a registration or renewal fee, the registrant shall submit a statement wherein the registrant's supervising officer certifies to the status and address of the registrant and to the authority of the registrant to acquire, possess, or otherwise be permitted to handle controlled substances.

(d) Exemption from payment of a registration or renewal fee does not exempt the registrant from any other requirements or duties prescribed by law.

§ 41613. Exemption of Agents and Employees; Affiliated Practitioners.

(a) The requirement of registration is waived for any agent or employee of a person who is registered to engage in any group of independent activities, if such agent or employee is acting in the usual course of his business or employment.

(b) Practitioner (including an intern, resident or foreign physician) who is an employee of a registered hospital or clinic may dispense controlled substances under that hospital's or clinic's registration provided that:

(1) Such dispensing is done in the usual course of his professional practice as an employee of the institution;

(2) Such employed practitioner is authorized or permitted to do so by the laws of Guam;

(3) The hospital or the institution has verified that the practitioner is so permitted to dispense, administer, or prescribe controlled substances in Guam;

(4) Such practitioner is acting only within the scope of his employment in the hospital or institution;

(5) The hospital or the institution authorizes the practitioner to dispense under the institution's registration and designates a specific internal code number for each practitioner so authorized. The code number shall consist of numbers, letters, or a combination thereof and shall be a suffix to the hospital's or institution's Guam CSR number,

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preceded by a hyphen (ex: H001-01 or C001-A1); and

(6) The hospital or the institution provides a current list of internal codes with corresponding individual practitioners to DPHSS, and is made available at all times to pharmacies registered with the Department and law enforcement agencies upon request for the purpose of verifying the authority of the administering, dispensing, and prescribing practitioner.

§ 41614. Exemption of Certain Military and Other Personnel.

(a) The requirement of registration is waived for any official of the U.S. Army, U.S. Navy, U.S. Marine Corp., U.S. Air Force, U.S. Coast Guard, and U.S. Public Health Service who is authorized to prescribe, dispense, or administer, but not to procure or purchase controlled substances in the course of his official duties. Prescriptions written by persons mentioned in this section may be honored by a pharmacy outside the military installation, if so desired by the pharmacist, provided that:

(1) Pharmacist makes a reasonable effort to determine that the prescription is legitimate, which may include a call back to the prescriber, and/or other good faith efforts to insure the identity; and

(2) The prescription has the branch of service/agency, service identification of practitioner, practitioner's and patient's name and address, date, and instructions.

(b) If any official exempted by this section also engages as a private individual in any activity or group of activities for which registration is required, such official shall obtain a registration for such private activities and pay the required fee.

§ 41615. Exemption of Law Enforcement Officials.

(a) The requirement of registration is waived for the following persons in circumstances described in this section:

(1) Any officer or employee of a Government of Guam agency who is engaged in the enforcement of any Guam law relating to controlled substances and is duly authorized to

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possess controlled substances in the course of his official duties.

(2) Any officer or employee of the United States DEA, any officer or employee of the United States Food and Drug Administration, and any other Federal officer who is lawfully engaged in the enforcement of any Federal law relating to controlled substances, drugs or customs, and is duly authorized to possess controlled substances in the course of his official duties, including personnel in the investigative services of the military forces stationed on Guam.

(b) Any official exempted by this section may, when acting in the course of his official duties, possess a controlled substance and distribute such substance to any other official exempted by this section and acting in the course of his official duties.

(c) Any officer or employee of Guam, or any political subdivision or agency thereof, who is engaged in the enforcement of any Guam law relating to controlled substances and is duly authorized to possess controlled substances in the course of his/her official duties.

(d) Any official exempted by this section may when acting in the course of his official duties, possess a controlled substance and distribute such substance to any other official exempted by this section and acting in the course of his official duties.

(e) Any official exempted by this section may procure a controlled substance in the course of an inspection, in accordance with the Act, or in the course of any criminal investigation involving the person from whom the substance was procured.

(f) In order to enable law enforcement agency laboratories, including laboratories of the DEA, to obtain and transfer controlled substances for use as standards in chemical analysis, such laboratories shall obtain annually a registration to conduct chemical analysis, Such laboratories shall be exempted from payment of a fee for registration. Laboratory personnel, when acting in the scope of their official duties, are deemed to be officials exempted by this section and within the activity described in section 515d of the federal Controlled Substances Act (21

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U.S.C. 885(d)). For purposes of this paragraph, laboratory activities shall not include field or other preliminary chemical tests by officials exempted by this section.

(g) In addition to the activities authorized under a registration to conduct chemical analysis pursuant to Title 21 of the Code of Federal Regulations, Part 1301, § 1301.13(e)(1)(ix), laboratories of the DEA shall be authorized to manufacture or import controlled substances for any lawful purpose, to distribute or export such substances to any person, and to import and export such substances in emergencies without regard to the requirements of Title 21 of the Code of Federal Regulations, Part 1312 if a report concerning the importation is made to the Drug Operations Section of the DEA within 30 days of such importation or exportation.

§ 41616. Exemption of Civil Defense Officials.

(a) The requirement of registration is waived for any official of a civil defense or disaster relief organization who, in the course of his official duties, is authorized to:

(1) Maintain, and distribute for such maintenance, controlled substances held for emergency use; or

(2) Procure controlled substances for the purpose of maintaining supplies for emergency use, provided that all of such procurement is in accordance with applicable local and federal laws governing controlled substances and any emergency preparedness plans of Civil Defense.

(b) The requirement of registration is waived for any official of a civil defense or disaster relief organization within his jurisdiction proclaimed by the Governor or by a concurrent resolution of the Guam Legislature or by the Civil Defense network on Guam, which official, in the course of his official duties, during such emergency or disaster, is authorized to:

(1) Dispense controlled substances; or

(2) Procure or distribute controlled substances, provided

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that all such procurement is on the official form provided by Civil Defense.

(c) Such forms may be used and are valid only during a state of emergency or disaster in which the organization using such forms has civil defense or disaster relief jurisdiction, and which shall state the position of the user and the nature and legal designation of the emergency or disaster. Any person registered under the Act may complete such forms. The organization using civil defense emergency order forms will be deemed to be registered under the Act for purposes of record keeping.

§ 41617. Administrative Review Generally.

DPHSS may inspect or cause to be inspected the establishment of an applicant or registrant, pursuant to the Act. DPHSS shall review the application for registration and other information regarding an applicant in order to determine whether the applicable standards of the Act have been met by the applicant.

§ 41618. Certificate of Registration.

DPHSS shall issue a certificate of registration to an applicant if the issuance of registration or renewal is required under the applicable provisions of the Act. In the event that the issuance of registration or renewal is not appropriate, DPHSS shall deny or refuse the application. Before denying or refusing any application, DPHSS shall issue an order to show cause pursuant to these rules. If requested by the applicant, DPHSS shall hold a hearing on the applicant pursuant to these rules and the Administrative Adjudication Law.

2019 NOTE: Subsection designation removed pursuant to authority granted by 1 GCA § 1606.

§ 41619. Suspension or Revocation of Registration.

(a) DPHSS may suspend any registration pursuant to the Act for any reasonable and justifiable period of time as determined by DPHSS.

(b) DPHSS may revoke any registration pursuant to the Act.

(c) Before revoking or suspending any registration, DPHSS

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shall issue an order to show cause pursuant to the Act and, if requested by the registrant, shall hold a hearing pursuant to the Act and the Administrative Adjudication Law. Notwithstanding the requirements of this section, however, DPHSS may suspend any registration pending a final order pursuant to these rules.

(d) Upon service of the order of DPHSS suspending or revoking registration, the registrant shall immediately surrender his certificate of registration to DPHSS. In addition, the registrant, as instructed by DPHSS, shall deliver all controlled substances in his possession to DPHSS for destruction.

(e) In the event that revocation or suspension is limited to a particular controlled substance or substances, the registrant shall be given a new certificate of registration for all substances not affected by such revocation or suspension. No fees shall be required to be paid for the new certificate. The registrant shall surrender the old certificate of registration to DPHSS. In addition, the registrant shall, as instructed by DPHSS, deliver to DPHSS, or to other authorized agents, all of the particular controlled substance or substances affected by the revocation or suspension that are in his possession for destruction.

§ 41620. Suspension of Registration Pending Final Order.

(a) DPHSS may suspend any registration simultaneously with or at any time subsequent to the service upon the registrant of an order to show cause why such registration should not be revoked or suspended, in any case where DPHSS finds that there is an imminent danger to the public health or safety. If DPHSS so suspends, DPHSS shall serve with the other to show cause pursuant to the Act an order of immediate suspension which shall contain the statement of DPHSS' findings regarding the danger to the public health or safety.

(b) Upon service of the order of immediate suspension, the registrant shall promptly surrender his certificate of registration to DPHSS. Also, upon service of the order of DPHSS immediately suspending registration, the registrant shall, as instructed by DPHSS, deliver all affected controlled substances in his possession to DPHSS or his authorized agents or place all such

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substances under seal as prescribed by the Act.

(c) All suspensions shall continue in effect until the conclusion of all proceedings in the revocation or suspension, including any judicial review thereof, unless sooner withdrawn by DPHSS or dissolved by a court of competent jurisdiction. Any registrant whose registration is suspended under this section may request a hearing on the revocation or suspension of his registration at a time earlier than specified in the order to show cause, which request may be granted by DPHSS, who shall fix the date for such hearing as early as reasonably possible.

§ 41621. Extension of Registration Pending Final Order.

In the event that an applicant for renewal-registration (who is doing business under a registration previously granted and not revoked or suspended) has applied for renewal-registration at least 30 calendar days before the date on which the exiting registration is due to expire, and DPHSS has issued no order on the application on the date on which the existing registration is due to expire, the existing registration of the applicant shall automatically be renewed and continued in effect until the date on which DPHSS, if and when, issues the order.

§ 41622. Order to show cause.

(a) If, upon examination of the application for registration from an applicant and other information regarding that applicant, DPHSS is unable to make the determination by the applicable provisions of the Act to register the applicant, or decides to deny the application, DPHSS shall serve upon the applicant an order to show cause why the registration should not be denied.

(b) If, upon information regarding any registrant, DPHSS determines that the registration of such registrant is subject to suspension or revocation pursuant to the Act, DPHSS shall serve upon the registrant an order to show cause why the registration should not be revoked or suspended.

(c) The order to show cause shall call upon the registrant to appear before the DPHSS at a time and place stated in the order, which shall not be less than thirty (30) calendar days after the date

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of receipt of the order. This order to show cause shall also contain the statement of the legal basis for such hearing and for the denial, revocation, or suspension of registration and a summary of the matters of fact and law asserted.

(d) Upon receipt of an order to show cause, the applicant or registrant must, if he desires a hearing, file a request for hearing pursuant to the Administrative Adjudication Law. If a hearing is requested, DPHSS shall hold a hearing at the time and place stated in the order, pursuant to these rules regarding hearings.

(e) When authorized by these rules and the Act, any agent of DPHSS may serve the order to show cause.

(f) If the registrant or applicant does not request a hearing within the time limit as stated in the Administrative Adjudication Law, then DPHSS may proceed as provided by law.

§ 41623. Hearings Generally.

(a) In a case where DPHSS shall hold a hearing on any registration or application, the procedures for such hearings shall be governed by the Administrative Adjudication Law.

(b) Any hearing under this part shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under the Act or under any other law of Guam.

§ 41624. Response to Order to Show Cause.

(a) After the filing of and service upon the registrant of an order to show cause, the registrant has fifteen (15) calendar days after service of the order in which to reply. The registrant may:

(1) Request a hearing.

(2) Object to the order upon the ground that it does not state the act or omissions upon which DPHSS may proceed to take action as stated in the order.

(3) Object to the form of the accusation on the grounds that it is so indefinite or uncertain that he cannot identify the allegations for preparative defense.

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(4) Admit to the accusation in whole or in part.

(5) Prepare and submit new matter by way of his defense.

§ 41625. Request for Hearing.

A simple request for a hearing shall be deemed a specific denial of all parts of the accusation contained within the order to show cause, which are not expressly admitted. Said notice of defense shall be in writing signed by or on behalf of the applicant or registrant and shall state his mailing address and physical address, if different.

§ 41626. Filing of Response.

The registrant or applicant shall file his response to the order not more than fifteen (15) calendar days after the service of the order upon him.

§ 41627. Failure to File a Notice.

A failure to file a notice of defense or any notice indicating that the applicant or registrant desires a hearing and will appear upon the date stated in the order to show cause shall constitute a waiver of the applicant or registrant's right to a hearing, but DPHSS at its discretion may grant a hearing.

§ 41628. Notice.

DPHSS shall include with the order to show cause served upon the applicant or registrant a notice of defense entitled as such which may be in any form satisfactory to DPHSS. Also, DPHSS shall include a notice stating that the applicant or registrant waives a hearing unless a reply is received requesting the same or stating defense or defenses to the order within the time limit as stated below of these rules. This notice shall be in substantially the form:

“Unless notice, signed by or on behalf of the applicant or registrant, is delivered or mailed to the Director within fifteen (15) calendar days after receipt of the order to show cause or, at least, not less than ten (10) calendar days prior to the hearing date as stated in the order to show cause, the Director of the Department of

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Public Health and Social Services may proceed upon the order without a hearing. The notice of the hearing may be delivered or mailed by using the enclosed form, or any other notice of similar intent, to the Director of the Department of Public Health and Social Services, Government of Guam, Hagatna, Guam, or by personal delivery to the office of the Director, Department of Public Health and Social Services, Mangilao.”

§ 41629. Serving of Order to Show Cause.

Service of the order to show cause may be made by any person so delegated by DPHSS by personally serving the applicant or registrant or by sending the order to show cause by registered mail to the last known address of the applicant or registrant as contained within his application or registration files, or by leaving a copy of the order and accompanying papers at his usual place of residence or business with some person of suitable age and discretion residing or working therein.

§ 41630. Serving of Other Materials.

All other papers required to be served upon the applicant or registrant may be served in the manner of the order.

§ 41631. Amended or Supplemental Orders.

At any time before the matter is submitted for a decision, DPHSS may file or permit the filing of amended or supplemental orders. All parties shall be notified if this occurs. If the amended or supplemental orders present new charges, DPHSS shall afford the applicant or registrant a reasonable opportunity to prepare his defense thereto. Unless DPHSS orders in the individual case, the applicant or registrant shall not be entitled to further pleading. New charges be deemed controverted and any objections to the amended or supplemental order may be made orally and shall be noted on the record.

§ 41632. Time and Place of Hearing.

The time and place of the hearing shall be as stated on the order to show cause.

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§ 41633. Order to Show Cause Form.

The order to show cause shall be in substantially the following form, but may include any other information and the charges:

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**GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL
SERVICES**

IN RE THE APPLICATION OF)
)
(Applicant) under the Uniform) ORDER TO SHOW
Controlled Substances Act) CAUSE
)
_____)

You, (name of applicant or registrant) are hereby commanded to appear before the Director of the Department of Public Health and Social Services or his delegate on _____ day of _____, ____ and show cause as to why your (application or registration) under the Uniform Controlled Substances Act should not be (denied, suspended, or revoked) for the following reasons:

1. (here follows a list of the specifications and reasons for such denial, suspension or revocation).

You may submit to the Director at the following address:

Director of the Department of Public Health
and Social Services
Government of Guam
123 Chalan Kareta
Mangilao, Guam 9691332-6304

Or

Office of the Director
Department of the Public Health and Social Services
Mangilao, Guam
or their succeeding addresses

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A notice that you intend to appear before the Director or his delegate at the hearing scheduled on the above date. You may also submit to the Director any objections or defenses which you might have within 15 days of the time this notice was served upon you or at least, then (10) days prior to the date of the hearing. If you fail to submit any notice or objections or defenses, then it will be assumed that you have waived your right to a hearing and the Director or his delegate may proceed to a decision in your case at or after the date and time for the hearing set forth above.

Date this (month) and (year).

Director of the Department Public
Health and Social Services
By (delegate)

§ 41634. Subpoena.

Before the hearing has commenced, DPHSS shall issue subpoena and subpoena duces tecum at the request of any party in accordance with the provisions of Section 1985 of the Code of Civil Procedure. After the hearing has commenced, the Director or hearing officer sitting alone may issue such subpoena and subpoena duces tecum as he deems necessary.

§ 41635. Depositions.

Upon the verified petition of any party, DPHSS may order that the testimony of any material witness residing within or outside the island of Guam be taken by deposition in the manner prescribed by law for depositions in civil actions. The petition shall set forth the nature of the pending proceedings, the name and address of the witness whose testimony is desired, a showing of the necessity of his testimony, a showing that the witness would be unable or cannot be compelled to be present; and shall request an order requiring the witness to appear and testify before an officer named in the petition for that purpose. Where the witness resides outside of Guam and where the agency has ordered the taking of his testimony by deposition, the agency shall obtain an order of court to that effect by filing a petition therefor in the

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District Court of Guam.

§ 41636. Power to Administer Oaths and Affirmations by DPHSS.

In any proceedings under the order to show cause or any other hearing provided for by the Act, the Director of the Department of Public Health and Social Services, or any of his duly authorized representatives, have the power to administer oaths and affirmations and to certify to official acts.

§ 41637. Hearing Officer.

A hearing officer shall preside over every hearing in a contested case. Said person shall be an attorney and may be an attorney in the full time service of the government. DPHSS may request the Attorney General of Guam to assign a member of his staff as hearing officer for the case, provided that the attorney has had no prior connection with the matters involved in the hearing. The case may be heard by the agency with a hearing officer or by a hearing officer alone, in the discretion of DPHSS. The hearing officer shall preside in any event, rule upon the admission and exclusion of evidence and advise the agency on matters of law. Where the agency is holding the hearing, it shall exercise all of the powers relating to the conduct of a hearing but may delegate any or all of them to the hearing officer. Where the hearing officer alone hears the case, he shall exercise all powers relating to the conduct of the hearing.

§ 41638. Disqualification.

A hearing officer or member of DPHSS shall voluntarily disqualify himself and withdraw from any case in which he cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of any hearing officer or member of the department by filing an affidavit prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing may not be accorded. Where the request concerns an agency member, the Director of DPHSS shall determine the issue. Should the disqualification prevent the existence of a quorum qualified to act in a particular case, the DPHSS member shall not withdraw

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voluntarily nor be subject to disqualification.

§ 41639. Granting of Continuance.

DPHSS may grant continuances at any stage of the proceeding, the need of which shall be determined by the hearing officer.

§ 41640. Evidences and Witnesses.

Oral evidence shall be taken only upon oath or affirmation. Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though the matter was not covered in the direct examination, to impeach any witness regardless of which party first called him to testify and to rebut the evidence against him. If the respondent does not testify in his own behalf, he may be called and examined as if under cross-examination.

§ 41641. Admission of Relevant Evidence.

This hearing need not be conducted according to the rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is evidence which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used to supplement or explain direct evidence but shall not be sufficient by and of itself to support a finding, unless it would be effective to the same extent as recognized in civil actions. Irrelevant and unduly repetitive evidence may be excluded.

§ 41642. Matter not covered in Administrative Adjudication Law and Uniform Controlled Substances Act.

Any matter not covered by these rules and regulations, the Administrative Adjudication Law or by the Uniform Controlled Substances Act, shall be decided by the agency or hearing officer before whom the matter was presented.

§ 41643. Security Requirements Generally

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(a) All applicants and registrants shall provide effective controls and procedures to deter and guard against theft and diversion of controlled substances. Whether a registrant has provided effective controls against diversion shall be determined by DPHSS using the requirements set forth in these rules and the Act.

(b) When physical security controls become inadequate as a result of a controlled substance being transferred to a different schedule, or as a result of a non-controlled substance being listed on any schedule, or as a result of a significant increase in the quantity of controlled substances in the possession of the registrant during normal business operations, the physical security controls shall be expanded and extended accordingly. A registrant may adjust physical security controls within the requirements set forth in these rules when the need for such controls decreases as a result of a controlled substance being transferred to a different schedule, or a result of a controlled substance being removed from control, or as a result of a significant decrease in the quantity of controlled substances in the possession of the registrant during normal business operations.

§ 41644. Physical Security for all Registrants.

Persons registered under this Act shall maintain security in conformance with the security requirements of Federal law and accordance to other requirements stated in these rules.

§ 41645. Security for Pharmacies.

All pharmacies dispensing controlled substances in Schedules II through *N* shall be equipped with an alarm within its premises which shall transmit a signal directly to a central station protection company or the Guam Police Department, or a 24-hour control station operated by the registrant. An exemption to this section may be granted by the DPHSS to a pharmacy if the establishment can provide reasonable justification, in writing, for not installing such system.

§ 41646. Increase in Security Requirements.

(a) In evaluating the overall security system of a registrant,

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DPHSS may consider, but is not limited to, any of the following factors as DPHSS may deem relevant to the need for stricter compliance with security requirements:

- (1) The type of activity conducted (e.g., processing of bulk chemicals, preparing dosage forms, packaging, labeling, cooperative buying, etc.);
- (2) The type and form of controlled substances handled (e.g., bulk liquids or dosage units, schedule, usable powders or non-usable powders);
- (3) The quantity of controlled substances handled;
- (4) The location of the premises and the relationship such location bears on security needs;
- (5) The type of building construction comprising the facility and the general characteristics of the building or buildings;
- (6) The type of vault, safe, and secure enclosures or other storage system used;
- (7) The type of closures on vaults, safes, and secure enclosures;
- (8) The adequacy of key control systems;
- (9) The adequacy of electric detection and alarm systems and standby power sources;
- (10) The extent of unsupervised public access to the facility, including the presence and characteristics of perimeter fencing, if any;
- (11) The adequacy of supervision over employees having access to manufacturing and storage areas;
- (12) The procedures for handling business guests, visitors, maintenance personnel, and non-employee service personnel;
- (13) The availability of local police protection or of the registrant's or applicant's security personnel; and

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(14) The adequacy of the registrant's or applicant's system for monitoring the receipt, manufacture, distribution, and disposition of controlled substances in its operations.

§ 41647. Inspection: How often, Authority, and Consent.

(a) DPHSS may make administrative inspections of registered establishments or activity based upon administrative probable cause. Such warrant shall be issued upon the affidavit of duly authorized persons and sworn to before a judge of the Superior Court of Guam, pursuant to the Act.

(b) An inspection, through the use of administrative warrant, shall be carried out by a DPHSS employee duly authorized by the Director of DPHSS. Any such inspector, upon stating his purpose and presenting to the owner, operator or agent in charge of the premises to be inspected his appropriate credentials, shall have the right to enter such premises and conduct inspections at reasonable times and in a reasonable manner.

(c) An administrative inspection warrant shall not be required if informed consent is obtained from the owner, operator, or agent in charge of the controlled premises to be inspected. Informed consent shall consist of a written statement signed by the owner, operator, or agent in charge of the premises to be inspected. The written consent shall contain the following information:

(1) That he (the owner, operator, or agent in charge of the premise) has been informed of his constitutional right not to have an administrative inspection made without an administrative inspection warrant;

(2) That he has the right to refuse to consent to such an inspection;

(3) That the consent given by him is voluntary and without threats of any kind; and

(4) That he may withdraw his consent anytime during the inspection.

(d) The written consent shall be produced in duplicate with the original retained by the inspector, and the duplicate to be given

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to the person inspected.

§ 41648. Prescription Information.

All prescriptions for controlled substances shall provide the information mandated by Federal law and any other requirements stated elsewhere in these rules and the Act.

§ 41649. Printing and Signing of Prescription.

Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil, typewriter, or printed on a computer printer and shall be manually signed by the practitioner and dated as of, and signed on, the day when issued. A computer-generated prescription that is printed out or faxed by the practitioner must be manually signed.

SOURCE: Submitted to the Legislature on Oct. 23, 2017, effective Jan. 21, 2018, pursuant Guam's Administrative Adjudication Law (5 GCA, Ch. 9, Art. 3). Amended by P.L. 36-031:1 (June 11, 2021).

§ 41649.1. Electronic Transmission of Prescriptions of Controlled Substances.

(a) Except as otherwise prohibited by law, prescriptions of controlled substances may be transmitted by electronic means from the prescriber to the pharmacy.

(b) Electronic transmission shall be as defined in 10 GCA § 12605(n) as applicable to controlled substances defined in 9 GCA § 67.308.1.

(c) An electronically transmitted prescription of controlled substances that meets the requirements of this regulation shall be deemed to be a prescription within the meaning of 26 GARR § 41804(x) as applicable to controlled substances defined in 9 GCA § 67.308.1.

(d) An electronically transmitted prescription order of controlled substances shall include the name and address of the prescriber, a telephone number for oral confirmation, the date of transmission and the identity of the recipient, as well as any other information required by federal or local law or regulations. The prescriber's address, license classification, and federal registry

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number may be omitted if they are on file and readily retrievable in the receiving pharmacy.

(e) An “interim storage device” means an electronic file into which a prescription is entered for later retrieval by an authorized individual.

(f) Any interim storage device used for electronic signing and transmitting of prescription orders of controlled substances shall meet all standards set forth by the U.S. Drug Enforcement Administration (DEA).

(g) Any interim storage device shall, in addition to the above information, record and maintain the date of entry and/or receipt of the prescription order, the date of transmission from the interim storage device, and the identity of the recipient of such transmission. The interim storage device shall be maintained so as to ensure against unauthorized access and use of prescription information, including dispensing information.

(h) A pharmacy shall receive electronic prescription transmission for controlled substances in accordance with regulations promulgated by the DEA.

(i) A pharmacy receiving an electronic image transmission prescription shall either receive the prescription in hard copy form or have the capacity to retrieve a hard copy facsimile of the prescription from the pharmacy’s computer memory. Any hard copy of a prescription shall be maintained on paper of permanent quality.

(j) An electronically transmitted prescription shall be transmitted only to the pharmacy of the patient’s choice. This requirement shall not apply to orders for medications to be administered in acute care facilities.

(k) Any person who transmits, maintains, or receives any prescription or prescription refill orally, in writing, or electronically, shall ensure the security, integrity, authenticity, and confidentiality of the prescription and any information contained therein.

SOURCE: Submitted to the Legislature on Oct. 23, 2017, effective Jan.

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21, 2018, pursuant Guam’s Administrative Adjudication Law (5 GCA, Ch. 9, Art. 3). Amended by P.L. 36-031:2 (June 11, 2021).

§ 41650. Identification.

Upon receipt of a prescription for controlled substance, a pharmacist must verify the identification of that person to whom the prescription is written for by examining valid and current picture identification. Valid and current picture identification shall be an official:

- (a) Guam Identification Card;
- (b) Passport;
- (c) Guam Driver's license;
- (d) Military identification card; or
- (e) Any other legal picture identification the Director deems acceptable.

§ 41651. Submitting of Prescription by Third Party.

In the event a prescription for controlled substance is brought to a pharmacy by an individual other than the person the prescription is written for, the pharmacist shall verify the identification of that individual before the order is filled, and the pharmacist shall print on the back of that prescription:

- (a) The individual's name; and
- (b) The individual's identification number.

§ 41652. Acquisition of Signature.

Prior to the actual dispensing of a controlled substance, a pharmacist must obtain a signature of the individual submitting a prescription for controlled substances listed in Schedules II, III, and IV. The signature shall be written on the back of the prescription.

§ 41653. Effective Date.

These rules shall be effective after ninety (90) calendar days have elapsed from the dated of filing with the Legislative Secretary. At that time, all other rules and regulations or parts of

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other rules and regulations that conflict with these rules are repealed.

§ 41654. Separability.

If any provision or application of any provision of these rules are held invalid, that invalidity shall not affect the other provisions or applications of these rules.

ARTICLE 17
TEMPORARY WORKFORCE HOUSING REGULATIONS

SOURCE: Added by PL 33-021:2 (May 7, 2015).

- § 41701. Short Title.
- § 41702. Authority.
- § 41703. Purpose.
- § 41704. Definitions.
- § 41705. Requirements to Obtain and Apply for a Workers' Dormitory Permit.
- § 41706. Requirements to Obtain and Maintain a Sanitary Permit.
- § 41707. Maximum Occupancy.
- § 41708. Location and Premises.
- § 41709. Shelter.
- § 41710. Water Supply.
- § 41711. Toilet Facilities.
- § 41712. Sewage Disposal.
- § 41713. Laundry, Hand-Washing, Bathing and Cleaning Facilities.
- § 41714. Lighting.
- § 41715. Refuse Disposal.
- § 41716. Construction and Operation of Kitchen, Dining Halls, and Feeding Facilities.
- § 41717. Insect and Rodent Control.
- § 41718. Safety and First Aid.
- § 41719. Animals and Poultry.
- § 41720. Reporting of Communicable Disease.
- § 41721. Compliance.

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- § 41722. Inspections.
- § 41723. Fees.
- § 41724. Posting of Documents.
- § 41725. Miscellaneous.
- § 41726. Exemptions.

§ 41701. Short Title.

These rules and regulations may also be known and cited as the “Temporary Workforce Housing Regulations.”

§ 41702. Authority.

Title 10, Guam Code Annotated, Chapter 26A, § 26A108 authorizes the Director to establish rules and regulations to conduct inspections of temporary workforce housing and carry out other provisions of Chapter 26.

§ 41703. Purpose.

The purpose of these rules and regulations is to protect and promote the health and safety of occupants in a temporary workforce housing and those who may reside in the immediate vicinity of such premises.

§ 41704. Definitions.

(a) *Change of temporary workforce housing status* shall mean any significant variances to temporary workforce housing in relation to the most recent prior inspection.

(b) *Division of Environmental Health* or *DEH* shall mean the Division of the DPHSS established through Title 10 GCA, Chapter 20, § 20103.

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

(d) *Dining Hall* shall mean a cafeteria-type eating place with food furnished by and prepared under the direction of the operator for consumption, with or without charge.

(e) *Director* shall mean the Director of Public Health and Social Services or his/her designated representative.

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(f) *Failed inspection* (also known as *unsatisfactory inspection*) shall mean an inspection resulting in a demerit score of 11 or more.

(g) *Habitable room* shall mean a room or space in a structure with a minimum seven foot ceiling used for living, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

(h) *Occupant* shall mean any person who uses a temporary workforce housing for lodging purposes.

(i) *Operator* or *Temporary Workforce Housing Operator* shall mean a person, or business entity, who owns, leases or manages, or proposes to own, lease or manage, a temporary workforce housing, and includes any person designated in the application for a Sanitary Permit to operate a temporary workforce housing or having an authority to administer the day-to-day operations of the facility, and to respond to complaints, orders, and other matters as set forth in these rules and regulations.

(j) *Person* shall mean any owner, firm, corporation or governmental agency operating a dormitory.

(k) *Sanitary Permit* shall mean the official document issued by the DPHSS authorizing the establishment to operate its business.

(l) *Satisfactory* shall mean achieving a letter grade “A” at the conclusion of a compliance inspection of temporary workforce housing.

(m) *Superficial floor area* shall mean the net area within the enclosing walls of the room in which the ceiling height is not less than seven feet (7’), excluding built-in equipment such as wardrobes, cabinets, kitchen units, bathrooms, toilet rooms, or fixtures.

(n) *Temporary worker* shall mean:

(1) A worker from a point of origin outside of Guam, who is sponsored by an employer, or has come to Guam on

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his own to seek employment for a specific work project; and

(2) is on Guam for the purpose of being employed for a specific project expected to be completed in a specific period of time; and

(3) will exit Guam upon completion of their work contract on this specific project.

(o) *Temporary workforce housing*, also known as *dormitory*, shall mean any enclosures of living spaces, reasonably contiguous, together with the land appertaining thereto, established, operated or used as living quarters and, at a minimum, fifty-one percent (51%) of the residents are temporary workers, including, but not limited to, facilities known by varying nomenclatures or designations as dormitories, hotels, motels, travel lodges, or tourist homes.

(p) *Variance*, as used in the reference to *Change of Temporary Workforce Housing* of these rules and regulations, shall include changes to the number of occupants, structure, ownership, and any other changes or deficiencies that impact the operation of the facility, safety or welfare of the occupants, or otherwise contradicts the purpose of these rules and regulations and other Department regulations that govern temporary workforce housing.

(q) *Workers' dormitory permit* shall mean the official document issued by the Department of Public Health and Social Services authorizing a person or business entity to operate a temporary workers' dormitory.

§ 41705. Requirements to Obtain and Apply for a Workers' Dormitory Permit.

(a) No person shall directly or indirectly in any manner conduct, control, manage, maintain, or operate a dormitory unless a valid Workers' Dormitory Permit issued by the Department to operate such a facility has been obtained and properly posted.

(b) An application for a Workers' Dormitory Permit to operate any new or existing dormitory shall be made in writing on a form prescribed by the Director, signed by the applicant or

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his/her authorized agent, and shall contain such information that will determine that the facility and its operation are in compliance with the applicable provisions of these rules and regulations.

(c) Before the application for a Workers' Dormitory Permit shall be approved, the Director shall verify that the establishment meets the minimum requirements and standards of these rules and regulations. This shall include the right of entry, inspection, and investigation.

(d) Before a pre-operation inspection is conducted, plans and specifications shall be submitted to the Director in accordance with the requirements established in these regulations which shall include the following:

(1) the location of the proposed temporary workforce housing (vicinity map) on a sheet of paper measuring 8½ inches by 11 inches, including the street names, building numbers, and easily identifiable landmarks; and

(2) a floor plan on a sheet of paper measuring, at a minimum, 8½ inches by 11 inches, showing:

(A) the dimensions of the proposed establishment;

(B) the location, number and type of plumbing fixtures, including all water supply fixtures and toilet fixtures, and other fixtures and equipment; and

(C) if a newly-constructed building, the general layout of water supply lines, wastewater lines or methods of wastewater disposal.

(e) If pre-operation inspection indicates that the establishment does not meet the minimum requirements, the Workers' Dormitory Permit shall not be issued until such time as the requirements are met.

(f) All Workers' Dormitory Permits shall be issued for a maximum period of no more than twelve (12) months and renewed on June 30 of each year. An application for a new or the renewal of a Workers' Dormitory Permit shall be filed at least fifteen (15) days before a new establishment intends to open, or

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before the current Workers' Dormitory Permit expires.

(g) Any person or establishment denied a Workers' Dormitory Permit, or whose Workers' Dormitory Permit has been suspended or revoked, may appeal the Director's action in accordance with the provisions of the Administrative Adjudication Law.

§ 41706. Requirements to Obtain and Maintain a Sanitary Permit.

(a) If upon inspection the Director is satisfied that the establishment meets the minimum requirements of these rules and regulations as the Director may prescribe and a Workers' Dormitory Permit is issued, a non-transferable Sanitary Permit designating the type and location by physical address and lot number of establishment shall also be issued.

(b) Failure to comply with any of the requirements listed below shall be a reason to deny the issuance of a Sanitary Permit:

- (1) locking of doors during the presence of the Department when conducting compliance inspections;
- (2) unapproved or inadequate water supply or plumbing;
- (3) denying access to inspectors;
- (4) receiving demerit points of more than 40; or
- (5) repeating a violation assigned 2, 4 or 6 demerit points.

§ 41707. Maximum Occupancy.

The maximum capacity for Temporary Workforce Housing shall be based on:

- (a) the square footage of the housing facility; and
- (b) the number of bathing, hand washing, laundry, and toilet facilities.

§ 41708. Location and Premises.

(a) Facility sites used for a dormitory shall be adequately drained. They shall not be subject for periodic flooding, nor

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located within two hundred (200) feet of swamps, pools, sink-holes or other surface collections of water, unless such quiescent water surfaces can be subjected to mosquito control measures. The facility shall be located so the drainage from and through the facility will not endanger any domestic or public water supply.

(b) Grounds within the facility site shall be maintained so as to be free from debris, noxious plants, uncontrolled weeds, or brush.

(c) Facility sites shall be graded, ditched and rendered free from depressions in which water may become a nuisance.

(d) Facility sites shall be adequate in size to prevent overcrowding of necessary structures. The facility in which food is prepared and served and where sleeping quarters are located must be at least five hundred (500) feet from any area in which livestock is kept.

(e) Grounds within the facility shall be maintained in a clean and sanitary condition free from rubbish, debris, waste paper, garbage, or other refuse.

§ 41709. Shelter.

(a) Every shelter in the dormitory shall be constructed in a manner which will provide protection against the elements.

(b) Each room used for sleeping purposes shall contain at least fifty (50) square feet of superficial floor area for each occupant. At least a seven (7)-foot ceiling shall be provided.

(c) Sleeping arrangements (beds, metal frame cots, or bunks complete with springs, mattresses, and mattress covers) in good repair shall be provided for facility occupants. Sleeping arrangements shall be cleaned and maintained in a sanitary condition. No bed shall be used by more than two (2) occupants.

(d) Beds, cots, or bunks, and suitable storage facilities such as wall lockers for clothing and personal articles shall be provided in every room used for sleeping purposes. Such beds or similar facilities shall be spaced not closer than thirty-six (36) inches both laterally and end to end, and shall be elevated at least twelve (12)

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inches from the floor. If double-deck bunks are used, they shall be spaced not less than forty-eight (48) inches laterally and end to end. The minimum clear space between the lower and upper bunk shall not be less than twenty-seven (27) inches. Triple-deck bunks are prohibited.

(e) The floors of each shelter shall be constructed of wood, concrete or other materials approved by the Department. Wooden floors shall be smooth and of tight construction. The floor shall be of such construction as to be easily cleanable, and shall be kept clean and in good repair.

(f) All wooden floors shall be elevated not less than one (1) foot above the ground level at all points to prevent dampness and to permit free circulation of air beneath.

(g) All living quarters shall be provided with windows in which the total area shall not be less than one-tenth of the total floor area. At least one-half of each window shall be so constructed that it can be opened for purposes of ventilation.

(h) All exterior openings shall be effectively screened with sixteen (16)-mesh to the inch material. All screen doors shall be equipped with self-closing devices.

(i) In a room where occupants cook, live, and sleep a minimum of one hundred (100) square feet of superficial floor area per person shall be provided. Adequate facilities and proper methods for the preparation, refrigeration, and storage of food shall be provided.

(j) In a dormitory where cooking facilities are used in common, stoves (in a ratio of one (1) stove to ten (10) persons) shall be provided in an enclosed and screened shelter, and shall be equipped with an electric exhaust fan connected to the outside air. Adequate facilities and proper methods for the preparation, refrigeration, and storage of food shall be provided.

(k) All communal kitchens shall have a floor area of at least one hundred (100) square feet (10 ft. x10 ft. rooms).

(l) All heating, cooking, and water heating equipment shall be installed in accordance with applicable laws of Guam and rules

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and regulations governing such installations.

(m) All rooms shall have sufficient ventilation to keep them free of excessive heat, carbon dioxide, steam, condensation, vapors, obnoxious odors, smoke, and fumes. A ventilation system shall be installed and operated according to applicable laws of Guam, and when vented to the outside, shall not create an unsightly, harmful, or unlawful discharge.

§ 41710. Water Supply.

(a) An adequate supply of potable water from an approved source and under pressure shall be provided at all times in each dormitory for drinking, cooking, bathing and laundry purposes.

(b) Drinking water dispensed by means of drinking fountains, cups, and water coolers shall conform to the following:

(1) Drinking fountains shall be kept clean and in good repair and conform to the latest editions of the International Plumbing Code and the International Building Code adopted on Guam.

(2) Single service cups shall be used for water dispensed from bottled water or water coolers. Single service cups shall be stored, handled, and dispensed in a sanitary manner.

(3) Water coolers used for dispensing drinking water shall be provided with a cover, and shall be kept clean. Dipping the cups into the water cooler is prohibited. Water coolers shall be adequately protected to prevent any contamination.

(4) Other cups, such as individually owned cups, shall be used by only one owner.

(c) All water outlets shall be protected from backflow either by air gap or backflow prevention devices. There shall be no existing or potential cross-connection or back-siphonage problems anywhere in the building or its premises.

(d) Any water outlets with a threaded, serrated, or quick coupling nozzle shall be provided with a vacuum breaker.

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§ 41711. Toilet Facilities.

(a) Toilet facilities shall be of adequate capacity based on latest applicable codes.

(b) Each toilet shall be located so as to be accessible without any individual passing through any sleeping room. Toilet rooms shall have windows not less than six (6) square feet in area opening directly to the outside area or otherwise be satisfactorily ventilated. All outside openings shall be screened with sixteen (16)-mesh to the inch material. No toilet fixtures shall be located in a room used for other than toilet purposes.

(c) A toilet room shall be located not more than two hundred (200) feet of travel distance from the door of each sleeping room.

(d) Where the toilet rooms are shared, such as in barracks type facilities, separate toilet rooms shall be provided for each sex. These rooms shall be distinctly marked for “Men” and “Women” by signs printed in English and in the language of the persons occupying the camp, or marked with easily understood pictures or symbols. If the facilities for each sex are in the same building, they shall be separated by solid walls or partitions extending from the floor to the roof or ceiling.

(e) Where toilets facilities are shared, the number of water closets provided for each sex shall be based on the maximum number of persons of that sex which camp is designed to house at any one time, in the ratio of one (1) such unit to each ten (10) persons, with a minimum of two (2) units for any shared facility.

(f) Each toilet facility shall be completely enclosed and shall have a tight fitting, self-closing door. Toilet partitions shall begin not more than one (1) foot from the floor and extend to a height of not less than five (5) feet.

(g) Urinals shall be provided on the basis of one (1) unit to each ten (10) men. The floor, from the wall and for a distance of not less than fifteen (15) inches measured from the outward edge of the urinals, shall be constructed of materials impervious to moisture. Where water under pressure is available, urinals shall be provided with adequate water flush.

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(h) Each toilet room shall be lighted naturally or artificially by a safe lighting at all hours of the day and night.

(i) Floors shall be of impervious material, and floor drains shall be provided.

(j) Walls, ceilings, and floors shall be impervious to moisture and have smooth surfaces.

(k) Walls and ceilings shall be light colored as determined by the Department to aid in the distribution of light to facilitate thorough cleaning, and the observation of general sanitary procedures.

(l) Each toilet facility shall be completely enclosed and shall have a tight-fitting, self-closing door.

(m) An adequate supply of toilet paper in a dispenser shall be provided in each water closet.

(n) All toilet rooms shall be provided with an approved trash container.

(o) Toilet rooms shall be kept in a sanitary condition. They shall be cleaned at least daily.

§ 41712. Sewage Disposal.

An approved sewage disposal system which is located, constructed, and operated in conformance with the standards established for such systems by the Guam Environmental Protection Agency and the Guam Waterworks Authority.

§ 41713. Laundry, Hand-Washing, Bathing and Cleaning Facilities.

(a) Laundry, hand-washing, bathing, and cleaning facilities shall be provided in the following ratio:

(1) one (1) lavatory to each ten (10) persons in shared facilities;

(2) one (1) shower head to each eight (8) persons;

(3) a laundry tray or tub for every thirty (30) persons if a centralized laundry facility is not provided; and

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(4) a utility sink (also known as mop sink) in each building used; the number and placement of utility sinks shall be determined by DPHSS.

(b) Floors shall be of a smooth finish but not of slippery materials; they shall be impervious to moisture. Floor drains shall be provided in all shower baths, shower rooms, or laundry rooms to remove wastewater and facilitate cleaning. All junctions of the curbing and the floor shall be coved.

(c) The walls and partitions of shower rooms shall be smooth and impervious to the height of the splash.

(d) An adequate supply of hot and cold running water shall be provided for bathing and laundry purposes.

§ 41714. Lighting.

(a) Each habitable room in a dormitory shall be provided with at least one (1) ceiling-type light fixture and at least one (1) separate floor - or wall-type convenience outlet.

(b) Laundry and toilet rooms and rooms where people congregate shall contain at least one (1) ceiling - or wall-type fixture.

(c) Light levels in toilet and storage rooms shall be at least 20 foot-candles at thirty (30) inches from the floor.

(d) Other rooms, including kitchens and living quarters, shall be at least thirty (30) foot-candles at thirty (30) inches from the floor.

§ 41715. Refuse Disposal.

(a) All refuse shall be disposed of as often as necessary and in such a manner as to prevent a public health nuisance.

(b) Fly-tight, rodent-tight, impervious and easily cleanable containers shall be provided for the storage of garbage and rubbish.

(c) Refuse containers shall be elevated to at least twelve (12) inches from the ground surface and the area around the containers shall be kept clean so as not serve as harborage for vermin. Bulk

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refuse containers shall be located on impervious asphalt or concrete. At least one (1) such refuse container shall be provided for each shelter and shall be located within one hundred (100) feet of each shelter on a metal or concrete surface.

(d) Refuse containers shall be emptied when full, and no less than once a week.

§ 41716. Construction and Operation of Kitchen, Dining Halls, and Feeding Facilities.

(a) In a dormitory where central dining or feeding operations are permitted and provided, adequate facilities and proper methods for the preparation, serving, refrigeration, and storage of food shall be provided in conformance with applicable Department rules and regulations governing food facilities.

(b) A properly constructed kitchen and dining hall adequate in size, and separate from the sleeping quarters, shall be provided in connection with all food handling facilities. There shall be no direct opening from living or sleeping quarters into a kitchen or dining hall.

(c) No person with any communicable disease may be employed or permitted to work in the preparation, cooking, serving or other handling of food, foodstuffs or materials used in any kitchen or dining room operated in connection with a camp or regularly used by persons living in a camp.

§ 41717. Insect and Rodent Control.

(a) Effective measures shall be taken to prevent infestation by and harborage of animal or insect vectors or pests.

(b) Every door opening directly to outdoor space shall be equipped with a self-closing device for protection against mosquitoes, flies, and other insects. If a screen door is provided it must have a self-closing device, and screening shall not be less than sixteen (16)-mesh to the inch material.

(c) Every window or other device with openings to outdoor space, used or intended to be used for ventilation shall likewise be equipped with screening not less than sixteen (16)-mesh to the

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inch material.

§ 41718. Safety and First Aid.

(a) Approved first aid supplies shall be provided and be accessible at all times. The supplies shall be equivalent to the sixteen (16) unit first aid kit recommended by the American Red Cross, and shall be provided in the ratio of one (1) to each fifty (50) persons. First aid kits shall be distributed and placed conspicuously throughout the temporary workforce housing.

(b) Flammable or volatile liquids or materials, except those needed for household use other than use as fuel, shall not be stored in or adjacent to rooms used for living purposes.

(c) Pesticides and toxic chemicals other than those commonly regarded as being used for household use, such as cleaning agents, shall not be stored within the temporary workforce housing site. Any pesticide or other toxic materials, and any potentially hazardous materials or equipment kept within five hundred (500) feet of the facility site shall be stored in a secure, locked enclosure.

§ 41719. Animals and Poultry.

No cats, dogs, livestock, or poultry shall be permitted in the dormitory, kitchen, dining or other buildings used for housing purposes.

§ 41720. Reporting of Communicable Disease.

(a) It is the duty of the owner or operator to report immediately to the Department the name and address of any individual in the facility known to have or suspected of having a communicable disease.

(b) Whenever there occurs in any temporary workforce housing a case of suspected food poisoning or an unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting, or jaundice is a prominent symptom, it will be the duty of the operator to report immediately the existence of the outbreak to the Department by telephone, electronic mail or any method that is equally fast.

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§ 41721. Compliance.

(a) All new temporary workforce housing shall be in compliance with these rules and regulations. The owner shall designate a responsible employee to manage the daily operations of the establishment.

(b) All temporary workforce housing shall comply with these rules and regulations upon renovation, extension or remodeling of an existing building. Temporary workforce housing in existence at the time these rules and regulations take effect shall be deemed acceptable if it is determined by the Director that no serious health hazard or discomfort will occur that would affect the occupants of such facility.

§ 41722. Inspections.

(a) Sanitary Inspections, Phases: For the purposes of sanitary regulation, and pursuant to Title 10 GCA, Chapter 26A, permitting of temporary workforce housing shall be required during each of the following phases:

(1) Primary Inspection Phase

(A) During the Primary Inspection Phase, sanitary inspections shall be conducted quarterly following the issuance of the initial Sanitary Permit.

(B) The Primary Inspection shall apply to all temporary workforce housing, new or currently existing, and shall endure and achieve four (4) consecutive quarters of satisfactory inspections.

(C) Inspection during the Primary Inspection Phase shall be performed no sooner than forty-five (45) days of the previous inspection conducted. If an inspection occurs sooner than forty-five (45) days of the previous inspection conducted, the inspection shall not qualify as one of the quarterly inspections required.

(D) A Secondary Inspection Phase shall be applied following successful completion of the Primary Inspection Phase.

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(E) During the Secondary Inspection Phase, inspections shall be conducted on a semiannual basis.

(F) Inspection during the Secondary Inspection Phase shall be performed no sooner than ninety (90) days from the previous inspection conducted. If an inspection occurs sooner than ninety (90) days of the previous inspection conducted, the inspection shall not qualify as one of the semiannual inspections required.

(G) Successful completion of the Secondary Inspection Phase shall consist of two (2) consecutive semiannual inspections that were rated satisfactory.

(H) Following a failed inspection or Change of Temporary Workforce Housing Status, the temporary workforce housing in question shall return to the Primary Inspection Phase.

(2) Tertiary Inspection Phase

(A) During the Tertiary Inspection Phase, inspections will be conducted on an annual basis.

(B) Inspection during the Tertiary Phase shall be performed no sooner than one hundred eighty (180) days of the previous inspection conducted. If an inspection occurs sooner than one hundred eighty (180) days from the previous inspection conducted, the inspection will not qualify as one of the annual inspections required.

(C) Following a failed inspection or Change of Temporary Workforce Housing Status, the temporary workforce housing in question shall return to the Primary Inspection Phase.

(b) Access.

An employee or representative of the Department shall, after proper presentation of credentials, have access to any temporary workforce housing at any reasonable time for the purpose of making inspections to determine compliance with

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these rules and regulations. Denial of access shall be cause for suspension of the Sanitary Permit.

(c) Report of Inspections.

Whenever an inspection of a temporary workforce housing is conducted, the findings shall be recorded on a form authorized by the Director, and shall summarize the requirements of these rules and regulations, and shall set forth a demerit value for each requirement. Inspection remarks shall be written to reference, by section number, the Section violated and shall state the correction to be made. The rating score of the establishment shall be the total of the demerit values for all violations. A copy of the completed inspection report form shall be issued to the operator of the establishment at the conclusion of the inspection. The completed form is a public document that shall be made available for public disclosure to any person who requests it according to law.

(d) Appeal.

The report of inspection of a temporary workforce housing shall state that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a hearing is filed with the Director within the period of time established in the notice for correction.

(e) Grading.

(1) Grades of temporary workforce housing shall be determined using the demerit point system referenced in § 21106 of Title 10 GCA, Chapter 21, which shall be as follows:

(A) Grade A: An establishment having a demerit score of not more than ten (10);

(B) Grade B: An establishment having a demerit score of more than ten (10) but not more than twenty (20);

(C) Grade C: An establishment having a demerit score of more than twenty (20) but not more than forty (40); and

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(D) Grade D: An establishment having a demerit score of more than forty (40).

(2) Notwithstanding the grade criteria established above, whenever a second consecutive (“repeat”) violation of the same item is discovered, the Workers’ Dormitory Permit may be suspended or the establishment shall be downgraded to the next lower grade.

(3) DPHSS shall issue a placard reflecting the letter grade of the most recent inspection.

(f) The temporary workforce housing operator shall ensure that he/she, or a designee, be present during inspections of temporary workforce housing by the Department.

§ 41723. Fees.

(a) Pursuant to § 26A105 of Title 10 GCA, Chapter 26A, an operator shall pay a fee for a new and the renewal of Workers’ Dormitory Permits, which are separate and apart from the fees for the issuance of a Sanitary Permit.

(1) A new Workers’ Dormitory Permit shall be Seven Dollars and Fifty Cents (\$7.50) for each; and

(2) Renewal of a Workers’ Dormitory Permit shall be Seven Dollars and Fifty Cents (\$7.50) for each.

(b) Pursuant to § 26A105 of Title 10 GCA, Chapter 26A, an operator shall pay a fee for a new and the renewal of Sanitary Permits.

(1) The cost for the issuance of a new Sanitary Permit shall be the current fee established in the “Sanitary Permit Rules and Regulations” (Title 26 GARR, Chapter 4, Article 5) at the time of application.

(2) Renewal of a Sanitary Permit for temporary workforce housing shall be based on sanitary inspection phases pursuant to § 26A104 of Title 10 GCA Chapter 26A.

(3) The cost of the renewal fee shall be Thirty-eight Dollars (\$38.00)

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(4) Upon the completion of an inspection, the Department shall provide an invoice to the temporary workforce housing operator or his/her representative.

(5) Within seven (7) calendar days of receipt of the invoice from the Department, the operator or his/her representative shall make the appropriate payment to the Department so as to be issued its renewal of a Sanitary Permit. Failure to make such payment within the required allotted time shall cause the Sanitary Permit to become suspended, at which time the operator must cease the operation of the temporary workforce housing immediately.

(6) In addition to all other required fees, and before the initial Sanitary Permit is issued, the operator shall provide to DPHSS an “inspection security deposit” which shall be equal to that of the facility’s applicable Sanitary Permit renewal fee cited in § 41723(b)(3) of these rules and regulations. This non-refundable inspection security deposit shall be used as payment to DPHSS in the event the temporary workforce housing operator fails to timely make a payment for an inspection conducted by the Department. The use of the inspection security deposit for payment to DPHSS shall not relieve the same operator from resubmitting another inspection security deposit before the suspension of its Sanitary Permit is withdrawn.

(7) The inspection security deposit may be used by the temporary workforce housing operator as payment for the last inspection required of the operator prior to the closing of its business, provided the operator submits a written notification to the Department. Such written notification shall include the name and signature of the operator; the official date of the temporary workforce housing’s close of business, which shall be no later than the next required inspection date had the operator remained in operation; and a request for the use of the inspection safety deposit to make such payment. The written notification shall be submitted concurrently with the applicable invoice to the Department.

(c) There will be no charges for the following types of

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inspections, provided a current permit has been issued:

- (1) Validation inspections; and
- (2) Complaint verification inspections.

§ 41724. Posting of Documents.

The Sanitary Permit, Workers' Dormitory Permit, grade placard, and a copy of the most recent inspection report shall be posted in a conspicuous location designated by the Director. No person other than the Director shall remove, deface, conceal, or destroy such permit or report.

§ 41725. Miscellaneous.

(a) Effective Date. These rules and regulations are effective upon its adoption pursuant to the Administrative Adjudication Law.

(b) Severability. If any provision or application of any provision of those rules and regulations is held invalid, that invalidity shall not affect the other provision or applications of these rules and regulations.

§ 41726. Exemptions.

In the event that an establishment or person is unable to comply with certain requirements of these regulations, the Director may authorize and exempt that particular Section, but shall be augmented by increased requirements in other Sections in order to provide adequate protection for the workers. These requirements will be determined by the representatives of the DEH, and the establishment on a case by case basis.

ARTICLE 18
THE GUAM PRESCRIPTION DRUG MONITORING PROGRAM

SOURCE: Added by P.L. 31-272:2 (Dec. 26, 2012).

- § 41801. Purpose
§ 41802. Authority

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- § 41803. Title
- § 41804. Definitions
- § 41805. Guam Prescription Drug Monitoring Program
Advisory Committee
- § 41806. Reporting Requirements for Dispensers
- § 41807. Electronic Submission Requirement Waiver
- § 41808. Access to Prescription Monitoring Information by
Patients
- § 41809. Access to Prescription Monitoring Information by
Dispensers
- § 41810. Access to Prescription Monitoring Information by
Prescribers
- § 41811. Access to Prescription Monitoring Information by the
Board
- § 41812. Access to Prescription Monitoring Information by
local, state, or federal law enforcement or
prosecutorial officials
- § 41813. Access to Prescription Monitoring Information by the
authorized representatives of the Medicaid and
Medically Indigent Program (MIP) within the
Department of Public Health and Social Services
- § 41814. Access to Prescription Monitoring Information by the
Medical Examiner
- § 41815. Access to Prescription Monitoring Information by
personnel of any vendor or contractor engaged by the
Department
- § 41816. Access to Prescription Monitoring Information by
public or private entities for statistical, research, or
educational purposes
- § 41817. Designation of training programs
- § 41818. Confidentiality
- § 41819. Criminal Penalties
- § 41820. Administrative Sanctions
- § 41821. Immunity
- § 41822. Severability
- § 41823. Effective Date

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§ 41801. Purpose.

These rules and regulations implement the monitoring of pharmaceutical controlled substances through the establishment of an electronic database and reporting system to prevent the misuse, abuse, and diversion of such drugs without interfering with its legal medical use.

§ 41802. Authority.

These rules and regulations are adopted under the authority of § 67.301(a) of Title 9 Guam Code Annotated, Chapter 67.

§ 41803. Title.

These rules and regulations shall be known and cited as the “*Rules and Regulations Governing the Guam Prescription Drug Monitoring Program.*”

§ 41804. Definitions.

The definitions of terms contained in these rules and regulations are similar to those contained in Title 9 GCA, Chapter 67. If any definitions are amended in the Act, those amendments shall be the definitions of the terms contained in these rules and regulations. The following terms and phrases shall have the following meanings unless the context clearly indicates otherwise:

(a) *Abuse* means the use of a controlled substance in a manner not intended by the prescriber, which is for a therapeutic or medical use, with the intent to alter one’s mood, emotion, or state of consciousness.

(b) *Board* means a professional board within the Health Professional Licensing Office of the Department that oversees health professionals who are authorized to dispense controlled substances.

(c) *Controlled substance* means a substance listed in Schedules II, III, IV, or V as defined in Title 9 GCA, Chapter 67, Article 2, as may be amended.

(d) *Controlled Substances Registration* or *CSR* means the Guam Controlled Substances Registration issued by the

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Department of Public Health and Social Services.

(e) *Department of Public Health and Social Services* (“DPHSS”) or *Department* means the Director of the Department of Public Health and Social Services of the Government of Guam, or its successor, or any individual or entity of the department he designates.

(f) *Dispense* or *dispensing* means to deliver a controlled substance to the ultimate user, patient, or research subject by, or pursuant to, the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(g) *Dispenser* means any person who dispenses.

(h) *Diversion* means the transfer of a controlled substance from a lawful to an unlawful channel of distribution or use.

(i) *Drug Enforcement Administration* (“DEA”) means the Drug Enforcement Administration of the United States Department of Justice, or its successor agency.

(j) *Drug* means

(i) a substance recognized as a drug in the official United States Pharmacopoeia, National Formulary, or the official Homeopathic Pharmacopoeia of the United States, or a supplement to any of them;

(ii) a substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (iii) a substance, other than food, intended to affect the structure or a function of the body of individuals or animals; and

(iv) a substance intended for use as a component of an article specified in subsections (i), (ii), and (iii) of this subsection.

The term does not include a device or its components, parts, or accessories.

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(k) *Guam Prescription Drug Monitoring Program* (“*GPDMP*”) means the program within the Division of Environmental Health of the Department that monitors the dispensing of prescription drugs on Guam.

(l) *Guam Prescription Drug Monitoring Program Advisory Committee* or *Advisory Committee* means an advisory committee established to assist in the implementation and periodic evaluation of the Guam Prescription Drug Monitoring Program.

(m) *Guam Uniform Controlled Substances Act or the Act* means Title 9 Guam Code Annotated, Chapter 67.

(n) *Medicaid* means the United States health program for individuals and families with low incomes and resources, which is jointly funded by the states and federal government, and is managed by the states.

(o) *Medically Indigent Program* (“*MIP*”) means the Guam healthcare system that provides last resort assistance to persons who do not have health insurance and who are not eligible for other healthcare coverage, such as Medicaid, Medicare, or private health insurance.

(p) *Misuse* means the use of a controlled substance in an incorrect manner.

(q) *National Drug Code* (“*NDC*”) means a unique 10-digit, 3-segment number assigned to each medication listed under Section 510 of the U.S. Federal Food, Drug, and Cosmetic Act, which identifies the labeler or vendor, product, and trade package size.

(r) *Patient* means a person who receives medical attention, care, or treatment.

(s) *Person* means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government or governmental subdivision or agency, or any other legal or commercial entity.

(t) *Photographic Identification* means a valid and

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current identification that verifies a person's identity, such as a Government of Guam identification card, a passport, a Guam driver license, a military identification card, or any other legal photographic identification the Department deems acceptable.

(u) *Practitioner* means a physician, dentist, veterinarian, scientific investigator, pharmacist, pharmacy, hospital, government operated or government contracted animal shelter, or other person licensed, registered, or otherwise permitted, by Guam, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(v) *Prescribe* or *prescribing* means to give instructions, usually in writing, for the preparation and administering of a drug.

(w) *Prescriber* means a licensed, registered health care professional with authority to prescribe drugs.

(x) *Prescription* means an order for medication which is dispensed to or for an ultimate user, but does not include an order for medication which is dispensed for immediate administration to the ultimate user (e.g., an order to dispense a drug to a bed patient for immediate administration in a hospital is not a prescription).

(y) *Reasonable cause* means information or circumstances which could prompt a reasonable person to believe or suspect that there is or might be abuse or diversion of prescription drugs.

(z) *Reasonable person* means a person who exercises qualities of attention and judgment that society requires of its members for the protection of their own interest and the interests of others.

(aa) *Registrant* means any person registered pursuant to Title 9 GCA, Chapter 67.

(bb) *Ultimate User* means an individual who lawfully

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possesses a controlled substance for the individual's own use or for the use of a member of the individual's household, or for administering to an animal owned by the individual or by a member of the individual's household.

§ 41805. Guam Prescription Drug Monitoring Program Advisory Committee.

(a) The Department shall establish an Advisory Committee to consult with and advise the Department on matters related to the establishment, maintenance, and operation of the GPDMP; access to the GPDMP and how it is to be regulated; and security of information contained in the GPDMP database.

(b) Members of the Advisory Committee shall be determined by the Department.

§ 41806. Reporting Requirements for Dispensers.

(a) Each Dispenser shall submit to the Department a report of the dispensing of all locally and federally controlled substances in Schedules II, III, IV, and V of Guam and federal law. Any dispenser located outside the boundaries of Guam and is licensed and registered by the Guam Board of Examiners for Pharmacy shall submit a report regarding each prescription dispensed to an ultimate user who resides within Guam. The information in the report shall include, at a minimum, the following:

(1) Prescriber Information:

(A) Name of prescriber;

(B) Physical and mailing address of prescriber;

(C) Business telephone and fax number of prescriber; and

(D) Professional license, DEA registration number and Controlled Substances Registration (CSR) of prescriber.

(2) Patient Information:

(A) Social Security Number of patient or other

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government-issued identification number, e.g., passport number, driver's number;

(B) Name of patient;

(C) Physical and mailing address of patient;

(D) Date of birth of patient;

(E) Gender of patient;

(F) Name of person who received the prescription if other than the patient; and

(G) Method of payment for the prescription.

(3) Prescription Information:

(A) Date prescription issued by prescriber;

(B) Date prescription filled;

(C) Prescription number;

(D) Prescription is new or refill;

(E) Number refills ordered; and

(F) Quantity dispensed.

(4) Controlled Substance Information or Drug Information:

(A) Prescription Drug dispensed;

(B) National Drug Code (NDC) number for drug dispensed; and

(C) Drug strength and quantity prescribed.

(5) Dispenser Information:

(A) Name of dispenser;

(B) Physical and mailing address of dispenser;

(C) Business telephone and fax number of dispenser; and

(D) Professional license, DEA registration number

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and Controlled Substances Registration (CSR) of dispenser. If the dispenser reporting is a pharmacist, the DEA number and CSR number of the dispensing pharmacy may be used.

(b) Each dispenser shall submit the reported information as follows, unless a waiver is granted by the Department:

- (1) Electronically;
- (2) In the format required by the Department; and
- (3) In the frequency and schedule determined by the Department.

§ 41807. Electronic Submission Requirement Waiver.

(a) The Department may grant a waiver of the electronic submission requirement to a dispenser for good cause. The dispenser requesting the waiver is responsible for establishing the basis for the requested waiver.

(b) Waivers may be granted for the following circumstances:

- (1) The dispenser demonstrates that for any reason, including because the volume of controlled substances dispensed is low, financial hardship will result from being required to make electronic submissions of prescription monitoring information; or
- (2) Other good cause.

(c) Requests for a waiver shall be by application in writing on a form provided by the Department for such a purpose. The dispenser requesting the waiver may provide the Department with any reasonable supplemental materials in support of their request for a waiver, in addition to the written application. The Department may request additional information from the dispenser requesting the waiver as a condition of granting the waiver.

(d) Requests for a waiver shall be granted or denied by the Department no later than sixty (60) business days from the date of

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the written application for waiver is submitted to the Department, or the date the last supplemental written materials are received by the Department, whichever is later.

(e) The decision of the Department to grant or deny a waiver shall constitute final agency action.

§ 41808. Access to Prescription Monitoring Information by Patients.

(a) A patient, or a patient's authorized representative, may obtain a report listing all prescription monitoring information that pertains to the patient.

(b) A patient or a patient's authorized representative seeking access to prescription monitoring information described above shall submit a written request for information in person at the Department, or at any other place specified by the Department. The written request shall be in a format established by the Department and shall contain at least, but not limited to, the following elements:

- (1) The patient's full name and the full name of the patient's authorized representative, if applicable;
- (2) The patient's date of birth;
- (3) The patient's physical and mailing address, and the complete physical and mailing address of the patient's authorized representative, if applicable;
- (4) The patient's telephone number, if any, and the telephone number of the authorized representative, if applicable; and
- (5) The time period for which information is being requested.

(c) The patient or the patient's authorized representative shall produce a photographic identification card prior to obtaining access to the information described above. The patient or the patient's authorized representative shall allow photocopying of the identification.

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(d) Prior to obtaining access to the information described above, authorized representatives shall produce either an official attested copy of the judicial order granting them authority to gain access to the health care records of the patient; or in the case of parents of a minor child, a certified copy of the birth certificate of the minor child or other official documents establishing legal guardianship; or in the case of person holding power of attorney, the original document establishing the power of attorney. The patient's authorized representative shall allow photocopying of the documents described above. The Department may verify the patient authorization by any reasonable means prior to providing the information to the authorized representative.

§ 41809. Access to Prescription Monitoring Information by Dispensers.

(a) A dispenser, or a licensed pharmacy technician authorized by a supervising pharmacist, may obtain any prescription monitoring information insofar as the information relates to a customer of the dispenser seeking to have a prescription filled. The information shall be provided in a format established by the Department, which may include, but is not limited to, delivery by electronic means, facsimile transmission, or telephonic communication. The information shall be provided within twenty-four (24) business hours of the dispenser's request.

(b) A dispenser who seeks access to the information described above shall register with the Department in a manner specified, and shall be issued an authorization code. If the authorization code issued by the Department is lost or compromised, the dispenser shall notify the Department by telephone and in writing as soon as reasonably possible. Information regarding more than one patient may be submitted in a single request. Requests shall be in a format established by the Department and shall contain at least, but not limited to, the following elements for each patient:

- (1) The name and date of birth of the patient; and
- (2) The time period for which information is being requested.

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(c) The Department shall take reasonable steps to verify each registration, such as, but not limited to, making a telephone call to the dispenser or to an agent of the dispenser at a telephone number known to belong to the dispenser's place of business.

§ 41810. Access to Prescription Monitoring Information by Prescribers.

(a) A prescriber, or licensed health care practitioner duly authorized by a prescriber, may obtain any prescription monitoring information insofar as the information relates to a patient under the prescriber's care. The information shall be provided in a format established by the Department, which may include, but is not limited to delivery by electronic means, facsimile transmission, or telephonic communication. The information shall be provided within twenty-four (24) business hours of the prescriber's request.

(b) A prescriber, or licensed health care practitioner duly authorized by a prescriber, who seeks access to the information described above shall register with the Department in a manner specified, and shall be issued an authorization code. If the authorization code issued by the Department is lost or compromised, the prescriber shall notify the Department by telephone and in writing as soon as reasonably possible. Information regarding more than one patient may be submitted in a single request. Requests shall be in a format established by the Department and shall contain at least, but not limited to, the following elements for each patient:

(1) The name and date of birth of the patient; and

(2) The time period for which information is being requested.

(c) The Department shall take reasonable steps to verify each registration, such as, but not limited to, making a telephone call to the prescriber or to an agent of the prescriber at a telephone number known to belong to the prescriber's place of business.

(d) A prescriber, or licensed health care practitioner duly authorized by a prescriber, shall, before writing a prescription for

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a controlled substance listed in Schedule II, III, IV, or V for a patient, obtain a patient utilization report regarding the patient for the preceding twelve (12) months from the computerized program established by the Department pursuant to § 67.301(a) of Title 9 Guam Code Annotated, Chapter 67, if the prescriber has a reasonable belief that the patient may be seeking the controlled substance, in whole or in part, for any reason other than the treatment of an existing medical condition and:

- (1) The patient is a new patient of the prescriber; or
- (2) The patient has not received any prescription for a controlled substance from the prescriber in the preceding twelve (12) months.

The prescriber shall review the patient utilization report to assess whether the prescription for the controlled substance is medically necessary.

§ 41811. Access to Prescription Monitoring Information by the Board.

(a) The Board may obtain any prescription monitoring information as required for an investigation, with reasonable cause. The information shall be provided in a format established by the Department, which may include, but is not limited to delivery by electronic means, facsimile transmission, or telephonic communication.

(b) The request from the Board shall contain identifying information regarding the registrant or patient and the time period for which the information is being requested. The Board shall ensure that the appropriate form provided by the Department is utilized for the request.

§ 41812. Access to Prescription Monitoring Information by local, state, or federal law enforcement or prosecutorial officials.

(a) A local, state, or federal law enforcement or prosecutorial official may obtain any prescription monitoring information as required for an investigation, with reasonable cause. The information shall be provided in a format established by the

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Department, which may include, but is not limited to delivery by electronic means, facsimile transmission, or telephonic communication.

(b) The request from a local, state, or federal law enforcement or prosecutorial official shall contain identifying information regarding the registrant or patient and the time period for which the information is being requested. The local, state, or federal law enforcement or prosecutorial official shall ensure that the appropriate form provided by the Department is utilized for the request.

§ 41813. Access to Prescription Monitoring Information by the authorized representatives of the Medicaid and Medically Indigent Program (MIP) within the Department of Public Health and Social Services.

(a) An authorized representative of the Medicaid and Medically Indigent Program (MIP) may obtain any prescription monitoring information as required for an investigation, with reasonable cause. The information shall be provided in a format established by the Department, which may include, but is not limited to delivery by electronic means, facsimile transmission, or telephonic communication.

(b) The request from the authorized representative of the Medicaid and Medically Indigent Program (MIP) shall contain identifying information regarding the registrant or patient and the time period for which the information is being requested. The authorized representative of the Medicaid and Medically Indigent Program (MIP) shall ensure that the appropriate form provided by the Department is utilized for the request.

§ 41814. Access to Prescription Monitoring Information by the Medical Examiner.

(a) The Medical Examiner or a designee may obtain any prescription monitoring information as required for an investigation, with reasonable cause. The information shall be provided in a format established by the Department, which may include, but is not limited to delivery by electronic means, facsimile transmission, or telephonic communication.

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(b)The request from the Medical Examiner or a designee shall contain identifying information regarding the registrant or patient and the time period for which the information is being requested. The Medical Examiner or a designee shall ensure that the appropriate form provided by the Department is utilized for the request.

§ 41815. Access to Prescription Monitoring Information by personnel of any vendor or contractor engaged by the Department.

(a) Personnel of any vendor or contractor engaged by the Department may obtain any prescription monitoring information insofar as the information is necessary for establishing and maintaining the program’s electronic system.

(b) Program vendors or contractors engaged by the Department shall purge all prescription monitoring information more than six (6) years old.

§ 41816. Access to Prescription Monitoring Information by public or private entities for statistical, research, or educational purposes.

A public or private entity may obtain any prescription monitoring information insofar as the information is necessary for statistical, research, or educational purposes, and insofar as information that can be used to identify a person has been removed. The information shall be provided in a format established by the Department, which may include, but is not limited to delivery by electronic means, facsimile transmission, or telephonic communication.

§ 41817. Designation of training programs.

(a) Authorized dispensers shall attend a training course on the transmission, retrieval, and use of prescription monitoring information provided by the Department, which will be developed in consultation with the Advisory Committee, during the implementation phase of the Guam Prescription Drug Monitoring Program.

(b) Authorized prescribers who will be retrieving

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prescription monitoring information shall attend the training course indicated in § 41817(a) within these rules and regulations.

§ 41818. Confidentiality.

Except as provided in this section, prescription monitoring information submitted to the Department shall be confidential and shall not be subject to public records laws. The Department shall maintain procedures to protect patient privacy, ensure the confidentiality of patient information collected, recorded, transmitted, and maintained, and ensure that information is not disclosed to any person except as provided in §§ 41808 to 41816 within these rules and regulations.

§ 41819. Criminal Penalties.

(a) Pursuant to §§ 67.306 and 67.402(a)(3) of the Act, a dispenser who fails to submit the required information to the Department shall be guilty of a felony of the third degree.

(b) Pursuant to §§ 67.306 and 67.403(a)(4) of the Act, a dispenser who furnishes false or fraudulent information to the Department shall be guilty of a felony of the third degree.

§ 41820. Administrative Sanctions.

The Department may pursue the suspension or the revocation of the registrant's CSR in accordance to § 67.304 of the Act for violating the terms of these rules and regulations, and may be subject to disciplinary action by any applicable governing entity.

§ 41821. Immunity.

A dispenser or health care provider shall be immune from civil, criminal, or administrative liability as a result of any action made in good faith pursuant to and in accordance with these rules and regulations, but nothing in this section shall be construed to establish immunity for the failure to follow standards of professional conduct or the failure to exercise due care in the provision of services.

§ 41822. Amendment of Rules and Regulations.

The Department of Public Health & Social Services shall, at

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a minimum of every five years, and pursuant to Article 3- Rule Making Procedures, of Chapter 9, Title 5, Guam Code Annotated, review and amend, as may be necessary, these administrative rules and regulations.

§ 41823. Severability.

If any provision of these rules and regulations, its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of these rules and regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these rules and regulations are severable.

§ 41824. Effective Date.

These rules and regulations shall be effective immediately upon enactment.

ARTICLE 19
THE CONSTRUCTION, OPERATION AND MAINTENANCE OF
CEMETERIES

SOURCE: Executive Order 76-08 (Mar. 9, 1976).

- § 41901. Definitions.
- § 41902. General.
- § 41903. Location.
- § 41904. Construction.
- § 41905. Maintenance.
- § 41906. Operation.
- § 41907. Caretaker.

§ 41901. Definitions.

For the purpose of, these rules and regulations the following definitions shall apply:

- (a) “Cemetery” shall mean any approved cemetery constructed, maintained and operated by any public or private organization, church, or any other person as herein defined, including any such facility operated by the

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Government of Guam.

(b) “Person” shall include, but not limited to, any individual, non-profit organization, business, or any other entity including the Government of Guam.

(c) “Burial Place” or “grave” shall mean any area where a human body or any human are permanently laid to rest whether above or below the surface of the ground.

(d) “Grave Marker” shall mean any headstone, ornament or other permanent structure used to mark the site of a “rave” or “burial place”.

(e) “Director” shall mean the Director of Public Health and Social Services or his authorized representative.

(f) “Caretaker” means that person responsible for the maintenance and operation of any public or private cemetery.

§ 41902. General.

(a) Prohibition. No person shall bury any human body or human remains except in a cemetery as defined in these rules and regulations except as otherwise permitted in these regulations or unless authorized by the Director.

(b) Permit Required. Any person who constructs a cemetery must first obtain a permit from the Department of Public Health and Social Services for such construction.

(c) Construction, maintenance, operation. All cemeteries shall be constructed, maintained and operated in accordance with these rules and regulations.

(e) Notice of correction. The Director of Public Health and Social Services shall give notice to any person construction, maintaining, or operating a cemetery which is in violation of any provision of these rules and regulations. Said notice shall include the provision violated, the corrections to be made, and the time permitted for correction.

(f) Closure. Any cemetery may be subject to closure at the discretion of the Director if the continued operation of

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the cemetery may endanger the health of the people or create a public nuisance. A cemetery may be subject to closure if it continues to operate in violation of these rules and regulations for sixty (60) days after receiving a notice of correction from the Director.

(g) Existing cemeteries. Any cemeteries existing at the time these rules and regulations are promulgated shall comply with these rules and regulations for any additional construction, establishment of new cemeteries or burial places, expansion of services or extension of existing boundaries. All existing cemeteries shall comply with maintenance, operation, responsibility, caretaker and general provisions of these rules and regulations.

(h) Burial at sea. The Guam Environmental Protection Agency shall provide the Director with locations around Guam where burials at sea can take place without detriment to the ocean environment.

(i) Disinterment. No person shall disinter any human body or human remains, permit such disinterment or cause any such disinterment without a permit issued by the Director.

(j) Burial Sites. No human body or other human remains shall be buried in any location which may interfere with the disinterment of any other human body or remains.

§ 41903. Location.

(a) Ocean intrusion. All areas of a cemetery shall be located at an elevation at least ten (10) feet above the highest high tide mark of the ocean to prevent salt water intrusion into the graves.

(b) Flooding. No cemetery shall be located in an area that is subject to flooding.

(c) Rivers, well. No part of a cemetery shall be within 100 feet of a river or other waterway, or within 500 feet of a well.

(d) Water recharge areas. No cemetery shall be located in any area of Guam where the underlying coral foundation may

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serve as recharge area for the northern underground water lens or other underground water.

(f) Accessibility. Every cemetery shall be accessible by a maintained road.

§ 41904. Construction.

(a) General. Cemeteries shall be planned and constructed so that all grave sites are easily accessible to grave digging and maintenance equipment.

(b) Burial above ground. All burial above ground must be constructed in compliance with applicable building codes of the Government of Guam. The maximum number of stories of any such burial site shall be six. Exhaust pipes shall be provided and all graves in each row shall be provided with ventilation holes leading to the graves above and below.

(c) Drainage. Cemeteries shall be constructed so that rain water runoff is diverted away from the grave sites.

(d) Fencing. All cemeteries shall be enclosed by a fence or wall of at least six (6) feet in height with a large gate for ingress and egress of equipment and vehicles and a small gate for pedestrian traffic.

(e) Parking. Space for the parking of at least ten (10) vehicles shall be made available just outside the fenced-in area of the cemetery. The parking area shall be adjacent to the pedestrian gate.

(f) Buildings. All buildings constructed in conjunction with a cemetery shall meet applicable Government of Guam Building Codes and shall be served by a source of water approved by the Director and have sewage disposal facilities approved by the Director.

(g) Toilet facilities. The applicant shall demonstrate to the satisfaction of the Director that toilet facilities shall be available for maintenance personnel as necessary. If the cemetery is located next to a church or other public building and written permission is received to use the toilet facilities of this building then the

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cemetery will not be required to provide additional facilities. However, at such time as facilities are no longer available in a public building, the cemetery will be required to provide toilet facilities.

(h) Water. Running water and a sink shall be available at all cemeteries for cleaning and washing purposes. The water must be from an approved source.

(i) Concessions. No temporary or permanent concessions for the sale of food, drink or any other commodities will be permitted in any cemetery.

§ 41905. Maintenance.

(a) General. All cemeteries will be maintained in a clean and sanitary manner at all times.

(b) Lawn. The area reserved for grave sites shall be planted in grass or similar ground cover and kept cut to provide a park-line appearance. Grass and other vegetation around grave markers will be kept trimmed at all times.

(c) Flowers. The planting of live flowers around individual graves by the public is prohibited. Flowers may be planted within the cemetery area for ornamental purposes provided they are properly maintained by the groundkeeper.

(d) Vases. Vases for picked flowers may be permitted providing as follows:

(1) The vase is placed in the ground so the top of the vase is flush with the ground surface or on top of grave markers so they will not interfere with maintenance equipment.

(2) Flowers are not left unattended so that they rot and become unsightly.

(3) The water in the vases is exchanged at least once a week to prevent the breeding of mosquitos.

(4) Any vase not properly attended will be removed by the caretaker.

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(e) Trash receptacles. Adequate trash receptacles with tight fitting lids will be made available and located by the pedestrian gate for the use of the public. All trash, garbage, refuse, and other discarded matter will be transported to an authorized disposal site at least two (2) times per week.

§ 41906. Operation.

(a) Vehicles. All vehicles other than maintenance vehicles are prohibited inside the fenced area except on established roadways within the cemetery.

(b) Operating times. No cemetery shall open before sunrise or remain open after sunset. All cemeteries shall post a conspicuous sign that the pedestrian gate stating the days and hours when the cemetery is open.

(c) Burials. A cemetery may set aside specific days for burials. Such information shall be posted by the pedestrian gate.

(e) Graves. All graves shall be neatly dug and backfilled with sufficient compaction to prevent the cover soil from collapsing or eroding at any time thereafter.

(f) Security. All cemeteries shall be secured when not open. Equipment gates and pedestrian gates shall be locked.

(e) Records. Each cemetery shall have a map of the cemetery showing all of the burial plots and proposed burial plots. Each plot shall be numbered, and records kept of the name, date of birth, and age of each person buried in a plot. The records shall be made available to the Director upon request.

(f) Grave markers. Cemeteries may establish their own rules relative to the size, shape, and kind of grave markers permitted. Provided, however, the cemetery shall be responsible for maintaining the area around the grave markers in a neat and orderly manner.

§ 41907. Caretaker.

(a) Charge. Every burial ground or cemetery or plot of ground set aside or devoted cemetery o burial purposes shall be placed in charge of a caretaker appointed or employed by the

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person or persons interested therein or claiming ownership thereof. It shall be the duty of the caretaker to comply with all regulations made by the Director relating to cemeteries. Until a caretaker has been designated and has registered with the Director, burials or interments of dead human bodies are unlawful.

(b) Registered. Every person who acts as caretaker, or has charge or care of any vault, tomb, burying ground, cemetery or plot of ground set aside or devoted to cemetery or burial purposes, shall cause his or her name and residence, and the nature of his or her charge and duties, to be registered with the Director.

(c) Duties. The caretaker must conduct his duties so as to prevent any unhygienic condition arising therefrom and so as to avoid any danger to public health. It shall be the duty of each of said caretakers to make sure that no damage is done to the graves, crypts, vaults, and fences, to prevent cattle and other animals from entering said cemeteries, to transmit all burial-transmit permits to the local registrar, to maintain and deliver, whenever required by the Director, records of burials as set forth on their books, and to deliver over to their successor said books. It shall also be the duty of the caretaker to provide for the identification of tombs, vaults or other sites of burial by appropriate markings, and to prepare and keep up to date a map or plot showing the location of each body buried within the cemetery or burying place.

Article 19A
Merizo Public Cemetery

SOURCE: Adopted by P.L. 25-156:3 (July 10, 2000). Renumbered by the Compiler.

- § 419A01. General Provisions & Definitions.
- § 419A02. Eligibility.
- § 419A03. Burial Procedure.
- § 419A04. Payment Schedule and Documentation.
- § 419A05. Gravesite Marker: Decorations and Offerings.

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§ 419A06. Operations.

§ 419A01. General Provisions & Definitions.

(a) Title. These rules and regulations shall be cited as the Merizo Public Cemetery Rules and Regulations.

(b) Purpose. These rules are promulgated to adhere to Public Law Number 24-127, as amended, to maintain and upkeep cemetery grounds.

(c) Scope. These rules shall apply to the Merizo Community Cemetery that is under the management and control of the Merizo Municipal Planning Council.

(d) Merizo Public Cemetery. Shall refer to the government of Guam owned cemetery situated on Lot Number 515, Municipality of Merizo, Guam.

(e) Merizo Catholic Cemetery. Shall refer to the adjacent property Lot Number 141-1, Municipality of Merizo, Guam owned by the Archdiocese of Agana.

(f) Administration. Shall refer to the Merizo Municipal Planning Council who shall be responsible for the administration of rules and regulations, and to charge fees for the maintenance and upkeep of the Merizo Public Cemetery.

(g) Funeral Director. Shall refer to the registered commercial funeral service firm who provides services and has been authorized by a designated family representative(s) to act on behalf of the family of the deceased.

§ 419A02. Eligibility.

(a) Eligibility for interment is based on laws passed by the Congress and incorporated in Title 38, United States Code.

(b) Eligibility. The Merizo Municipal Planning Council shall determine who is eligible for interment at the Merizo Public Cemetery using the following criteria:

- (1) Current resident;
- (2) Former resident [six (6) months residency and

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more;

(3) Descendants of current/former residents; *and*

(4) Special circumstances-convene Council for decision.

§ 419A03. Burial Procedure.

(a) Burial Schedule. Burials shall be set according to Council schedules.

(b) Interment Fees. Interment fees for the Merizo Public Cemetery will be assessed in the amount of One Thousand Four Hundred Fifty Dollars (\$1,450.00). The fees include the interment service fee at the crypt services during the interment [Two Hundred Fifty Dollars (\$250.00)], cost of the standard crypt marker [Seven Hundred Dollars (\$700.00)], and the one (1) time fee for maintenance and upkeep [Five Hundred Dollars (\$500)]. The fees will be assessed at the time of the burial registration and crypt assignment. Information of interment fees and payment schedule(s) will be made by the Merizo Municipal Planning Council. The interment fees will be collected and assessed by the Merizo Mayor's Office.

(c) Other Fees. The Council will reserve the right to assess and review the fee structure(s) to accommodate other cost(s) that might be incurred beyond the described interment fees.

§ 419A04. Payment Schedule and Documentation.

Documentation List. The three (3) forms of payment include:

(a) The sealing of crypt form that shows the amount due and the due date;

(b) The crypt marker form that shows payment schedule of the initial deposit and the balance due date; and

(c) The maintenance upkeep form that shows the one (1) time payment to be paid in installment(s) and the due date.

§ 419A05. Gravesite Marker: Decorations and Offerings.

Crypt markers will follow a uniform and standard size and

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form that is made from marble, with dimensions of twenty-seven inches (27”) in length by twenty-eight inches (28”) in width and will be placed on the crypt cover. Markers will be placed following the interment services.

§ 419A06. Operations.

(a) **Maintenance.** The Merizo Municipal Planning Council shall be responsible for the establishment and general maintenance of the Merizo Public Cemetery including the crypts, maintenance of roadways, walkways, curbs, fences, infrastructure, chapel and monuments; and the planting, mowing and trimming of grass, trees and shrubs within the cemetery.

(b) **Flags.** The United States of America, the Guam, and the Merizo Village Flags shall be hoisted daily from sunrise to sunset.

(c) **Half-Mast.** The United States of America, the Guam, and the Merizo Village Flags shall be lowered to half-mast at the Merizo Public Cemetery on scheduled burial days and/or as decreed by proclamations issued by the President of the United States of America and *I Maga'lahaen Guahan*.

(d) **Chapel.** The Chapel may be used for memorial services.

(e) **Activities.** All activities conducted on the grounds of the Merizo Public Cemetery shall reflect reverence and respect. The area is considered a memorial or sacred area. Any individual(s) who deface(s) the cemetery grounds or whose conduct on the cemetery grounds is deemed inappropriate shall face possible fines and appropriate charges.

ARTICLE 20
RULES AND REGULATIONS GOVERNING CHEMICAL TOILETS

SOURCE: These rules were submitted to the Legislature on June 19, 2017, and became effective on Sept. 17, 2017, pursuant to Guam’s Administrative Adjudication Law (5 GCA, Ch. 9, Art. 3). Renumbered by the Compiler pursuant to the authority granted by 1 GCA § 1606.

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- § 420101. Purpose.
- § 420102. Authority.
- § 420103. Definitions.
- § 420104. Chemical Toilets.
- § 420105. Chemical Toilet Permit.
- § 420106. Transfer of Chemical Toilet Permit Prohibited.
- § 420107. Chemical Toilet Requirements.
- § 420108. Pumping and Cleaning Operations. Applications.
- § 420109. Chemical Toilet Requirements. Fees.
- § 420110. Advance Notification of Fees Schedule.
- § 420111. Usage.
- § 420112. Service.
- § 420113. Disposal Sites.
- § 420114. Sewage Pumper Truck Requirements.
- § 420115. Pumping and Cleaning Operations.
- § 420116. Inspection and Grading.
- § 420117. Hearing.
- § 420118. Suspension or Revocation of Chemical Toilet Permit.
- § 420119. Suspension without Hearing.
- § 420120. Reinstatement of Chemical Toilet Permit.
- § 420121. Revoked Chemical Toilet Permit May Not Be Reinstated.
- § 420122. New Chemical Toilet Permit Barred for One Year.
- § 420123. Ceasing of Operations.
- § 420124. Closing and Notification to Chief of Police.
- § 420125. Closure to be Posted.
- § 420126. Administrative Penalties.
- § 420127. Variance.
- § 420128. Effective Date.
- § 420129. Severability.

§ 420101. Purpose.

The purpose of these rules and regulations is to protect and promote public health through the proper disposal of human waste when using chemical toilets. These rules and regulations shall be liberally construed by the Department of Public Health and Social Services and applied to ensure compliance with sanitary

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requirements.

§ 420102. Authority.

Title 10 Guam Code Annotated, Chapter 20, Section 20105 and Chapter 29, Section 29107 authorize the Director of the Department of Public Health and Social Services to adopt rules and regulations to carry out the provisions of these chapters.

§ 420103. Definitions.

As used in these rules and regulations, the following definitions shall apply:

(a) *Building* means any dwelling, apartment house, hotel, business establishment, commercial establishment, church, meeting hall, or any other building used for human occupancy, business activity or assembly.

(b) *Chemical Toilet Establishment* means the location where the chemical toilets and sewage pumper trucks are maintained, serviced, and stored.

(c) *Chemical Toilet Operator* means a person or business entity, who owns or manages, or proposes to own or manage, chemical toilets.

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

(e) *Chemical Toilet Grade Placards* means a sign issued by the Department to a Chemical Toilet Establishment, which reflects the sanitary condition of the establishment based on the recent inspection and its total demerit score.

(f) *Chemical Toilet Permit* means the official Department of Public Health and Social Services document issued by the Department authorizing the establishment to operate its business.

(g) *Department, or DPHSS*, means the Guam

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Department of Public Health and Social Services.

(h) *Director* means the Director of the Department of Public Health and Social Services or his/her designated representative.

(i) *Route Units* means chemical toilets placed on construction sites or other locations that require regularly scheduled service.

(j) *Sewage Pumper Truck* means a truck with a large tank and the capability to pump liquids or slurries into and out of the tank.

(k) *Special Event Units* means chemical toilets placed on a site on a short-term basis that require irregular or on-demand service.

(l) *Stool* means a toilet facility maintained within a toilet room for the purpose of both defecation and urination.

(m) *Toilet Facility* means a fixture maintained within a toilet room for the purpose of both defecation and urination.

(n) *Toilet Room* means an enclosure containing one or more toilet facilities.

(o) *Wastewater* means untreated or insufficiently treated human excreta; food wastes disposed of through plumbing facilities; wash water; wastewater from toilets, sinks, basins, showers washing machines and similar plumbing fixtures; and other liquid wastes from residences, commercial buildings, and industrial establishments or other places of assembly, and such diluting water as may have entered the wasted disposal system.

§ 420104. Chemical Toilets.

(a) No chemical toilets shall be used except under permit and inspection of the Department.

(b) No building, as defined herein, shall use chemical toilets for the disposal of human wastes. Chemical toilets may be used at construction sites, outdoor recreation areas and similar areas

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approved by the Director.

§ 420105. Chemical Toilet Permit.

(a) No person shall directly or indirectly in any manner, conduct, control, manage, maintain, or operate a chemical toilet establishment unless a valid Chemical Toilet Permit issued by the Department to operate such a facility has been obtained and posted. Any person, before construction a new chemical toilet establishment or making an addition to, or major alteration of, an existing facility shall first submit plans and specifications of such building or changes to the Director.

(b) The form for the Chemical Toilet Permit shall be prescribed by the Director.

(c) The expiration date of the Chemical Toilet Permit shall be one year from the application date.

(d) The Chemical Toilet Permit shall be renewed at least 15 days prior to the expiration of the permit every calendar year.

(e) The Chemical Toilet Permit shall be posted by the Director in a conspicuous place on the premises designated by him. No person other than the Director shall remove, deface, destroy or conceal such permit.

§ 420106. Transfer of Chemical Toilet Permit Prohibited.

It shall be unlawful to transfer a Chemical Toilet Permit to another person or to another location or to post it on or use it in any way in connection with any other premises than that for which it is issued.

§ 420107. Chemical Toilet Requirements.

(a) Structures housing chemical toilet rooms may be mobile trailers of prefabricated, skid-mounted or otherwise portable structures. If they contain more than one stool, each stool shall occupy a separate compartment with a door and walls or partitions between stools sufficient to assure privacy.

(b) Toilet rooms must be designed, constructed, and maintained to prevent the access of flies or vermin to the wastes.

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(c) The interior floors, walls, ceilings, partitions, and doors of all toilet rooms must be of durable, non-absorbent material, smooth and easily cleanable.

(d) Each toilet facility must be smooth, durable, easily cleanable, and non-absorbent.

(e) The toilet rooms must be ventilated and provided with self-closing doors, lockable from the inside. All ventilation openings to the units, except vent pipes shall be covered with a screen. Toilet rooms that are not ventilated by mechanical means shall be provided with a screened ventilation opening having a cross-sectional area of at least one square foot (1 ft²) per stool covered with 16 mesh to 1-inch screen. Chemical toilets and urinals that are free-standing and not installed in a toilet room, do not require a ventilation system.

(f) Every toilet room shall provide adequate space for the user with minimum inside dimensions of three feet (3') front-to-back and side-to-side, inside clear height of six feet six inches (6'6") and a stool riser height of fourteen to twenty inches (14" to 20").

(g) The waste containers (tanks) of chemical toilets must be constructed of durable, easily cleanable, non-absorbent, and watertight materials. Tank size must be sufficient to contain the initial chemical charge and provide capacity for at least one day's use for forty persons (a minimum tank capacity of 33 gallons must be provided).

(h) Only chemicals which shall not interfere with the Guam Waterworks Authority's Wastewater Treatment Processes and U.S. Environmental Protection Agency approved chemicals, capable of controlling odors, disinfecting, and liquefying solids, may be used in chemical toilets. Chemicals, if used, shall be in accordance with applicable federal, state and local provisions. No chemicals that are prohibited by U.S. Environmental Protection Agency may be used.

(i) Chemical toilets must be maintained in a clean and sanitary manner, free of odor and stains by the renter of the chemical toilet and the supplier of the chemical toilet, while in

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use, storage, and prior to release.

(j) Each chemical toilet must be identified with the name of the company and a unit number. The lettering must be at least on inch (1”) in height, contrasting in color to chemical toilet and posted in a clear and conspicuous area to be easily seen by the public, and shall not be less than five feet (5’) in height.

(k) Chemical toilets shall be stored at the chemical toilet establishment when not in use.

§ 420108. Pumping and Cleaning Operations. Applications.

(a) An application for a Chemical Toilet Permit to operate all new or existing chemical toilet establishments shall be made in writing on a form prescribed by the Department, signed by the applicant or his authorized agent and shall contain such information that will determine that the facility and its operation are in compliance with the applicable provisions of these regulations. The following information shall be included:

- (1) Type of disinfection to be used;
- (2) The frequency at which the chemical toilets will be serviced; and
- (3) Where the chemical toilet wastes will be disposed.

(b) Before pre-operation inspections of the chemical toilet establishment, chemical toilets, and sewage pumper truck are conducted, its plans and specifications shall be submitted to the Director in accordance with the requirements established in these regulations, which shall include, but are not limited to, the following:

- (1) The dimensions of the proposed establishment;
- (2) The location, number, and type of plumbing fixtures, including all water supply fixtures and toilet fixtures, and other fixtures and equipment;
- (3) If a newly-constructed building, the general layout of water supply lines, wastewater lines, or methods of wastewater disposal;

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(4) Chemical toilet and sewage pumper truck specifications; and

(5) A list of all chemical toilets in their inventory and a means of identifying each chemical toilet. The operator must ensure that the identifying number or mark indicated in the list is visible on the chemical toilet.

(c) Before the application for a Chemical Toilet Permit shall be approved, the Department shall verify that the chemical toilet establishment and chemical toilets meet the minimum sanitary requirements and standards. This shall include the access onto the premises to conduct inspections and investigations.

(d) If, upon inspection, the Director is satisfied that the chemical toilet establishment meets the qualifications and standards prescribed in these rules and regulations, a non-transferable Chemical Toilet Permit shall be issued. The Chemical Toilet Permit shall be posted in a conspicuous area designated by the Director.

(e) An application for renewal of Chemical Toilet Permit shall be submitted to the Department no earlier than 30 days prior to its expiration date.

(f) The chemical toilet establishment shall adhere to the most recently adopted building, plumbing, fire and other pertinent regulatory codes.

(g) A non-refundable deposit of Thirty Dollars (\$30.00) shall be made to the ‘Treasurer of Guam’ at the time the application for Chemical Toilet Permit is submitted to the Department. Upon completion and processing of the application, the deposit amount shall be deducted from the appropriate fee listed in § 420109.

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

(i) An applicant who wishes to re-apply after his or her

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application has become permanently inactive under the provisions of § 41908(h) shall be considered a new applicant and shall submit a new application with supporting documents and pay all required fees, including the Thirty Dollars (\$30.00) non-refundable deposit fee.

(j) The chemical toilet operator shall be responsible for cleaning up all spills, either through transport or operation, in accordance with all rules and regulations for the Guam Environmental Protection Agency and Guam Waterworks Authority, and as directed by the Director.

§ 420109. Chemical Toilet Requirements. Fees.

Fees for the issuance of a Chemical Toilet Permit shall be as follows:

(a) The annual Chemical Toilet Permit fee for chemical toilet operator shall be Five Hundred Dollars (\$500.00) regardless of the number chemical toilets possessed by the operator.

(b) Issuance of a duplicate Chemical Toilet Permit shall be Ten Dollars (\$10.00).

(c) Amendments to an existing Chemical Toilet Permit shall be Ten Dollars (\$10.00).

(d) An applicant for a Chemical Toilet Permit may request for the permit to be expedited and processed on the same day the request is submitted. The department may grant such requests provided the application has met all the requirements of the Department to obtain A Chemical Toilet Permit including the requirement for the pro-operation structural inspection. The Department shall assess a fee of Seventy-Five Dollars (\$75) for expedited processing in addition to the regular processing fee.

(e) The cost of the structural inspection, also known as a pre-operation inspection, is included in the initial payment for the Chemical Toilet Permit. However, a fee of Fifty Dollars (\$50) and hour shall be assessed for all subsequent inspections. With the exception of the first hour; fractional

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hours shall be rounded up to the nearest whole hour if more than one half (0.5) hour, and rounded down if less than one half (0.5) hour.

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

(g) Any establishment whose Chemical Toilet Permit is suspended under the provisions of § 41918 of these rules and regulations and who is granted reinstatement by the Department as set out in § 41920 of these rules and regulations, shall first pay a re-opening fee of One Hundred Dollars (\$100) before the permit is returned or re-issued.

(h) The fee schedule established in § 41909 shall become effective immediately upon enactment.

(i) In the event that the Department is required to clean up a spill due to an imminent health hazard, all costs associated with immediate cleanup that the Department expends shall be reimbursed by the chemical toilet operator with additional fees. In the event this occurs, the Department shall be authorized to hire a firm to clean up the spill created by the chemical toilet operator, and then charge the actual cost back to the operator.

§ 420110. Advance Notification of Fees Schedule.

The Director shall ensure that advance, written notification is provided to all Chemical Toilet Permit licensees relative to the cost for permit renewal upon the expiration of their current permit. The information shall be immediately provided as a permit renewal notification.

§ 420111. Usage.

(a) Route Units. On a construction site, there shall be at least one toilet unit per 10 workers, in a single 40-hour shift which

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must be services weekly.

(b) Toilet facilities shall be installed, maintained, and operated in a manner that will not endanger the health and safety of users.

(c) Toilet facilities shall be provided in toilet rooms that are separate for each sex in all places of employment whether indoors, outdoors, or underground.

(d) A separate toilet room for each sex is not needed if occupied by no more than one person at a time and the toilet room can be latched from the inside. In such cases, at least one stool shall be provided.

(e) The number of facilities to be provided for each sex shall be based upon the number of employees of that sex for whom the facilities are furnished for, and shall be in accordance with Tables 1 and 2 of these rules and regulations. Where single-occupancy toilet rooms have more than one toilet facility, only one such facility in each toilet room shall be count for the purposes of Tables 1 and 2.

(f) Where employees of more than one employer are present as a place of employment (such as, but not necessary limited to, construction sites with employees of several subcontractors), it shall be the responsibility of each employer to provide toilet facilities sufficient for the total number of his own employees.

(g) Where the number of employees at a place of employment fluctuates widely, the number of toilet facilities required shall be determined by the maximum number of employees present on a regular shift.

Table 1. Minimum Number of Toilet Facilities If Serviced Once Per Week

Number of Employees	Minimum Number of Toilet Facilities
	If serviced once per week*
1-10	1

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11-20	2
21-30	3
31-40	4
Over 40	1 additional facility for each 10 additional employees
*Note: “Servicing” refers to the emptying of waste and the cleaning of the toilet facility.	

Table 2. Minimum Number of Toilet Facilities If Serviced More Than Once Per Week

Number of Employees	Minimum Number of Toilet Facilities
	If Serviced more than Once Per Week**
1-15	1
16-35	2
36-55	3
56-75	4
76-95	5
Over 95	1 additional facility for each 20 additional employees
**Note: “Servicing” refers to the emptying of waste and the cleaning of the toilet facility.	

(h) Special Events Units. The number of units required must be in accordance with the rules and regulations of the Guam Environmental Protection Agency.

§ 420112. Service.

(a) The minimum established standard for route units is weekly service and for special event units when at 1/3 tank capacity remaining. Service includes the following:

- (1) Pumping or evacuating the effluent from the portable toilet receptacle into the truck holding tank.

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- (2) Recharging the portable toilet holding tank;
- (3) Cleaning and sanitizing the interior of the portable toilet by scrubbing with brushes and towel drying.
- (4) Providing toilet tissue;
- (5) Performing minor repairs to the portable toilet as needed; and
- (6) Effluent is disposed of at licensed and approved disposal sites as needed.

(b) It shall be the responsibility of the employer to ensure that all toilet rooms and facilities are maintained in a clean and sanitary condition.

(c) If toilet facilities are of the types that require periodic servicing, it shall be the responsibility of the employer to provide sufficient toilet facilities and servicing to prevent the stated capacity of those facilities from being exceeded.

(d) The employer shall also assure ready access to the toilet facilities by the required servicing equipment.

§ 420113. Disposal Sites.

All waste must be disposed of at a disposal facility designated by the Guam Waterworks Authority. The chemical toilet operator shall obtain the necessary approvals and permits from the appropriate regulatory agencies, including, but not limited to, the Guam Waterworks Authority and the Guam Environmental Protection Agency.

§ 420114. Sewage Pumper Truck Requirements.

(a) The sewage pumper truck shall be constructed so to prevent the leakage, spillage, and splashing of its contents and shall be constructed of metal and its tank is watertight and splash-proof.

(b) A leak-proof gate or ball valve must be provided on each tank for the discharge or loading of the contents. Sewage pumper truck must also have a leak-proof screw plug or cap on each valve at all times. The cap must be chained at all times.

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(c) A pipe or hose of sufficient length to fully extend into a sewer manhole or disposal pit must be provided. The pipe or hose must be completely drained into the manhole or pit to avoid any spillage of contents onto the ground.

(d) All racks for carrying equipment on the truck must be made of metal.

(e) All parts of the truck and equipment must be designed and maintained to be easily cleanable.

(f) Sewage pumper truck shall have the name and address of the company printed on both sides of the tank or truck in letters that will be able to read at a distance of at least 50 feet (50 ft.).

§ 420115. Pumping and Cleaning Operations.

(a) Pumping and cleaning operations shall be conducted in a manner that will not endanger human health or the environment and at a frequency of at least one time every seven (7) calendar days for route units. Any spillage of sewage must be cleaned immediately at the chemical toilet operator's expense. All cleaning of the sewage pumper truck shall be conducted at the chemical toilet establishment.

(b) Pumping, cleaning, and disposal operations must be performed in accordance with the statutes, rules, and regulations of the Guam Waterworks Authority and the Guam Environmental Protection Agency regarding water control, cleaning wastewater systems, disposal of wastewater, requirements and procedures, including but not limited to 22 G.A.R., Div. 2, Chapters 11 and 12 and 28 G.A.R., Chapter 2, Article 1.

§ 420116. Inspection and Grading.

(a) Access.

(1) An employee or representative of the Department shall, after proper presentation of credentials, have access to any chemical toilet establishment, toilet room or stool, chemical toilet, route unit, or sewage pumper truck at any reasonable time for the purpose of making inspections to determine compliance with these rules and regulations.

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(2) The operator shall ensure that he/she, or a designee, is present during inspections of a chemical toilet establishment by the Department.

(3) The date of each inspection shall be noted on the Chemical Toilet Grade Placards.

(4) The person in charge shall, upon request from the Department, allow for the access to all parts of the establishment and shall allow for the examination and copying of any and all records pertinent to its sanitary operation, and allow access to persons employed.

(b) Frequency of Inspections.

As often as may be deemed necessary, the Director shall inspect every chemical toilet establishment, and may inspect every toilet room or stool, chemical toilet, route unit, or sewage pumper truck, or activities subject to these rules and regulations.

(c) Report of Inspections.

(1) Whenever an inspection of a chemical toilet establishment, toilet room or stool, chemical toilet, route unit, or sewage pumper truck is conducted, the findings shall be recorded on an inspection report prescribed by the Director.

(2) Upon completion of an inspection, the following information must be indicated on the inspection report:

(A) The violation, if any, and its corresponding section number;

(B) Demerit point that is assigned to the violation;

(C) The summed total of all the demerit points and its corresponding letter grad pursuant to § 41916(d)

(D) The correction that needs to be made and when such correction must be completed by;

(E) A statement indicating that failure to comply with any notice issued in accordance with the provisions of any applicable laws, rules or regulations may result in immediate suspension of the Chemical Toilet Permit

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of the establishment or downgrade to the next lower grade; and

(F) A statement that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a hearing is filed with the Director within a period of time established in the notice for corrections.

(3) A copy of the completed inspection report form shall be issued to the operator of the establishment at the conclusion of the inspection.

(d) Grading.

(1) A demerit score, ranging from 6 points to 1 point, shall be assigned for each violation, which shall be indicated in the inspection report.

(2) Grades of a chemical toilet establishment shall be as follows:

(A) Grade A: An establishment having a total demerit score of not more than 10;

(B) Grade B: An establishment having a total merit score of more than 10 but not more than 20;

(C) Grade C: An establishment having a total demerit score of more than 20 but not more than 40; and

(D) Grade D: An establishment having a total demerit score of more than 40.

(3) When the demerit score of the establishment is more than 40, the Chemical Toilet Permit shall be immediately suspended.

(4) The Department shall issue a Chemical Toilet Grade Placard reflecting the letter grade of the most recent inspection.

(5) All violations shall be corrected within the established time period.

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(A) A violation that is assigned 6 demerit points shall be corrected within a period of time not exceed 7 days, and

(B) All other violations shall be corrected within a period of time not to exceed 30 days.

(6) Notwithstanding the grade criteria established above, whenever a second consecutive (“repeat”) violation of the same item is discovered, the Chemical Toilet Permit may be suspended or the establishment downgraded to the next lower grade.

(7) The permit holder or operator of the establishment that had its grade lowered, may, at any time, request an inspection for the purpose of re-inspecting the establishment.

(e) Service of Notices.

Notices provided for under this section shall be deemed to have been properly served when a copy of the inspection report form or other notice has been delivered personally to the permit holder or the person in charge, or to any employee of the chemical toilet operator located at the address on file with the Department, or such notice has been sent by registered or certified mail with return receipt requested to the last known address of the permit holder. A copy of such notice shall be filed with the records of the Director.

(f) Posting.

Copies of the inspection report and the Chemical Toilet Grade Placard shall be posted by the Director in a conspicuous place on the premises designated by him. No person other than the Director shall remove, deface, destroy or conceal such report and placard. The original Inspection Report shall be retained by Director. Failure to post, or its unauthorized removal, will result in the issuance of the appropriate demerit point(s).

(g) Appeal.

A Chemical Toilet Establishment shall have an opportunity to appeal any notice or inspection findings of the Department if a

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written request for a hearing is filed with the Director within the period of time established in the Department's notice or report.

§ 420117. Hearing.

If any provision or the application of any provision of these regulations is held invalid, that invalidity shall not affect other provisions or applications of these rules and regulations.

(a) Any establishment whose Chemical Toilet Permit is to be suspended or revoked shall be notified by the Director in writing of the Department's intention and the reasons therefore.

(b) Any establishment that receives a notice of violation with intent to suspend or revoke as described in § 41918 and that wishes to contest shall request a hearing with the Director in writing no later than 15 calendar days after receipt of the notice, and shall state the grounds for objecting to the intended suspension or revocation.

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

§ 420118. Suspension or Revocation of Chemical Toilet Permit.

(a) The Director may suspend or revoke any Chemical toilet Permit issued under the provisions of Title 10 GCA, Chapter 39 § 29108, or any rules and regulations promulgated concerning Chemical Toilet Permits.

(b) Suspension of a permit may occur following a hearing. Suspension may be imposed for such time until the violation is corrected or may be imposed as a penalty for repeated violation, in which case, it shall not exceed 6 months.

(c) Following a hearing, a judicial review of the Director's decision may be held in accordance with the provisions of the Administrative Adjudication Law (Title 5 GCA, Chapter 9). Pending a final determination of such judicial review, it shall be discretionary with the Superior Court of Guam to stay the

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enforcement of the order of suspension or revocation upon the furnishing of adequate bond.

§ 420119. Suspension without Hearing.

(a) A Chemical Toilet Permit may be suspended without prior hearing:

(1) If the permit holder denies the Director access to areas and equipment governed by these rules and regulations.

(2) When the demerit score of the chemical toilet establishment is more than 40;

(3) At the discretion of the Director for violating any provisions of these rules and regulations; and

(4) For twice violating the same requirement deemed critical (violation with 6 demerit points) under these rules and regulations within any six-month period, in which case, it shall not exceed 5 days.

(b) A suspension without prior hearing may remain in effect until the violation is corrected by the establishment. The Director shall have the discretion to decide whether the suspension shall be continued pending a hearing.

§ 420120. Reinstatement of Chemical Toilet Permit.

When the holder of a Chemical Toilet Permit believes that corrections have been made of the cited violation(s) upon his premises or some other violation for which his permit has been suspended, he may make application to the Director for reinstatement of the permit. This application may be in the form of a letter. Upon receipt of such application, the Director shall make an inspection of the premises. If the findings of this inspection show that the violation has been corrected, the Director may, in his discretion, reinstate the permit, but shall reinstate the permit where suspension was imposed for such time until violations were corrected.

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§ 420121. Revoked Chemical Toilet Permit May Not Be Reinstated.

When a Chemical Toilet Permit has been revoked, it no longer has any validity and may not be reinstated except upon order of a court.

§ 420122. New Chemical Toilet Permit Barred for One Year

No person whose permit has been revoked shall be eligible to obtain a new permit for a period of one year.

§ 420123. Ceasing of Operations.

The Director shall order a chemical toilet establishment, toilet room or stool, chemical toilet, route unit, or sewage pumper truck to immediately cease operations whenever he finds that the operation jeopardizes the health and safety of the people. The operation of any specific toilet room or stool, chemical toilet, route unit, or sewage pumper truck where there is a wastewater spill or leak, shall cease operation immediately. Additionally, a chemical toilet establishment with standing pools of wastewater shall cease operations immediately. Immediate cleanup and remediation of all spills or leaks at any location of a toilet room or stool, chemical toilet, route unit, sewage pumper truck, or the chemical toilet establishment shall be conducted with no interruption in regular servicing and maintenance for other chemical toilet establishments, toilet rooms or stools, chemical toilet, route units, or sewage pumper trucks at other locations, whenever possible. Operations for that particular location of spill or leak shall not be resumed until authorized by the Department.

§ 420124. Closing and Notification to Chief of Police.

(a) The Director shall enforce the closing of any establishment or activity whose permit has been suspended or revoked. Upon the request of the Director, the Chief of Police shall provide police personnel to enforce such closing.

(b) The Director shall notify the Chief of Police of any suspension or revocation of a Chemical Toilet Permit.

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§ 420125. Closure to Be Posted.

Whenever any establishment requiring a permit is closed by the Director, the Director shall post a notice, easily visible to the public, stating that said establishment is closed by order of the Director.

§ 420126. Administrative Penalties.

(a) The Director may impose a fine payable to the “Treasurer of Guam” for any Chemical Toilet Operator that violates any provisions of these rules and regulations. The monetary fine for the Administrative violation shall be by charged to the Chemical Toilet Operator based on the following violations:

(1) A fine not less than One Hundred Dollars (\$100) per violation, but not exceeding Five Hundred Dollars (\$500), for the repeat of a same violation with assigned 6 point demerits within a one year period.

(2) A fine not less than Five Hundred (\$500) per violation, but not exceeding Five Thousand Dollars (\$5000), for operating without a valid Chemical Toilet Permit.

(3) For § 420126(a)(1) and § 420126(a)(2) above, the Department shall treat each additional day as a separate violation per day of continuing violation.

(b) The Director shall issue a notice of violation and administrative penalty against a Chemical Toilet Operator and provide an opportunity to request a hearing on the proposed penalty. The request must be made within 10 days of the date that the notice is served upon the Chemical Toilet Operator.

(c) Any Chemical Toilet Operator may seek review of any administrative penalty imposed before the Superior Court of Guam. Such review shall be upon the record established before the Director and not *de novo*. The Superior Court may sustain, modify or vacate any administrative penalty it reviews.

(d) If any Chemical Toilet Operator fails to comply with an administrative penalty order after it has become final, the Attorney General shall bring a civil action to enforce the order and to

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

- (1) Notice was given as required;
- (2) A hearing was granted to the defendant or that the defendant requested no hearing; and
- (3) The penalty was imposed and has become final either because the administrative order was not appealed to the Superior Court, or that after judicial review the administrative order remains an unsatisfied obligation.

§ 420127. Variance.

In the event that an establishment or person is unable to comply with certain requirements of these rules and regulations, upon a showing of good cause which is not the result of negligence or malfeasance, the Director may grant a variance from the requirements of a particular rule by making a written determination. Before a variance from a requirement of these rules is approved, the Chemical Toilet Operator shall first submit a written statement of the proposed variance from the requirement citing relevant section number(s). The written statement shall include an alternate plan to address the potential public health hazards and nuisances under the relevant rule sections. The Director, not his/her representative, is delegated the authority to approve such variance.

§ 420128. Effective Date.

These rules and regulations shall become effective immediately upon enactment.

§ 420129. Severability.

If any provision or the application of any provision of these rules and regulations are held invalid, such invalidity shall not affect the other provisions or applications of these rules and regulations.

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ARTICLE 21
GUAM FOOD CODE

SOURCE: Submitted to the Legislative Secretary on August 6, 2013, and effective on November 4, 2013, with enforcement to commence year after adoption.

2022 NOTE: Authority to promulgate the Guam Food Code is pursuant to Title 10 GCA § 21102. According to the Preface, the Guam Food Code replaces the Rules and Regulations Relative to Eating and Drinking Establishments adopted in 1984.

The numbering of the Guam Food Code does not comport to the standards adopted by the Guam Code Advisory Commission, and instead retains the format of the Model Food Code of the U.S. Food and Drug Administration. The Guam Food Code may be viewed [here](#) (the transmittal of the rules to the Guam Legislature).

2022 NOTE: The Compiler retained the placement and numbering of Article 28 as adopted by E.O. 2020-38 (Oct. 28, 2020). To avoid confusion, Articles 22 through 27 have been designated as “Reserved.”

ARTICLE 22
[Reserved]

ARTICLE 23
[Reserved]

ARTICLE 24
[Reserved]

ARTICLE 25
[Reserved]

ARTICLE 26

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[Reserved]

ARTICLE 27

[Reserved]

ARTICLE 28

**REGULATIONS GOVERNING THE ENFORCEMENT OF PUBLIC
HEALTH GUIDANCE MEMORANDA AND DIRECTIVES
DURING THE COVID-19 PUBLIC HEALTH EMERGENCY**

SOURCE: Adopted pursuant to 10 GCA § 19802 and Executive Order 2020-38 (Oct. 28, 2020), which stated in relevant part:

SUSPENDING RULE-MAKING PROCEDURES. Pursuant to my authority under Title 10 Chapter 19 Section 19403(a)(l), upon my determination that strict compliance with the rule-making procedures of the Administrative Adjudication Law codified in Title 5 Article 3 of the Guam Code Annotated would hinder or delay necessary action by DPHSS to respond to the COVID-19 public health emergency first declared in Executive Order No. 2020-03 and increase the threat to the health of our community, I order that such procedures are suspended for the limited purpose and in the interest of the expedient adoption and implementation of the COVID-19 Public Health Enforcement Regulations developed by DPHSS. The COVID-19 Public Health Enforcement Regulations shall continue for the duration of the public health emergency declared in Executive Order No. 2020-03 or as extended by future Executive Orders.

Preface

The Department of Public Health and Social Services (“DPHSS”) is authorized to promulgate and implement such rules and regulations as are reasonable and necessary to implement and effectuate the provisions of the *Islan Guåhan* Emergency Health Powers Act (“the Act”) and shall have the power to enforce the provisions of the Act through the imposition of fines and penalties, the issuance of orders, and such other remedies as are provided by laws. 10 GCA § 19802. It is the purpose of this document to establish Regulations governing the enforcement of DPHSS Guidance Memoranda and Directives during the COVID-19 Public Health Emergency first declared by Governor Lourdes A.

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Leon Guerrero in Executive Order No. 2020-03 on March 14, 2020, and extended in several Executive Orders thereafter. These Regulations are dynamic and may be amended from time to time, in order to effectuate the provisions of the Act as the public health emergency develops.

These Regulations were developed in response to the surge in the spread of SARS-CoV-2, the virus that causes the COVID-19 disease, throughout the community in Guam, resulting in increased hospitalizations and deaths. Further, these Regulations reflect the acquired experience of the DPHSS and the Guam Police Department (“GPD”) in addressing complaints received from the community of businesses, organizations, and individuals violating DPHSS Guidance Memoranda and Directives issued to regulate standards and behavior in the community to prevent the transmission of COVID-19 and ensure all cases of COVID-19 are contained and treated.

1. Statutory Duties of DPHSS Pursuant to the Emergency Health Powers Act

The *Islan Guåhan* Emergency Health Powers Act (hereafter referred to as the “Act”), codified at 10 GCA § 19101 et seq, was passed with the legislative intent to authorize the exercise of extraordinary government powers and functions to respond rapidly and effectively to public health emergencies, including those caused by emergent and resurgent infectious diseases.

The Act authorizes the Governor of Guam to declare a public health emergency, in consultation with DPHSS, as the designated Public Health Authority, and other public health experts. 10 GCA § 19401.

The Act authorizes DPHSS to coordinate all matters pertaining to the public health emergency response of Guam, including the enforcement of orders issued pursuant to the Act with the assistance of the Guam Police Department, as the Public Safety Authority. 10 GCA §§ 19403(b) and 19404.

The Act requires DPHSS to use every available means to prevent the transmission of infectious disease and to ensure that all cases of contagious disease are subject to proper control and

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treatment. 10 GCA § 19601.

The Act authorizes DPHSS and other affected agencies to promulgate and implement rules and regulations as are reasonable and necessary to implement and effectuate the provisions of the Act. 10 GCA § 19801.

The Act grants to DPHSS and other affected agencies the power to enforce the provisions of the Act through the imposition of fines and penalties, the issuance of orders, and such other remedies as are provided by law. 10 GCA § 19802.

2. History/Background of the COVID-19 Pandemic in Guam.

On March 14, 2020, pursuant to Executive Order No. 2020-03, Governor Lourdes A. Leon Guerrero, Governor of Guam, acting pursuant to the power provided by the Organic Act and the laws of Guam, declared a public health emergency due to the potential dangers posed by the 2019 novel coronavirus.

On April 30, 2020, pursuant to Executive Order No. 2020-11, Guam adopted a system of readiness, known as the Pandemic Conditions of Readiness (“PCOR”) that guides decision-making for purposes of coordinating health and safety responses, imposing restrictions on activities, and directing government services.

In Executive Order No. 2020-11, Governor Leon Guerrero further declared Guam to be in PCOR 1, imposing stringent restrictions on social gatherings, prohibitions on non-essential activities, impositions of conditions on operations of essential activities, and closures of congregate facilities, including schools.

On May 8, 2020, pursuant to Executive Order No. 2020-14, Governor Leon Guerrero declared Guam to be in PCOR 2, permitting limited activities to operate under moderate restrictions and allowing specific businesses to operate subject to DPHSS Guidance, occupancy limits, and implementation of mitigation measures.

On July 19, 2020, pursuant to Executive Order No. 2020-24, Governor Leon Guerrero declared Guam to be in PCOR 3, having achieved a consistently low positivity rate for COVID-

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19, expanded capacity to test all individuals with COVID-19 symptoms, and the continued capacity to monitor COVID-19 cases and trace their contacts through DPHSS's contact tracing system. Under PCOR 3, all businesses and activities, with few exceptions, were permitted to operate, subject to occupancy limitations and the implementation of mitigation measures.

Despite restrictions, COVID-19 cases in Guam dramatically spiked in August 2020, and on August 16, 2020, Guam reverted to PCOR 1 to try to slow COVID-19's spread in Guam.

On August 21, 2020, Governor Leon Guerrero issued Executive Order No. 2020-28, instituting a Stay-at-Home Order, and implementing the most restrictive conditions, closing all businesses and government offices except for those deemed critical and prohibiting the use of public spaces like beaches and parks for any purpose.

The Stay-at-Home Order was extended four (4) times in Executive Orders No. 2020-29, 2020-30, 2020-31, and 2020-32.

On September 25, 2020, in Executive Order No. 2020-34 Governor Leon Guerrero instituted a Safer-at-Home Advisory, permitting the operation of limited non-essential businesses at 25% occupancy, and limited outdoor recreation, but continuing the prohibition on public gatherings and congregations.

On October 1, 2020, in Executive No. 2020-36, Governor Leon Guerrero authorized the operation of additional businesses and activities during PCOR 1, including the resumption of congregations at places of worship at a limited occupancy load, small social gatherings, outdoor recreation, the reopening of public parks and beaches, limited allowances for gyms and fitness centers, and the operation of childcare facilities.

Following each of the aforementioned Executive Orders, DPHSS issued Guidance Memoranda and Directives establishing standards for operation and conduct of businesses and individuals to contain and mitigate the spread of COVID-19.

Executive Orders and consequent DPHSS Guidance Memoranda and Directives were issued based on advice and data

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received from the Physicians Advisory Group, and the Guam National Guard Surgeon Cell, and information from the U.S. Centers for Disease Control and Prevention, the World Health Organization, and other leaders in COVID-19 research nationally and internationally.

Notwithstanding the continued limitations on individual, business, and organizational activities throughout the duration of the pandemic, DPHSS and GPD have received thousands of complaints from members of the community regarding violations of DPHSS Guidance Memoranda and Directives.

DPHSS and GPD have responded to complaints against individuals, businesses, and organizations by counseling and educating such individuals, businesses, and organizations regarding applicable DPHSS Guidance Memoranda and Directives.

The Physicians Advisory Group and the Guam National Guard Surgeon Cell have further recommended implementation of enforcement measures against individuals, businesses, and organizations that violate DPHSS Guidance Memoranda and Directives, in furtherance of efforts to contain and mitigate against the spread of COVID-19.

On October 28, 2020, utilizing her statutory authority under 10 GCA § 19403(a)(1) and pursuant to Executive Order No. 2020-38, Governor Leon Guerrero suspended the rule-making procedures of the Administrative Adjudication Law to allow DPHSS to adopt enforcement regulations during the COVID-19 pandemic, finding that strict compliance with such procedures would hinder or delay necessary action in response to the COVID-19 public health emergency and increase the threat to the health of the community.

Pursuant to its authority under 10 GCA § 19802, DPHSS drafted the “Regulations Governing the Enforcement of Public Health Guidance Memoranda and Directives during the COVID-19 Public Health Emergency.”

Notwithstanding suspension of the Administrative Adjudication Law pursuant to Executive Order No. 2020-38,

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DPHSS posted the draft regulations on DPHSS website and published the scheduled public hearings to receive comments on the draft regulations in the Guam Pacific Daily News and the Guam Daily Post on October 30, 2020 and November 3, 2020, and conducted public hearings regarding the draft regulations on October 31, 2020 and November 4, 2020, during which it received oral and written testimony from members of the community regarding the regulations.

Following the public hearings and based on testimony received during those hearings, DPHSS revised the draft regulations.

Now, therefore, pursuant to its authority under 10 GCA § 19802, DPHSS hereby adopts the following:

“Regulations Governing the Enforcement of Public Health Guidance Memoranda and Directives during the COVID-19 Public Health Emergency.”

- § 428101. Purpose.
- § 428102. Authority.
- § 428103. Title.
- § 428104. Definitions.
- § 428105. Authority to Issue and Enforce Guidance Memoranda and Directives to Prevent Transmission of SARS-CoV-2.
- § 428106. Penalties/Fines for Violation of DPHSS Guidance Memoranda and Directives.

§ 428101. Purpose.

The purpose of these rules and regulations is to protect and promote public health through the implementation of enforcement procedures for violations of guidance memoranda and directives issued by the Department of Public Health and Social Services (“DPHSS”) during the COVID-19 Public Health Emergency declared by Governor Lourdes A. Leon Guerrero in Executive Order No. 2020-03 on March 14, 2020. These rules and regulations shall be liberally construed and applied to ensure

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compliance with DPHSS's guidance memoranda and directives.

§ 428102. Authority.

Title 10 Guam Code Annotated, Chapter 19, Section 19802 authorizes DPHSS to promulgate and implement rules and regulations to implement and effectuate the provisions of the Chapter, and to enforce the provisions of the Chapter through the imposition of fines and penalties, the issuance of orders, and such other remedies as are provided by law.

§ 428103. Title.

These rules and regulations shall be known as the COVID-19 Public Health Enforcement Regulations.

§ 428104. Definitions.

(a) Enforcing Officers shall mean any designated individual with the Department of Public Health and Social Services, and any peace officer in the Guam Police Department.

(b) Business shall mean a partnership, firm, association, corporation or other legal entity not otherwise defined herein.

(c) COVID-19 shall mean the disease caused by the SARS-CoV-2 virus.

(d) DPHSS or Public Health Authority shall mean the Guam Department of Public Health and Social Services.

(e) Guidance Memorandums or Directives shall mean the official documents issued by the Department of Public Health and Social Services as the Public Health Authority providing orders or guidelines for the mitigation, containment, and prevention of the spread of SARS-CoV-2, the virus that causes COVID-19, in Guam.

(f) Nonprofit Organization shall mean:

(1) any organization which is described in § 501(c)(3) of the Internal Revenue Code of 1986, and exempt from tax under § 501(a) of such Code; or

(2) any not-for-profit organization which is organized

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and conducted, pursuant to the laws of Guam, for public benefit and operated primarily for charitable, civic, educational, religious, welfare or health purposes.

(g) Person shall mean any natural person.

(h) GPD or Public Safety Authority shall mean the Guam Police Department.

2020 NOTE: Subsection designations altered pursuant to authority granted by 1 GCA § 1606.

§ 428105. Authority to Issue and Enforce Guidance Memoranda and Directives to Prevent Transmission of SARS-CoV-2.

(a) Pursuant to Title 10 Guam Code Annotated Chapter 19 § 19601, during a state of public health emergency, DPHSS is authorized to use every available means to prevent the transmission of infectious disease and to ensure that all cases of contagious disease are subject to proper control and treatment. During the pendency of the COVID-19 Public Health Emergency declared by Governor Lourdes A. Leon Guerrero in Executive Order No. 2020-03 on March 14, 2020, DPHSS is authorized to use every available means to prevent transmission of SARS-CoV-2, the virus that causes COVID-19, and to ensure that all cases of COVID-19 are subject to proper control and treatment. Pursuant to Title 10 Guam Code Annotated, Chapter 19 Section 19404, DPHSS may further request assistance from the Guam Police Department (“GPD”) in enforcing applicable guidance memoranda and directives.

(b) Violations of DPHSS guidance memoranda or directives as provided in these Regulations will be recorded on forms approved by and prosecuted within the Traffic Division of the Superior Court of Guam.

(c) Enforcing Officers, as defined herein, shall have the power to issue citations to persons, businesses, and non-profit corporations violating the DPHSS Guidance Memoranda and Directives as provided in these Regulations.

§ 428106. Penalties/Fines for Violation of DPHSS Guidance Memoranda and Directives.

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(a) Prohibited Conduct.

(1) For persons, willful violation of, or failure to comply with any guidance or directive issued by DPHSS relating to the following shall constitute a civil violation:

(A) congregations or social gatherings;

(B) social distancing and the wearing of masks when congregating with persons not from the same household; or

(C) any restrictions on the use of public parks or beaches, and on organized or contact sports.

(2) For businesses and nonprofit organizations, unless otherwise authorized by DPHSS, willful violation of, or failure to comply with, any guidance or directive issued by DPHSS relating to the following shall constitute a civil violation:

(A) the submission of mitigation plans;

(B) limitations on authorized operations;

(C) occupancy limitations;

(D) social distancing and the wearing of masks for employees and/or patrons;

(E) sanitation/disinfection requirements;

(F) posting of signage;

(G) any restrictions on indoor patronage, the use of waiting rooms and common areas, and walk-in patronage;

(H) the requirement that such businesses keep logbooks or written records of guests; or

(I) the sale of restricted items.

(b) Penalties.

(1) For persons, willful violation of, or failure to comply with, any guidance or directive issued by DPHSS with

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respect to the COVID-19 public health emergency declared in Executive Order No. 2020-03, or any extension thereof, as provided in Section (a) above, shall be punishable as follows:

(A) For the first offense, such person shall be guilty of a civil violation punishable by a fine of One Hundred Dollars (\$100.00).

(B) For the second offense, such person shall be guilty of a civil violation punishable by a fine of Two Hundred Fifty Dollars (\$250.00).

(C) For the third offense, and each additional violation thereafter, such person shall be guilty of a civil violation punishable by a fine of One Thousand Dollars (\$1,000.00).

(2) For businesses and nonprofit organizations, unless otherwise authorized by DPHSS, willful violation of, or failure to comply with, any guidance or directive issued by DPHSS with respect to the COVID-19 public health emergency declared in Executive Order No. 2020-03, or any extension thereof, as provided in Section (a) above, shall be punishable as follows:

(A) For the first offense, such business or nonprofit organization shall be guilty of a civil violation punishable by a fine of One Thousand Dollars (\$1,000.00).

(B) For the second offense, such business or nonprofit organization shall be guilty of a civil violation punishable by a fine of Two Thousand Five Hundred Dollars (\$2,500.00).

(C) For the third offense, and each additional violation thereafter, such business or nonprofit organization shall be guilty of a civil violation punishable by a fine of Ten Thousand Dollars (\$10,000.00).

(3) Fines collected under this section shall be shared equally by GPD and DPHSS with funds for DPHSS

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deposited into the DPHSS COVID-19 account.

2020 NOTE: Subsection designations altered pursuant to authority granted by 1 GCA § 1606.

§ 428107. Severability.

If any provision of these Regulations are held invalid, such invalidity shall not affect the remaining provisions of these Regulations.
