

## **Title 25**

### **ENVIRONMENTAL HEALTH**

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#### **Chapter 01**

### **GENERAL PROVISIONS**

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#### **25.0101 Definitions.**

The following definitions shall apply in this title:

- (1) "Attorney General" means the Attorney General of American Samoa or his authorized representative.
- (2) "Bay area" means the area between the Pacific Ocean and the crest of visible hills between Blunt's Point and Breaker's Point, including the waters enclosed by adjacent shorelines and lines connecting Breaker's Point and Blunt's Point.
- (3) "Solid waste agency" means the government agency designated by the Governor or by other law as responsible for the management of solid waste issues in the Territory of American Samoa, including the pickup, transportation and disposal of solid wastes.
- (4) "Collection areas" means areas specified by the solid waste official with the approval of

the Director of ASEPA for the placement of accumulated solid waste in solid waste containers or collection bins.

(5) "Collection bins" means receptacles specified by the solid waste official, with the approval of the Director of ASEPA, for the storage of solid waste and for the use of all persons in the area served.

(6) "Director" means the Director of Health or his authorized representative.

(7) "Director of Public Works" means the Director of Public Works or his authorized representative.

(8) "Disposal sites" means an area designated by the solid waste official with the approval of the ASEPA for the disposal of solid waste and/or industrial waste and/or other refuse.

(9) "Drink" means all beverages used for consumption by man or animals.

(10) "Employee or person employed" means any owners, operator, manager, or other person performing any regulated function whether for compensation or otherwise.

(11) "Food" means all articles of food or drink for human consumption and articles used as components of any such article.

(12) "Food establishment" means any establishment or place which is used or occupied as a bakery, confectionery, cannery, dairy, creamery, packing house, slaughtering place, meat or poultry market, fish market, fruit or vegetable market, delicatessen, beverage plant, poultry processing plant, bottling plant, food refrigeration locker 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.

(13) "Food handler" means any person who, in the storage, manufacture, preparation, handling, sale, dispensing or service of food or drink, handles food or drink in such a manner that some portion of his clothing or body might come in contact with such food or drink, or with utensils used in connection therewith.

(14) "Governor" means the Governor of American Samoa or his authorized representative.

(15) "Industrial waste" means any refuse substance generated or caused by industries such as the canneries.

(16) "Other authorized person" means any employee or class of employees of the Department of Public Safety, solid waste agency, ASEPA or Department of Medical Services so designated by their respective Directors.

(17) "Other refuse" means all waste substances, including those wastes referred to in 22.1401 et seq., pertaining to junked vehicles, but excluding:

(A) waste substances defined as solid waste or industrial waste;

(B) organic agricultural matter outside the bay area.

(18) "Person", except where the context indicates that only a natural person is intended includes any individual, firm, corporation, partnership, joint venture, association, trust or other group or combination acting as a unit.

(19) "Public health nuisance" means anything which endangers life or health or contaminates the environment in any way.

(20) "Restaurant" means any restaurant, coffee shop, cafeteria, lunchroom, luncheonette, lunchstand, lunch counter, soda fountain, bar, cafe, tavern, caterer's premises, school lunch facility, or other eating or drinking establishment or place in which food or drink is prepared for sale elsewhere or as a part of a service of a hotel, hospital, or other institution caring for people.

(21) "Roads" means all-weather public or private roads on which vehicles utilized for collection of solid waste can maneuver with facility in forward and reverse direction and which are not obstructed by gates or fences. Determination of what constitutes a "road" shall be made by the Department of Public Works with reference to the aforementioned criteria.

(22) “Sanitarian” means a professional practitioner of hygiene employed by the Department of Medical Services, whose education and experience in the biological and sanitary sciences qualify him to engage in the promotion and protection of public health.

(23) “Sanitize” means to render an article free from pathogenic organisms.

(24) “Sewage disposal installation” means any overwater latrine, pit latrine, toilet, water flush commode, cesspool, drainage pit, septic tank and drain field, trench drain or other system for the conducting or disposal of human body waste, etc., sink slop or any other liquid waste or contaminated water generally known as sewage.

(25) “Solid waste” means any waste or refuse that can be contained in solid waste containers or collection bins including trash, junk debris broken or rejected matter, garbage offal, swill, leaving of foods, abandoned, spoiled, condemned or decayed meat, and fish, animal and vegetable matter, including offal from the slaughtering of animals. but excluding:

(A) liquid wastes;

(B) industrial wastes:

(C) other refuse:

(D) organic agricultural wastes in villages outside the bay area.

(26) “Treasurer” means the Treasurer of American Samoa or his authorized representative.

(27) “Village” means any political or geographic unit commonly known as a village at the time of the passage of this law.

(28) “Waste containers” means receptacles specified by the solid waste official, with the approval of the Director of ASEPA, for the storage of solid wastes, to be utilized by the person(s) generating the waste and to be placed at collection areas during times specified for collection by the collection agency.

(30) “Solid waste official” means the official appointed by the Governor to oversee solid waste collection and disposal issues in American Samoa. That official is responsible for the collection and disposal of solid waste, including the administration of contractual services associated with solid waste collection and the operation and maintenance of existing solid waste collection and disposal systems within the Territory.

(31) “ASEPA” means the American Samoa Environmental Protection Agency.

**History:** 1972, PL 12-44 § 1; amd 1979, PL 16-53 § 75; 2001, PL 27-8.

**Amendments:** 1979 Subsection (3): deleted; renumbered remaining subsections.

### **25.0102 Duty of Director.**

It shall be the duty of the Director to prepare and to enforce when directed by the Governor, regulations on the following subjects:

(1) prevention and control of public health nuisances:

(2) sanitary practices and quality controls for village and municipal water supplies:

(3) location of private water supplies;

(4) watersheds used for public water supplies;

(5) disposal of excreta, sewage, or other wastes;

(6) disposal of garbage and refuse;

(7) plumbing;

(8) rodent control and use of rodenticides;

(9) insect control and use of insecticides:

(10) pollution of seashore, streams, lakes, and other waters;

(11) drainage and impounded waters in connection with the control of arthropods of public health importance:

- (12) production, handling, processing, and sale of food products and drinks;
- (13) restaurants and all other places serving or preparing food or drinks for the public;
- (14) food handlers;
- (15) toilets and washrooms in all public places and places of employment;
- (16) bathing and swimming places;
- (17) public health requirements for publicly and privately owned schools, public buildings, airports, seaports, warehouses, storage areas, and serving of commercial carriers;
- (18) all places used for the incarceration of prisoners and inmates of governmental institutions;
- (19) control of communicable diseases and protection of the public health;
- (20) health certificates for persons serving the public;
- (21) control of rabies and other zoonosis;
- (22) industrial hygiene;
- (23) any other matter pertaining to public health in American Samoa.

**History:** 1972, PL 12-44 § 1.

#### **25.0103 Inspections-Orders to comply.**

The Director is directed and authorized to make inspections of all public and private grounds, buildings, vehicles, aircraft, ships and other places, at reasonable hours, in order to carry out the provisions of this title. He may order compliance with the provisions of this title and the immediate abatement of public health nuisances.

**History:** 1972, PL 12-44 § 1.

#### **25.0104 Investigation of complaints.**

The Director shall investigate any bona fide complaint relative to any alleged violation of this title and take such action as he may deem necessary.

**History:** 1972, PL 12-44 § 1.

#### **25.0105 Powers and duties of pulenuu.**

(a) It shall be one of the duties of the pulenuu to regularly and thoroughly inspect all portions of his village and all other areas within his jurisdiction for compliance with the applicable provisions of this title.

(b) The pulenuu shall have the authority to charge any person within his jurisdiction with failure to comply with any provision of this title or any regulations adopted under it. Such charge shall be filed with the district court in the village over which the pulenuu has jurisdiction if the violation charged is punishable by a village regulation in effect therein and adopted pursuant to the method for adopting village regulations as set forth in this Code. If the matter charged is not made punishable by any village regulation in the village in which the offense occurs, the pulenuu shall consult the Attorney General, who shall take appropriate action.

(c) The pulenuu shall also assist the Director in carrying out sanitation work within his jurisdiction, and he may request the advice and help of the Director on any sanitation problem within his jurisdiction.

**History:** 1972, PL 12-44 § 1.

#### **25.0106 Service of written notice.**

(a) Whenever the giving of a written notice is required or authorized under this title, such notice unless otherwise provided, may be given by serving a copy personally upon the person to be served or by mailing a copy to his last known address.

(b) Notice served by mail shall be complete upon deposit in the United States Postal Service in an envelope addressed to the last known address of the person to whom notice is being given and bearing sufficient postage.

**History:** 1972, PL 12-44 § 1.

**25.0107 Penalty for maintaining or allowing public nuisance after notice to abate.**

Every person who maintains a public nuisance or allows one to exist upon property or premises which he owns or occupies, after 10 days notice in writing to discontinue or abate the same has been personally served upon him, is guilty of a class C misdemeanor and upon conviction, shall be sentenced accordingly. The existence of such nuisance for each day beyond the tenth day after the service of such notice shall be deemed a separate and distinct offense.

**History:** 1972, PL 12-44 § 1; amd 1980, PL 16-90 § 51.

**Amendments:** 80 Amended to conform with penalties provided for in Title 46, Criminal Justice.

**Case Notes:**

Absent change by statute, suit to abate public nuisance must be brought by authorized public official. In re Dogs in Tafuna, ASR 1978).

**25.0108 Removal of nuisance at owner's expense.**

In lieu of, or in addition to, the punishment authorized by this title, the Director of Health is authorized to abate and remove any public nuisance at the owner's expense 10 days after written notice to the owner of the Director's intention to do so if the nuisance is not abated within the 10-day period. The cost of the abatement of the nuisance by the Director shall be recovered by appropriate court proceedings.

**History:** 1972, PL 12-44 § 1; amd 1979, PL 16-53 § 47.

**Amendments:** 1979 Substituted Director of Health for Director of Medical Services and substituted "court proceedings" for "proceedings in the High Court of American Samoa".

**25.0109 Abatement of serious public nuisance upon less than 10 days notice.**

If any public nuisance immediately threatens the health of any person(s), the Director may abate it either in the manner provided in 25.0107, or in the manner provided in 25.0108, giving only such notice as the time for such abatement permits.

**History:** 1972, PL 12-44 § 1.

**25.0110 Violation-Penalty.**

Any person who violates any provision of this title, any valid rule promulgated under this title, or any village regulation for health and sanitation adopted in accordance with this Code, or refuses or neglects to comply with any lawful order issued by the Director of Health, the Director of ASEPA or the solid waste official in carrying out the provisions of this title, the penalty for which is not otherwise prescribed in this title, is guilty of a class C misdemeanor and upon conviction, sentenced accordingly.

**History:** 1972, PL 12-44 § 1; amd 1980, PL 16-90 § 52; 2001, PL 27-8.

**Amendments:** 1980 Amended to conform with penalties provided under Title 46, Criminal Justice.

## **Chapter 02**

**(RESERVED)**

## **Chapter 03**

### **INDIVIDUAL'S HEALTH CERTIFICATES**

#### **Sections:**

- 25.0301 Required by certain persons.**
- 25.0302 Exceptions.**
- 25.0303 Form of certificate-Scope of examination.**
- 25.0304 Prohibition on employees having communicable disease.**
- 25.03 05 Posting notice of law in food establishments.**
- 25.0306 Duty to see that certificate is obtained.**
- 25.0307 Duty to carry certificate while working.**
- 25.0308 Suspension of food handlers.**
- 25.0309 Fees.**
- 25.0310 Authorization required prior to release of medical findings.**

#### **25.0301 Required by certain persons.**

The following persons shall be examined by the Director of Health every 12 months and obtain from him a health certificate which shall state that such person has been examined and is free from all diseases dangerous to the public health:

- (1) any person employed as a handler of food or drink or as a cashier in any restaurant, or at any carnival or fair, or as an employee of a caterer, or in any food establishment, or on any premises licensed for on-sale of alcoholic beverages under 27.0501 et seq., relating to alcoholic beverages, or in any hotel, cafe, bar, private club or public eating or drinking place, or in any public assembly where food or drink is sold or dispensed;
- (2) any peddler of food or drink;
- (3) any person employed in any barbershop or beauty shop;
- (4) any other person in a category listed by the Governor in his discretion, by regulation.

**History:** 1972, PL 12-44 § 3.

#### **25.0302 Exceptions.**

This chapter does not apply to sale by the original producer of fresh, unprocessed fruits, vegetables and nuts, eggs, live poultry or live pigs or to persons who are employed as cooks, maids or servants in private homes or dwellings, nor to persons preparing or serving food for feasts, weddings or church and community celebrations where food or drink is not sold for profit.

**History:** 1972, PL 12-44 § 3.

#### **25.0303 Form of certificate-Scope of examination.**

The form of the health certificate and the extent of the physical examination shall be

prescribed by the director but must include the following:

- (1) a physical inspection for Hansen's disease and other skin infections, particularly scabies, head lice, impetigo fungus infections, boils and abscesses:
- (2) appropriate tests to determine whether tuberculosis is present:
- (3) a stool examination for the common ovum of intestinal parasites.

**History:** 1972, PL 12-44 § 3.

**25.0304 Prohibition on employees having communicable disease.**

(a) No owner, employer, manager, or person in charge or control may permit any person to work in a restaurant or food establishment knowing, or having reasonable grounds to know, that such person has a disease in communicable form, or is a carrier of such disease; and no person shall work in a restaurant, whether in his own or another's employ, knowing himself to have, or having reason to believe that he has, any such disease. If an owner, employer, manager or person in charge or control suspects that any employee has any such disease in a communicable form, or is a carrier of such disease, he shall notify the director immediately.

(b) Persons with cuts or sores shall not be allowed to handle food that may be contaminated by such handling.

**History:** 1972, PL 12-44 § 3.

**25.0305 Posting notice of law in food establishments.**

A placard containing this section and 25.0303 and 25.0304 shall be posted in all toilet rooms used by employees in restaurants and food establishments.

**History:** 1972, PL 12-44 § 3.

**25.0306 Duty to see that certificate is obtained.**

Every owner, manager, or person in charge or control of any establishment, as well as each employee, is under a duty to see that each employee has a valid health certificate.

**History:** 1972 PL 12-44 § 3.

**25.0307 Duty to carry certificate while working.**

Each food handler shall carry his health certificate on his person at all times when performing his duties or functions at his place of employment or business.

**History:** 1972 PL 12-44 § 3.

**25.0308 Suspension of food handlers.**

Any person required to have a health certificate, who either does not have a valid certificate or is unable to exhibit one to an authorized inspector, may be suspended from all duties at his place of employment until such time as he obtains a valid certificate or can exhibit a valid certificate to the inspecting authority. The act of suspending the violating employee does not preclude separate action to be taken against the owner, employer, manager, or person in charge or control of the violating establishment.

**History:** 1972, PL 12-44 § 3.

**25.0309 Fees.**

(a) The Department of Health may not charge any fee for examinations and tests, or the issuance of health certificates. In the case of any employee who handles food in a private home where a health certificate is required or requested by the householder, no fee may be charged for issuing a certificate to the employee.

(b) This section shall not preclude the power of the director to charge a fee for duplicate health certificates if the cost of such service is reasonably related thereto.

**History:** 1972, PL 12-44 § 3.

**25.0310 Authorization required prior to release of medical findings.**

The staff of the Department of Health, both professional and administrative, may not release results of medical findings to the employer, or to any person except the person examined, without written authorization for the release signed by such person. The employer, without such written authorization, is entitled only to information as to whether the health certificate was issued or denied.

**History:** 1972, PL 12-44 § 3.

## Chapter 04

### COMMUNICABLE DISEASES

**Sections:**

- 25.0401 Authority to declare diseases communicable.**
- 25.0402 Report of communicable diseases-Duty of medical personnel.**
- 25.0403 Report of contagious or infectious diseases-Duty of lodging places.**
- 25.0404 Report of contagious or infectious diseases-Duty of ship and aircraft captains.**
- 25.0405 Report of communicable or contagious disease-Duty of person or child with disease.**
- 25.0406 Inspection for discovery of disease.**
- 25.0407 Willful exposure of disease prohibited.**
- 25.0408 Isolation and quarantine regulations.**
- 25.0409 Duty of person having control of quarantined child.**
- 25.0410 Posting of quarantined premises.**
- 25.0411 Disinfection of premises.**
- 25.0412 Destruction of infected property-Compensation.**
- 25.0413 Closing schools.**
- 25.0414 Repealed.**
- 25.0415 Prevention of blindness at childbirth.**
- 25.0416 Disposal of bodies.**
- 25.0417 Autopsies.**
- 25.0418 Personal rights guaranteed.**
- 25.0419 Confidentiality.**

**25.0401 Authority to declare diseases communicable.**

(a) The Director may by regulation approved by the Governor, declare any disease to be a communicable disease.

(b) Human Immunodeficiency Virus Seropositivity (HIV) and Acquired Immune Deficiency Syndrome (AIDS) are communicable diseases.



**History:** 1972, PL 12-44 § 4; amd 1991, PL 22-5.

**25.0402 Report of communicable diseases-Duty of medical personnel.**

Any physician, dentist, medical or dental officer, or nurse of the Department of Health who has knowledge or suspected knowledge of the presence of any communicable disease or any other disease dangerous to the public health shall report the same to the Director within 48 hours after diagnosis unless a different time is prescribed by regulation together with the name, age, and sex of the person affected, the village in which the person may be found, and such other information as may be required by regulation. When the patient is immediately hospitalized, the physician or medical officer in charge of the hospital care of the patient shall make the report. The director shall forthwith such cases to the United States Public Health Services.

**History:** 1972, PL 12-44 § 4; amd 1991, PL 22-5; 1992, PL 22-23.

**25.0403 Report of contagious or infectious diseases-Duty of lodging places.**

Any owner, keeper or other person in charge of the operation of a hotel, boardinghouse, lodginghouse or dormitory shall immediately report to the Director the presence therein of any person he has reason to believe to be sick from or to have died from any contagious, infectious, communicable, or other disease dangerous to the public health.

**History:** 1972, PL 12-44 § 4.

**25.0404 Report of contagious or infectious diseases-Duty of ship and aircraft captains.**

Any master of a vessel or captain of an aircraft shall immediately report to the Director the presence aboard such vessel or aircraft of any person he has reason to believe to be sick from, or to have died from, any contagious infectious communicable, or other disease dangerous to the public health.

**History:** 1972, PL 12-44 § 4.

**25.0405 Report of communicable or contagious disease-Confidential-Duty of person or child with disease.**

(a) Any person having any communicable disease, or any other disease dangerous to the public health, including venereal disease, shall report such condition to any medical services officer or physician licensed to practice medicine in American Samoa. No parent, guardian, or other person having custody or care of a minor child shall conceal the fact of a minor child having any such disease.

**History:** 1972, PL 12-44 § 4; amd 1991, PL 22-5.

**25.0406 Inspection for discovery of disease.**

(a) When a complaint is made or reasonable belief exists that a communicable disease or other disease dangerous to public health prevails in any house or elsewhere and has not been reported, the Director of Health shall make an inspection for the purpose of discovering whether any such disease exists.

**History:** 1972, PL 12-44 § 4; amd 1991, PL 22-5.

**25.0407 Willful exposure of disease prohibited.**

No person having a communicable disease or other disease dangerous to the public health, or being in charge of any person afflicted with such a disease, may willfully expose himself or such person in any public place, street or highway, except as may be authorized by the Director.

**History:** 1972, PL 12-44 § 4.

**25.0408 Isolation and quarantine regulations.**

Isolation and quarantine shall be imposed in accordance with regulations of the Governor. Such regulations shall designate the diseases for which isolation or quarantine or both are necessary and such other requirements concerning diagnosis, treatment, release, and other pertinent matters as may be deemed necessary.

**History:** 1972, PL 12-44 § 4.

**25.0409 Duty of person having control of quarantined child.**

Where any person suffering from a communicable disease is required to remain isolated or quarantined or to do or refrain from doing any act or thing whereby the spread of the disease may be enhanced, and such person, because of tender age or physical or mental disability, is unable to comprehend or comply with such requirements, it shall be the duty of the parents, guardian, or other person, including any attendant having such patient under his care, custody or control, to comply or cause compliance with the isolation or quarantine imposed and pertinent provisions of this chapter.

**History:** 1972, PL 12-44 § 4.

**25.0410 Posting of quarantined premises.**

(a) When a person has been isolated or quarantined and is restricted thereby to his residence or other building, the Director may place in a conspicuous position on the exterior of the premises where such person is isolated or quarantined a placard having printed on it, in large letters, the name of the disease and warning all authorized persons to remain off the premises. Such placard shall be in both English and Samoan.

(b) No person may remove, deface, or destroy such placard until authorized by the Director.

(c) Except as authorized by the Director, or by regulation, no person shall enter or leave any premises which have been placarded.

**History:** 1972, PL 12-44 § 4.

**25.0411 Disinfection of premises.**

The Director may if he deems it advisable, order the premises and contents thereof in which any person has been ill or has died of a communicable disease, or any other room building, premises or area, and any contents thereof which may be infective by contact with any communicable disease, to be disinfected and purified in such manner as he may direct. It shall be the duty of the owner or occupant of such premises to comply with any such order.

**History:** 1972, PL 12-44 § 4.

**25.0412 Destruction of infected property-Compensation.**

(a) The Director may destroy any infected clothing, bedding, or other articles which cannot be made safe by disinfection. He shall furnish to the owner thereof a receipt showing the number,

character, condition and estimated value of the articles so destroyed. A copy of such receipt shall be retained by the Director.

(b) Upon the presentation of the original receipt for articles destroyed and approval by the Governor, the Treasurer of American Samoa shall pay to the owner of such property, out of such appropriations of the Department of Health as may be available, the value of such destroyed articles.

**History:** 1972, PL 12-44 § 4.

**25.0413 Closing schools.**

During an epidemic or threatening epidemic, or when a dangerous communicable disease is unusually prevalent, the Director may close any public or private school and prohibit any public or private gathering for such time as may be necessary in the interests of the public health.

**History:** 1972, PL 12-44 § 4.

**25.0414 Vaccination and immunization.**

Repealed by PL 17-33.

**25.0415 Prevention of blindness at childbirth.**

Any physician midwife, or other person in attendance at childbirth shall instill a one-percent solution of silver nitrate into the eyes of every child immediately after birth. Solutions other than one-percent silver nitrate may be used only on approval of the Director and subject to such conditions and restrictions as the Director may impose.

**History:** 1972, PL 12-44 § 4.

**25.0416 Disposal of bodies.**

The Director, in his discretion, may require that the body of a person who has died of a communicable disease or any other disease dangerous to the public health be buried or cremated immediately or within such period of time in conformity with such procedure, as he may designate.

**History:** 1972, PL 12-44 § 4.

**25.0417 Autopsies.**

The Director may perform any autopsy whenever approved by the family of the deceased or order of the High Court.

**History:** 1972, PL 12-44 § 4.

**25.0418 Personal rights guaranteed.**

No person testing HIV positive may be denied any governmental services, public or private employment, school attendance, housing, insurance, health or dental care or any other basic human rights based upon their seropositivity.

**History:** 1991, PL 22-5.

**25.0419 Confidentiality.**

Records containing the identity of individuals pursuant to this chapter may under no

circumstances be disclosed or transferred to any unauthorized person or public or private agency. Employees of the American Samoa Government who violate this section shall be subject to disciplinary action pursuant to Title 7, and Title 4 A.S.C.A.

**History:** 1992, PL 22-23.

## **Chapter 05**

### **FACILITY'S HEALTH PERMITS**

#### **Sections:**

- 25.0501 Health permits-Required-Issuance.**
- 25.0502 Places where unprocessed fish or meat may be sold.**
- 25.0503 Exemptions.**
- 25.0504 Permit-Form-Duration.**
- 25.0505 Permit-Display.**
- 25.0506 Notice of intent to operate or open establishment.**
- 25.0507 Inspections.**
- 25.0508 Inspection-Report.**
- 25.0509 Suspension or revocation of permit-Procedure-Appeal.**
- 25.0510 Automatic suspension of business or alcoholic beverage license upon suspension or revocation of permit.**
- 25.0511 Transfers of permits prohibited.**

#### **25.0501 Health permits-Required-Issuance.**

(a) It is unlawful to operate, or open for business, without a valid health permit issued by the Director of Health:

- (1) any establishment defined as a restaurant;
- (2) any place defined as a food establishment;
- (3) any activity involving the sale of food or drink, such as catering, peddling, vending, etc.;
- (4) any barbershop or beauty parlor.

(b) The Director shall issue such permit only if in his opinion the sanitary conditions are maintained at levels which adequately safeguard public health.

**History:** 1972, PL 12-44 § 2.

#### **25.0502 Places where unprocessed fish or meat may be sold.**

No person may sell, or offer or display for sale any unprocessed fish or meat or parts of fish or meat other than in a food establishment or restaurant that has a valid health permit.

**History:** 1972, PL 12-44 § 2.

#### **25.0503 Exemptions.**

This chapter does not apply to the operation of any establishment, including any market, wayside stand or roadside stand, used exclusively for the sale of any of the following items by the original producer thereof:

- (1) fresh, unprocessed fruits, vegetables and nuts;
- (2) eggs;
- (3) live poultry;
- (4) live pigs;

(5) unprocessed fish sold the day they are caught.

**History:** 1972, PL 12-44 § 2.

**25.0504 Permit-Form-Duration.**

The form of the permit must be prescribed by the Director. It shall be valid for one year from the day of issuance. No fee or charge may be made for issuing a permit.

**History:** 1972, PL 12-44 § 2.

**25.0505 Permit-Display.**

Each health permit issued pursuant to this title must be displayed in a conspicuous place.

**History:** 1972, PL 12-44 § 2.

**25.0506 Notice of intent to operate or open establishment.**

At least 3 days before any person shall commence to operate or open for business any establishment or activity mentioned in this chapter, he shall notify the Director in writing of his intent so that the premises may be inspected.

**History:** 1972, PL 12-44 § 2.

**25.0507 Inspections.**

As often as he deems necessary, the Director shall inspect every establishment or activity subject to this chapter.

**History:** 1972, PL 12-44 § 2.

**25.0508 Inspection-Report.**

(a) One copy of the inspection report shall be posted by the Director in a conspicuous place on the premises designated by him. The original report shall be retained by the Director.

(b) No person other than the Director may remove, deface, destroy or conceal such report.

**History:** 1972, PL 12-44 § 2.

**25.0509 Suspension or revocation of permit-Procedure-Appeal.**

(a) A permit may be suspended or revoked by the Director of Medical Services upon the violation by the holder, or by a person in his employ or under his supervision or control, of any of the provisions of this title.

(b) A suspension as a penalty for repeated violations may not exceed 5 days. Other suspensions may be for such time as the violation remains uncorrected.

(c) A revoked permit no longer has any validity and may not be reinstated, except upon order of the district court after a hearing.

(d) Except as provided in subsection (e), notice of intent to suspend or revoke a permit must be given, and the notice must state fully the reason or reasons and allow the owner at least 10 days to correct the violation.

(e) If a permit has been suspended and, upon reinspection, the violation has not been corrected, the Director may suspend or revoke the permit without further warning.

(f) When suspicion arises as to the possibility of transmission of infection from any restaurant employee, the director is authorized to require any or all of the following measures:

- (1) the immediate exclusion of the employee from all restaurants;
  - (2) the immediate closing of the restaurant concerned until, in the opinion of the Director, no further danger of disease outbreaks exists;
  - (3) adequate medical examinations of the employee and his associates, with such laboratory examinations as may be indicated.
- (g) An order of suspension or revocation may be appealed to the District Court of American Samoa.

**History:** 1972, PL 12-44 § 2; amd 1979, PL 16-53 § 48.

**Amendment:** 1979 Subsections (c) and (g): substituted references to District Court for references to High Court.

**25.0510 Automatic suspension of business or alcoholic beverage license upon suspension or revocation of permit.**

(a) Upon the suspension or revocation of a health permit, any alcoholic beverage license or business license previously issued to the permit holder with respect to the same premises must be automatically suspended, and it is unlawful to operate under such alcoholic beverage or business license during the period of suspension or after the revocation.

(b) This section may not be construed to preclude any action under 27.0501 et seq. relating to alcoholic beverages, for enforcement of the provisions of such title.

**History:** 1972, PL 12-44 § 2.

**25.0511 Transfers of permits prohibited.**

It is unlawful to transfer a permit to another person, or to post it on, or use it in any way in connection with, any other premises than that for which it is issued.

**History:** 1972, PL 12-44 § 2.

## **Chapter 06**

### **FOOD AND BEVERAGE SANITATION**

**Sections:**

- 25.0601 Examination and condemnation of food and drink-inspection of utensils.**
- 25.0602 Sanitation of beverage and frozen dessert dispensers.**
- 25.0603 Adulterated, misbranded, and unpasteurized milk and milk products-Impoundment.**
- 25.0604 Labeling of foods and beverages.**
- 25.0605 Construction requirements of future dairy plants and extensively changed plants.**
- 25.0606 Transportation of milk and milk products.**
- 25.0607 Food and drink expiration date.**
- 25.0608 Unlawful to sell condemned food or drink.**

**25.0601 Examination and condemnation of food and drink-Inspection of utensils.**

(a) Samples of food, drink and other substances may be taken and examined by the director as often as may be necessary for the detection of unwholesomeness or adulteration.

(b) The Director may condemn and forbid the sale of, or cause to be seized, removed or destroyed, any food or drink which is unwholesome or adulterated. Specimen utensils may be

taken for bacterial examination.

**History:** 1972, PL 12-44 § 7.

**25.0602 Sanitation of beverage and frozen dessert dispensers.**

(a) Any equipment or mechanical device used to sell or dispense soft drinks or other beverages, or ice cream or other frozen desserts, whether by bottle or by open cup, carton, or other container or wrapper, or popcorn or other food, shall be maintained and operated in a clean and sanitary manner, and so as to prevent the contamination of beverage or food sold or dispensed.

(b) The Director may order the owner, lessor, or operator of any equipment or device or the owner of the premises where any equipment or device is located, to close down, cease to operate or remove any equipment or devices which he deems to be unsanitary or dangerous to health, or take other such action as may be authorized in accordance with law.

**History:** 1972, PL 12-44 § 7.

**25.0603 Adulterated, misbranded, and unpasteurized milk and milk products-  
Impoundment.**

(a) No person may produce sell offer, or expose for sale, or have in his possession with intent to sell, any milk or milk product, including ice cream and other frozen desserts, which is adulterated or misbranded.

(b) It is unlawful for any person, elsewhere than in a private home, to have in his possession any adulterated or misbranded milk or milk product.

(c) The sale of raw or unpasteurized milk, unpasteurized milk products, ice cream and other frozen desserts made from unpasteurized milk, and the sale of such products when pasteurized in an unapproved plant, is prohibited.

(d) Any adulterated or improperly labeled milk or milk products may be impounded by the director and shall be disposed of as he, after hearing, orders.

(e) The terms used in this section may be defined by regulations of the Governor.

**History:** 1972, PL 12-44 § 7.

**25.0604 Labeling of foods and beverages.**

(a) All bottles, cans, packages, and other containers enclosing milk or any milk product shall be plainly labeled or marked with the name of the contents, the word "reconstituted" or "recombined", if included in the name of the product, and the word "pasteurized" only if the contents have been pasteurized. The label or mark shall be in letters of an approved kind and color, and shall contain no marks or words which are misleading.

(b) All bottles, cans, packages, and other containers enclosing solid or liquid food products shall be plainly labeled or marked stating clearly the contents thereof and shall contain no marks or words which are misleading.

(c) In furtherance of the intent of this section, the director of medical services is specifically authorized to issue regulations which conform with standards set by the United States Food and Drug Administration pertaining to labeling and quality of food products.

**History:** 1972, PL 12-44 § 7.

**25.0605 Construction requirements of future dairy plants and extensively changed**

**plants.**

All dairies, milk plants, and ice cream plants from which milk or milk products are supplied in American Samoa which are hereafter constructed, reconstructed or extensively altered shall conform in their construction to regulations promulgated by the Governor.

**History:** 1972, PL 12-44 § 7.

**25.0606 Transportation of milk and milk products.**

(a) All vehicles used for the transportation of milk, ice cream, and frozen desserts or their ingredients shall be so constructed and operated as to protect their contents from the sun and contamination.

(b) Such vehicles shall be kept clean, and no substances capable of contaminating milk or frozen desserts, or their ingredients may be transported therewith in such manner as to permit contamination.

(c) All vehicles used for the distribution of milk or frozen desserts shall have the name of the distributor prominently displayed.

**History:** 1972, PL 12-44 § 7.

**25.0607 Food and drink expiration date.**

The Director may condemn and forbid the sale of, or cause to be seized, removed, or destroyed, any food or drink which has passed the date of expiration appearing on the product or which is, in the Director's opinion, old, stale, or otherwise unwholesome due to the passage of time.

**History:** 1992, PL 22-24.

**25.0608 Unlawful to sell condemned food or drink.**

It is unlawful for any person to sell, offer, or expose for sale any food, drink or other substances that have been forbidden for sale by the Director pursuant to sections 25.0601 and 25.0607.

**History:** 1992, PL 22-24.

**Chapter 07**

**SANITATION**

**Sections:**

- 25.0701 Inspection of schools and public places.**
- 25.0702 Public drinking fountains.**
- 25.0703 Water overflow and drainage water-Prohibited runoff.**
- 25.0704 Control of mosquitoes.**
- 25.0705 Spitting prohibited.**
- 25.0706 Common use of utensils and towels prohibited.**
- 25.0707 Approval of sanitizing procedures.**

**25.0701 Inspection of schools and public places.**

The Director shall periodically inspect the sanitary conditions, including but not limited to



drinking fountains and lavatory and cafeteria facilities, of all schools, public institutions, government and other public buildings, and public parks and beaches, and report thereon to the person, or Director of the department of government, having control thereof.

**History:** 1972, PL 12-44 § 5.

**25.0702 Public drinking fountains.**

Public drinking fountains for the dispensing of water for human consumption shall be kept clean and sanitary by the owner or person in charge thereof. For purposes of drinking fountains belonging to the government, the “owner or person in charge thereof” shall be the director of the department in which the fountain is located or, if not located in any department, the Director of Public Works.

**History:** 1972, PL 12-44 § 5.

**25.0703 Water overflow and drainage water-Prohibited runoff.**

(a) Overflow water from kitchens, shower heads, faucets or other sources shall not be allowed to run off on the ground in such a manner as to produce accumulation of stagnant water on the ground of either the owner’s or a neighbor’s property.

(b) All water outlets, such as faucets, showerheads, and similar taps, shall have a working serviceable shutoff valve which must be closed whenever the water outlet is not being used.

(c) Drainage water from all showers kitchen faucets, and other sources shall be piped to a soakage pit or disposed of in a manner acceptable to the Director.

**History:** 1972, PL 12-44 § 5.

**25.0704 Control of mosquitoes.**

No owner, lessor, or occupant of any property, land, or premises may have, keep, maintain, cause, or permit any collection of standing or flowing water in which mosquitoes are propagated, or in which mosquitoes may be propagated within the boundaries of his property or, in the case of larger tracts of land or premises, for a distance of not less than 100 feet from any building used as a residence, cookhouse, workshop or place of business, or any place where persons, including the owner’s, lessor’s or occupant’s family as well as other persons, gather, sleep, work, cook or habitually carry on other activities.

**History:** 1972, PL 12-44 § 1.

**25.0705 Spitting prohibited.**

In the interest of public health, spitting is prohibited.

**History:** 1972, PL 12-44 § 5.

**25.0706 Common use of utensils and towels prohibited.**

(a) No person owning, operating, or having charge or control of, any lodginghouse, restaurant, carnival, fair, store, theater, school nursery, hospital, clinic, club, office building, park, playground or conveyance may provide or expose for common use, or permit to be so provided or exposed or allow to be used in common any drinking or eating utensil, or other receptacle used for drinking or eating purposes, or any towel.

(b) “Common use” in this section means use by any person after use by any other person of

any article coming under this section without sanitization thereof before each such use.

**History:** 1972, PL 12-44 § 5.

**25.0707 Approval of sanitizing procedures.**

Every sanitizing procedure used to comply with this title must be approved by the Director of Medical Services.

**History:** 1972, PL 12-44 § 1.

**Chapters 08-14**

**(RESERVED)**

**Chapter 15**

**LATRINES**

**Sections:**

- 25.1501 Deposit of human excreta.**
- 25.1502 Responsibility for existence of excreta in unapproved places.**
- 25.1503 Duty of village provide latrines.**
- 25.1504 Submission of latrine plans for approval.**
- 25.1505 Review and approval of plans.**
- 25.1506 Plans to be kept on file.**
- 25.1507 Stamps of approval on plans required prior to construction.**
- 25.1508 Inspection of construction.**

**25.1501 Deposit of human excreta.**

The depositing of human excreta in, or within 500 yards of any village in any place other than a toilet equipped with plumbing facilities, or an approved latrine, is expressly prohibited.

**History:** 1972, PL 12-44 § 6.

**25.1502 Responsibility for existence of excreta in unapproved places.**

When human feces are found on land elsewhere than in an approved latrine, the head of the family residing upon or otherwise using the land shall be guilty of maintaining or permitting the same on such land.

**History:** 1972, PL 12-44 § 6.

**25.1503 Duty of village to provide latrines.**

Each village shall provide itself with latrines in such numbers and at such places as shall be determined by the Director of Health.

**History:** 1972, PL 12-44 § 6.

**25.1504 Submission of latrine plans for approval.**

No latrine, either public or private, may be constructed without approval by the Director of Health and the Department of Public Works. Plans for proposed latrine and sewage disposal

installations must be submitted in triplicate for review and approval by the Director of Health and the Department of Public Works showing the plumbing design and layout, sewage disposal method, location of the sewage disposal installation in relation to buildings, wells and other structures, the size specifications of the sewage disposal installation, and the structural aspects of the installation.

**History:** 1972, PL 12-44 § 6.

**25.1505 Review and approval of plans.**

(a) The Director of Health shall review, pursuant to an order of the Governor, all latrine construction plans for:

- (1) plumbing design and layout;
- (2) sewage disposal method;
- (3) location of the sewage disposal installation;
- (4) size specifications of the sewage disposal installation;
- (5) other features of public health significance.

(b) The Department of Public Works shall review all latrine construction plans for the structural safety of the proposed installation.

(c) The Director of Health and the Department of Public Works shall affix a stamp of approval on latrine construction plans which they believe conform to sanitary and safety regulations promulgated under this title.

**History:** 1972, PL 12-44 § 6.

**25.1506 Plans to be kept on file.**

The Department of Health and the Department of Public Works shall keep on file a copy of each latrine construction plan to which they have affixed their stamp of approval.

**History:** 1972, PL 12-44 § 6.

**25.1507 Stamps of approval on plans required prior to construction.**

No construction of a latrine or sewage disposal facility may be started until the builder has in his possession on the construction site a copy of the plans bearing the stamps of approval of both the Department of Health and the Department of Public Works. The builder may not make any changes in the plans as approved or construct any part of the installation contrary to the approved plans without first obtaining in writing permission for the change by the Department of Health and the Department of Public Works.

**History:** 1972, PL 12-44 § 6.

**25.1508 Inspection of construction.**

The Director of Health shall make such inspections as are necessary to insure that the installation is built in conformity to the approved plans.

**History:** 1972, PL 12-44 § 6.

## Chapter 16

### DOMESTIC ANIMALS

**Sections:**

- 25.1601 Confinement of domestic animals-Impoundment and destruction.**
- 25.1602 Distance animals to be kept from human habitat.**
- 25.1603 Animals not permitted in space between highway and sea.**
- 25.1604 Confinement of animals near bodies of fresh or salt water prohibited.**
- 25.1605 Confinement areas for animals to be kept sanitary.**
- 25.1606 Destruction of animals with transmissible diseases-Disposal of dead animals.**
- 25.1607 License fees.**
- 25.1610 Vicious animals prohibited-Penalty-Enforcement.**

**25.1601 Confinement of domestic animals-Impoundment and destruction.**

(a) No pigs, goats, sheep, horses, cattle, or other domestic animals, other than fowl, cats and licensed dogs may be allowed to run loose. All such animals must be confined by fencing, or kept properly secured by tying or staking.

(b) All animals allowed to run loose or be at large in violation of this section shall be impounded and destroyed. Nothing in this section may be interpreted to prohibit the impounding and destruction of unlicensed dogs in any area.

**History:** 1972, PL 12-44 § 11.

**25.1602 Distance animals to be kept from human habitat.**

No owner or occupant may keep or allow to be kept upon premises owned by him or in his possession or control any pigs, goats, sheep, horses or cattle within 50 feet of any building used for human habitation or as a restaurant, food establishment, or school.

**History:** 1972, PL 12-44 § 11.

**25.1603 Animals not permitted in space between highway and sea.**

No pigs, chickens or other animals may be kept in the space between the highway and the sea.

**History:** 1972, PL12-44§ 11.

**25.1604 Confinement of animals near bodies of fresh or salt water prohibited.**

No pigpens, chicken coops, or other areas or structures for confining animals may be placed directly over any stream, river, brook, pond, or other body of fresh or salt water. Pigs or other domestic animals may not be confined in the area immediately adjacent to any body of fresh water in such a way that the waste discharges of the animal or the washings from the pen may contaminate or pollute a stream or other body of fresh water.

**History:** 1972, PL 12-44 § 11.

**25.1605 Confinement areas for animals to be kept sanitary.**

All poultry houses, yards, coops, pigeon runs, rabbit hutches, dog kennels, pens, barns, stables, or other structures or enclosures for any fowl or animal shall be kept clean and free from any accumulation of excreta decayed food and filth of every kind. All such structures and enclosures shall be maintained in a clean and sanitary condition.

**History:** 1972, PL 12-44 § 11.

**25.1606 Destruction of animals with transmissible diseases-Disposal of dead animals.**

Animal carcasses and organs infected with disease transmissible or possibly transmissible to man or animals shall be destroyed and not used for animal or human consumption. No person may deposit or leave any dead animal on any land or in any stream or body of water within American Samoa.

**History:** 1972, PL 12-44 § 11.

**25.1607 License fees.**

The following licenses fees are established:

- (1) dog, male or female \$2.00.

**History:** 1963, PL 8-6; 1969, PL 11-49.

**Research Guide:** See 27.0243 for administration and enforcement of this section.

**25.1610 Vicious animals prohibited-Penalty-Enforcement.**

(a) No person may import into or possess in the Territory a live vicious animal, except for animals being exported out of the Territory within 48 hours of their arrival.

(b) For the purpose of this section, a vicious animal is one which, without provocation;

(1) has made an attack on a person whether or not the attack resulted in any injuries to the person;

(2) bitten any person; or

(3) displays snarling, snapping, growling, clawing or other behavior which tends to intimidate, frighten or subdue a person.

(c) Animals which display the behavior described in subsection (b) upon command of an owner or keeper are considered vicious animals under this section.

(d) This section shall be enforced and animals shall be seized by the Department of Public Safety upon its own initiative and upon formal complaint by a person or guardian or parent of a person attacked, bitten or otherwise harassed by a vicious animal. An animal seized under this section must be inspected by the Department of Agriculture officials and be destroyed within 48 hours if the officials confirm its vicious behavior. The Department of Agriculture shall handle the destruction of such animals in a reasonably humane manner.

(e) Any person who imports or possesses a vicious animal in the Territory is guilty of a class A misdemeanor. If such animal causes injury to a person in an unprovoked attack then the importer or possessor is guilty of a class D felony.

**History:** 1988, PL 20-48.

**Chapters 17-19**

**(RESERVED)**

## Chapter 20

### SOLID AND INDUSTRIAL WASTE AND REFUSE

#### Sections:

- 25.2001 Designation of collection areas in accessible villages.**
- 25.2002 Collection and disposal plans for inaccessible villages.**
- 25.2003 Prohibited deposits and accumulations-Each day separate offense.**
- 25.2004 Allowable deposits and accumulations.**
- 25.2005 Use of approved containers required-Distribution.**
- 25.2006 Use of collection bins in lieu of waste containers.**
- 25.2007 Removal of solid waste to disposal site.**
- 25.2010 Citation for offense.**
- 25.2011 Citation-Form and contents.**
- 25.2012 Citation-Service.**
- 25.2013 Citation-Answering.**
- 25.2014 Citation-Appearance in court.**
- 25.2015 Citation-Complaint-Contents-Motion for further information.**
- 25.2016 Legal representation.**
- 25.2017 Arrest for failure to answer citation.**
- 25.2018 Plea and trial.**
- 25.2019 Abstract of case.**
- 25.2020 Fine for offense-Payment-Disposition.**
- 25.2021 Failure to answer citation or pay fine a misdemeanor.**
- 25.2030 Violations bureau-Duties.**
- 25.2031 Appearance of offenders before violations bureau.**
- 25.2032 Payments of fines.**
- 25.2033 Severability.**
- 25.2034 Prohibition on plastic shopping bags.**

#### **25.2001 Designation of collection areas in accessible villages.**

The solid waste official as appointed under 25.0101 shall designate collection areas for the placement of waste containers in all villages accessible by roads.

**History:** 1972, PL 12-44 § 8.

#### **25.2002 Collection and disposal plans for inaccessible villages.**

The village council of all villages not accessible by roads shall, in consultation with the solid waste official, devise and carry out a plan for the collection and disposal of solid waste, approved by the Director of Health and the Director of ASEPA.

**History:** 1972, PL 12-44 § 8; 2001, PL 27-8.

#### **25.2003 Prohibited deposits and accumulations-Each day separate offense.**

(a) A person shall not deposit solid waste, industrial waste or other refuse except as permitted in 25.2004.

(b) A person shall not permit the accumulation of solid waste, industrial waste or other refuse on any property owned, leased, or possessed by him, nor shall he permit the same upon any sidewalks, alleys, curbs, roadway shoulder areas, streams and shorelines immediately adjoining

such real property, except as permitted in 25.2004. In the case of property owned, leased, possessed, or occupied by the government, the responsible party for purposes of the liability of the government, shall be the solid waste official.

(c) Each day beyond the day of service of the complaint-summons set out in 25.2011 that the accumulation prohibited by this section exists, shall be deemed a separate and distinct offense.

**History:** 1972, PL 12-44 § 8.

**25.2004 Allowable deposits and accumulations.**

Deposits and accumulations of solid waste, industrial waste, and other refuse are permitted only:

(1) at collection areas in villages and along public rights of way designated by the solid waste official and in solid waste containers or collection bins provided there:

(2) in villages referred to in 25.2002, in areas designated by approved solid waste collection and disposal plans;

(3) at disposal sites designated by the Director of Medical Services with the concurrence of the solid waste official for the disposal of solid waste, industrial waste, and other refuse, subject to the approval of the Director of ASEPA.

**History:** 1972, PL 12-44 § 8; 2001, PL 27-8.

**25.2005 Use of approved containers required-Distribution.**

(a) All deposits must be in waste containers or in bags or bundles which conform to specifications set by the solid waste official.

(b) Such waste containers shall be available for sale or lease at a place set by the solid waste official.

(c) The solid waste official shall establish and publish time schedules for the placement of containers for collection.

**History:** 1972, PL 12-44 § 8; 2001, PL 27-8.

**25.2006 Use of collection bins in lieu of waste containers.**

In lieu of requiring the use of waste containers the solid waste official, with the approval of the Director of Health and the Director of ASEPA may place collection bins in collection areas, and in such instances all solid waste shall be deposited therein.

**History:** 1972, PL 12-44 § 8; 2001, PL 27-8.

**25.2007 Removal of solid waste to disposal site.**

(a) The solid waste agency shall have the responsibility for the transportation of all solid waste to a disposal site which shall be maintained and operated by the solid waste agency unless otherwise provided by the solid waste official. The solid waste agency shall formulate and abide by a collection schedule and disposal standards approved by the solid waste official and the Directors of ASEPA.

(b) Transportation of industrial waste and other refuse shall be in a manner approved by the Director of Health and carried out by the person(s) generating or causing such waste.

**History:** 1972, PL 12-44 § 8; 2001, PL 27-8.

**25.2008 Prohibition of tampering with or removing solid waste collection bins or waste containers.**

(a) A person shall not in any way tamper with or damage any solid waste collection bin or waste container so as to interfere with its designated purpose or to detrimentally affect its appearance.

(b) A person shall not remove from its place any solid waste collection bin or waste container which the person does not own or for which the person does not have responsibility.

**History:** 2001, PL 27-8.

**25.2009 Responsibility of business.**

(a) Notwithstanding any other provision of law, every owner or operator of a commercial establishment in the Territory shall be responsible for providing and maintaining sufficient and suitable solid waste collection receptacles on his business premises.

(b) It shall be the responsibility of every owner or operator of a commercial establishment in the Territory to maintain his business premises and all sidewalks, alleys, curbs, roadway shoulder areas, fence lines, and shorelines immediately adjoining such business premises so as to prevent the accumulation of solid and industrial wastes and debris.

**History:** 2001, PL 27-8.

**25.2010 Citation for offense.**

(a) When solid waste, industrial waste, or other refuse is deposited or allowed to accumulate in violation of 25.2003, or 25.2009, or where there is a violation of any provision of this title, any valid rule promulgated under this title, or any village regulation for health and sanitation adopted in accordance with this title, or where there is a refusal or neglect to comply with any lawful order issued by the Director of Health or the Director of ASEPA in carrying out the provision of this title, a sanitarian or other authorized person, including members of the Department of Public Safety, authorized employees of the solid waste agency, or authorized employees of ASEPA, may issue a citation therefor.

(b) When solid waste, industrial waste, or other refuse is deposited or allowed to accumulate on communal lands in violation of 25.2003, and the person or persons responsible for such deposits or accumulations are unknown or cannot be identified, a warning citation for the violation(s) shall be issued to the Sa'o or highest ranking matai of such communal lands. If the Sa'o or highest ranking matai fails to ensure that the unlawful deposits or accumulations are completely removed within seven (7) days from the date the warning citation was given, he or she shall receive the citation therefor.

(c) If there is no matai for the land upon which an accumulation of solid waste or debris has occurred, the pulenuu for the village council of the village where the accumulation is located shall be served with the warning citation. If the unlawful deposit or accumulation of solid waste is not removed within seven (7) days, the village council shall be served with the fine citation.

(d) The Director of Public Health may authorize other persons to issue citations under this title as necessary, provided that any person so authorized has the training and experience necessary to perform the job as determined in consultation with the Attorney General.

**History:** 1972, PL 12-44 § 8; and 1988, PL 20-85; 2001, PL 27-8.

**25.2011 Citation-Form and contents.**

(a) The form of the citation shall be approved by the Attorney General, and copies of the form



shall be stocked ordered, and paid for by each agency having authority to issue citations under this chapter.

(b) Citations shall be signed by the sanitarian or other authorized person who effects the service.

(c) No code sections need be cited if the charge and violation are specifically designated therein. It may also contain other information pertinent to the offense charged, together with such forms for appearance plea and waiver as may be necessary under 25.2030 through 25.2033.

**History:** 1972, PL 12-44 § 8; 2001, PL 27-8.

**25.2012 Citation-Service.**

A citation must be served by personal delivery of a copy thereof to the defendant.

**History:** 1972, PL 12-44 § 8.

**25.2013 Citation-Answering.**

A citation may be answered in the manner provided in 25.2031 within 3 business days from the day of the service of the citation.

**History:** 1972, PL 12-44 § 8.

**25.2014 Citation-Appearence in court.**

If the citation is not answered by appearance, plea and waiver before the violations bureau before the close of business hours and within 7 business days from the date of the service of the summons, the defendant must appear in the District Court at the time and date indicated thereon.

**History:** 1972, PL 12-44 § 8; amd 1979, PL 16-53 § 49.

**Amendments:** 1979 Substituted “violations bureau” for “violations clerk”, added “before the close of business hours and within 7 business days from the date of the service of the summons”, and substituted “district court” for “public health court”.

**25.2015 Citation-Complaint-Contents-Motion for further information.**

A complaint signed and sworn to by the person who issued the citation must be filed with the clerk of the Court before any offense may be heard or plea taken in court. The complaint shall be substantially in the form prescribed for a citation by 25.2011. It may also contain other information pertinent to the alleged offense.

**History:** 1972, PL 12-44 § 8; amd 1979, PL 16-53 § 75.

**Amendments:** 1979 Subsection (b): repealed.

**25.2016 Legal representation.**

Defendants in a public health action may be represented by an attorney or legal practitioner.

**History:** 1972, PL 12-44 § 8; amd 1979, PL 16-53 § 50.

**Amendments:** 1979 Changed section from “Parties to a public health court action may make use of the services of an attorney or legal practitioner” to “Defendants in a public health action may be represented by an attorney or legal practitioner.”

**25.2017 Arrest for failure to answer citation.**

A warrant may be served by a police officer for the arrest of any person who fails to answer a citation. It shall be supported by a sworn complaint as set out in 25.2015.

**History:** 1972, PL 12-44 § 8.

**25.2018 Plea and trial.**

(a) After reading the complaint to the defendant, the court shall ask the defendant to plead. If the defendant pleads guilty, the court shall proceed with sentencing. If the defendant pleads not guilty, the person who issued the citation shall present the court with the grounds on which it was issued, adding evidence to this end. The Attorney General may assist to the extent he deems necessary.

(b) The defendant may then introduce evidence to establish the fact that he is not guilty.

(c) The Court may examine the evidence and question the parties and their witnesses at any time.

**History:** 1972, PL 1244 § 8; amd 1979, PL 16-53 § 75.

**Amendments:** 1979 Subsection (d): repealed.

**25.2019 Abstract of case.**

Upon disposition of the case, the court shall prepare an “Abstract of Court Record for Violations Bureau” in substantially the form known as a “Public Health Complaint Abstract of Court Record” and transmit it to the violations bureau. The violations bureau shall keep records to show whether a person cited is a prior offender and shall notify the district court when a person fails to pay any fine imposed under this chapter.

**History:** 1972, PL 12-44 § 8; amd 1979, PL 16-53 § 51.

**Amendments:** 1979 Deleted ‘Court’ from “Pubic Health Court Complaint Abstract of Court Record”, substituted “violations bureau” for “violations clerk”, and substituted “district court” for “public health court”.

**25.2020 Fine for offense-Payment-Disposition.**

(a) The District Court may, unless otherwise specifically provided, impose a fine of :

	NO LESS THAN	NO MORE THAN
first offense	\$50	\$100
second offense	\$100	\$200
third offense	\$400	\$500
subsequent offenses	\$500	\$1,000

(b) Additionally, or in lieu of fines, any person found guilty under this chapter may be ordered to pick up and remove solid waste, trash, and debris from public places, including streams and the seashores, under the direction of the Department of Public Safety.

(c) The District Court may order the imprisonment of any person guilty of a misdemeanor referred to in 25.2021.

(d) Any fine imposed under this title must be paid to the violations clerk within the time specified by the court not to exceed 14 days from the day the fine is imposed.

(e) All money collected by fines and costs under this chapter shall be paid to the Treasurer of American Samoa and placed by him into the general fund.

**History:** 1972, PL 12-44 § 8; amd 1979, PL 16-53 § 52; 1988, PL 20-85; amd 1992, PL 22-24; 2001, PL 27-8.

**Amendments:** 1979 Subsections (a), (b): substituted references to District Court for references to public health

court, and in (b), deleted provision that High Court, but not lower court could order imprisonment.

**25.2021 Failure to answer citation or pay fine a misdemeanor.**

Regardless of the disposition of the charge upon which a citation is issued or fine imposed a person is guilty of a misdemeanor if he willfully fails to:

- (1) answer a lawful citation; or
- (2) pay a fine imposed under this title within the time required unless retrial is requested.

**History:** 1972, PL 12-44 § 8; amd 1988, PL 20-85.

**25.2030 Violations bureau-Duties.**

The violations bureau shall accept appearances waivers of trial, pleas of guilty and payments of fines for public health offenses subject to the limitations of this section and 25.2031 through 25.2033. It shall operate under the direction and control of the Clerk of the High Court.

**History:** 1972, PL 12-44 § 8; amd 1979, PL 16-53 § 53.

**Amendments:** 1979 Substituted “violations bureau” for “violations clerk”, substituted “public health offenses” for “offenses over which the public health court has jurisdiction”, and substituted “Clerk of the High Court” for “Treasurer” at end.

**25.2031 Appearance of offenders before violations bureau.**

Any person charged with a public health offense may appear before the violations bureau in person before the close of business hours and within 7 business days from the date of the service of the summons and, upon signing a plea of guilty and waiver of trial, pay the fine for the offense charged. Prior to this plea, waiver and payment, he shall be informed of his right to appear before the District Court, that his signature to a plea of guilty will have the same force and effect as a judgment of that court, and that the record of conviction will be sent to the District Court.

**History:** 1972, PL 12—44 § 8; amd 1979, PL 16-53 § 54.

**Amendments:** 1979 Substituted “public health offense” for “offense subject to the jurisdiction of the public health court”, substituted “violations bureau” for “violations clerk”, added “before the close of business hours and within 7 business days from the date of the service of the summons”, substituted “District Court” for “public health clerk”, and substituted “District Court” for “Treasurer” at the end of section.

Amendments: Substituted “violations bureau” for “violations clerk” and “district court” for “Chief Justice”.

**25.2032 Payment of fines.**

Fines imposed by the district court for violations of this chapter shall be paid to, received by, and accounted for by the violations bureau during business hours.

**History:** 1972, PL 12-44 § 8; and 1979, PL 16-53 § 56; 2001, PL 27-8.

**Amendments:** 1979 Substituted reference to district court for reference to Chief Justice of the High Court and substituted “violations bureau” for “violations clerk at his office”.

**25.2033 Severability.**

If any provision of this chapter or its application to particular persons or circumstances is held invalid by a court of law, the application of such provision to other persons or circumstances shall not be affected, nor shall the remainder of the provisions of this chapter be affected thereby.

**History:** 2001, PL 27-8.

## **25.2034 Prohibition on plastic shopping bags.**

(a) No wholesale or retail establishment located or doing business in the Territory of American Samoa shall, directly or indirectly, give, provide, or make available plastic shopping bags to customers or consumers.

(b) The American Samoa Environmental Protection Agency (“ASEPA”) is designated as the agency responsible for implementation and administration of this section to include coordinating enforcement efforts. Notwithstanding the effective date of this act, ASEPA is authorized to immediately undertake, pursuant to the Administrative Procedures Act, A.S.C.A. 4.1001, et seq., promulgation of any rules and regulations necessary to implement the provisions of this act on its effective date on or before such date.

(c) Enforcement procedures and penalty provisions contained in this chapter shall apply to this section. Pursuant to section 25.2010, a sanitarian or other authorized person, including members of the Department of Public Safety or authorized employees of the solid waste agency, ASEPA or the Department of Commerce, may issue citations for violations of this section.

(d) In addition to other enforcement provisions and penalties, where there is reasonable cause to believe that a violation of this section, or rule adopted pursuant to it, has occurred, or is occurring, those persons designated in paragraph (c) above may issue a stop order to the person or establishment responsible for the violation. The stop order must detail the facts alleged to constitute a violation and may include an order that necessary corrective action be taken within a reasonable time and must be served on the person, persons or establishment in violation of this section. Further, those persons designated in paragraph (c) above may seize any supply or inventory of plastic shopping bags in conjunction with issuance and service of a stop order. In the event of the failure of the person, persons or establishment to comply with the order, the director of ASEPA may apply to the High Court for injunctive relief and, in the event a seizure has occurred, shall include a claim for forfeiture of the seized plastic shopping bags.

(e) The following are exempt from this section: (1) Shopping bags produced entirely from non-petroleum-based biodegradable plastic, as verified by ASEPA; (2) Compostable plastic bags, as verified by ASEPA; and (3) Additional exemptions established by ASEPA in accordance with the Administrative Procedures Act, A.S.C.A. 4.1001, et seq.

(f) ASEPA may issue category variances for the following products:(1) Raw meat, poultry, or fish;(2) Frozen foods;(3) Fresh produce; and(4) Prepared meals in takeout containers.

(g) As used in this section, unless the context requires otherwise:

(1) “Biodegradable plastic” means plastic made of cellulose based or other substances that undergo significant changes in their chemical structure as a result of the action of naturally occurring microorganisms such as bacteria, fungi, and algae. The ultimate products of this process should be carbon dioxide, water, or compost (humus). This biodegradation process shall not generate any intermediate or final products that would be detrimental to public health

(2) “Compostable plastic bag” means a plastic bag that conforms to the American Society for Testing and Materials (“ASTM”) International Standard D6400 for compostable plastic, as such standard may be amended and/or revised from time to time.

(3) “Retail establishment” means a place where goods, food, food products, wares, or products are offered to the public for sale or lease, including but not limited to markets, grocery, and retail merchandise stores. “Retail establishment” shall also include, but not be limited to, any place where food is prepared, mixed, cooked, baked, smoked, preserved, bottled, packaged, handled, stored, manufactured, and sold or offered for sale to a customer or the ultimate consumer, including but not limited to restaurants, dining areas, fast food businesses, road-side food sales and farmers’ markets.

(4) "Shopping bag" means any container distributed to consumers at the point of sale at a retail establishment intended for use in the transport of purchased or acquired items.

(5) "Wholesale establishment" means an operation that prepares, processes, manufacturers, packages, labels or handles goods, including food, primarily for wholesaling or sale in large or bulk quantity to retailers or jobbers for resale.

**History:** 2010, PL 31-19.

## Chapter 21

### RODENT CONTROL

#### Sections:

- 25.2101 Duty of owner, lessee, or occupant of occupied building.**
- 25.2102 Duty of owner or lessee of unoccupied building or vacant lot.**
- 25.2103 Construction and protection of docks and wharves.**
- 25.2104 Danger of human or rodent plague on vessels-Precautionary measures.**
- 25.2105 Storage of food.**

#### **25.2101 Duty of owner, lessee, or occupant of occupied building.**

Every owner, lessee, or occupant of an occupied building wherever located, shall comply with the following:

(a) Whenever any building is infested, or becomes infested with rodents, adequate measures shall be taken in good faith to endeavor to eradicate such rodents by poisoning, trapping, fumigation or other appropriate means.

(b) Roofs, garrets, courtyards alleys, basements, cellars and any open spaces which are attached to and are adjacent to houses or buildings, shall be kept free from foodstuffs, garbage, forage, and other material which may serve as food or harborage for rodents.

(c) No rubbish, garbage, waste, or filth of any kind may be placed, left dumped, or permitted to accumulate or remain in any building or in the vicinity thereof, including any area between the property line and the road, in such a way as to afford a harborage or breeding place for rodents. All weeds and grass in the vicinity of any building, including any area between the property line and the road, must be maintained so as to avoid harborage or breeding places for rodents. In rural or village areas, the duty imposed by this section does not extend beyond the property line.

(d) Firewood, scraps, lumber, and other loose materials adjacent to or under buildings shall be piled in an orderly manner so as not to afford a harborage for rodents.

**History:** 1972, PL 12-44 § 9.

#### **25.2102 Duty of owner or lessee of unoccupied building or vacant lot.**

(a) Every owner or lessee of an unoccupied building, or of any vacant lot located in any village or urban area, shall keep such building and its grounds, or such vacant lot, including any area between the property line and the road in sanitary condition free from all rubbish garbage, waste, and filth of any kind. All weeds and grass on such premises, including any area between the property line and the road shall be maintained so as to avoid harborage or breeding places for rodents.

(b) In the case of property owned or leased by the Government of American Samoa the responsible party for purposes of the liability of the government, shall be the Director of Public

Works.

**History:** 1972, PL 12-44 § 9.

**25.2103 Construction and protection of docks and wharves.**

All public and private docks and wharves shall be so constructed and protected as to prevent rodents from gaining access thereto or thereunder at either high or low tide. All foodstuffs on such docks and wharves shall be so kept and stored as to prevent rodents from gaining access thereto or coming into contact therewith.

**History:** 1972, PL 12-44 § 9.

**25.2104 Danger of human or rodent plague on vessels-Precautionary measures.**

Whenever any vessel or other watercraft arriving from any port infected or suspected of being infected with human or rodent plague lies alongside any wharf or dock, or whenever any vessel or other watercraft was docked at any port at which, in the opinion of the Director there existed the danger of human or rodent plague, the following requirements must be fulfilled:

(a) Immediately upon docking, and during the entire time a vessel lies at a wharf, it shall be fended off at least 6 feet.

(b) All connection lines shall be properly fitted with rat guards of such design as shall be approved by the Director.

(c) Gangways and other means of access to the vessel or watercraft shall be well lighted or separated from shore at night by a minimum of 6 feet.

(d) All cargo nets and similar devices extending between the vessel and shore structure shall be removed at night unless in actual use.

**History:** 1972, PL 12-44 § 9.

**25.2105 Storage of food.**

Food shall be stored only in rodent-proof boxes, bins, or rooms.

**History:** 1972, PL 12-44 § 9.

**Chapter 22**

**LITTER CONTROL**

**Sections:**

- 25.2201 This Act.**
- 25.2202 Definitions.**
- 25.2203 Littering prohibited.**
- 25.2204 Prohibition of tampering with or removing a litter receptacle.**
- 25.2205 Responsibility of government.**
- 25.2206 Responsibility of businesses.**
- 25.2207 Responsibility of pulenuu.**
- 25.2208 Enforcement powers.**
- 25.2209 Penalties.**
- 25.2210 Litter enforcement costs.**
- 25.2211 Administrative management.**
- 25.2212 Preservation of authority.**
- 25.2213 Severability.**

**25.2201 This Act.**

This Act shall be known as the “Keep American Samoa Beautiful Act.

**History:**2016, PL 34-20 § 1.

**25.2202 Definitions.**

(a) For purposes of this Act and chapter, the following definitions shall apply:

(1) “Litter” means rubbish, refuse, waste materials, garbage, trash, offal, any dead animal, or any debris of any kind or description whether or not it is of value, including improperly discarded paper, metal, plastic, glass, cloth, and any liquid, infectious, or solid wastes.

(2) “Littering” means placing, throwing, or dropping litter on public, communal, or private real property, or in any waters of the Territory, except:

(A) In a place designated by the solid waste official for the purpose of collection and disposal by the solid waste agency; or

(B) Into a litter receptacle.

(3) “Litter receptacle” means any container approved by the solid waste agency for the depositing of wastes; litter receptacles shall include “collection bins” and “waste containers” as defined in A.S.C.A. Section 25.0101.

(4) “Public place” means any area that is used or held out for use by the public, whether owned or operated by public or private interests.

(5) “Solid waste agency” means the government agency designated by the Governor or by other law as responsible for the management of solid waste in American Samoa, including the pickup, transportation and disposal of solid waste, as defined in A.S.C.A. Section 25.0101.

(6) “Solid waste official” means the official appointed by the Governor to oversee solid waste collection and disposal issues in American Samoa, as defined in A.S.C.A. Section 25.0101.

(7) “Territory” means the United States Territory of American Samoa.

(8) “Waters of the Territory” means any stream, river, ocean, canal, harbor, bay, or the lake located within the territorial limits of American Samoa.

**History:**2016, PL 34-20 § 1.

**25.2203 Litter prohibited.**

(a) No person shall place, throw, or drop litter on public, communal, or private real property, or in any waters of the Territory, except:

(1) In a place designated by the solid waste official for the purpose of collection and disposal by the solid waste agency; or

(2) Into a litter receptacle.

(b) In the case of litter discarded from a moving motor vehicle, the vehicle may only be stopped by law enforcement officers of the Department of Public Safety. The driver of the motor vehicle is responsible for the littering violation.

(c) This section does not restrict a person in the use of his or her own communal or private real property, provided that litter is properly discarded.

(d) If littering on public, communal, or private real property creates a public health nuisance as defined in A.S.C.A. Section 25.0101, the public nuisance provisions contained in A.S.C.A. Section 25.0107 through 25.0109 may be revoked.

**History:**2016, PL 34-20 § 1.

**25.2204 Prohibition of tampering with or removing a litter receptacle.**

(a) A person shall not in any way tamper with or damage any litter receptacle so as to interfere with its designated purpose or to detrimentally affect its appearance.

(b) A person shall not remove from its place any litter receptacle which the person does not own or for which the person does not have responsibility.

**History:**2016, PL 34-20 § 1.

**25.2205 Responsibility of government.**

Litter receptacles shall be suitably located along the public highways of the Territory, village access roads, residential areas, in other public places, beaches, and park and recreation areas. The solid waste official, in consultation with the Director of the American Samoa Environmental Protection Agency and the Director of the Department of Parks and Recreation, shall be responsible for continuous implementation of this provision.

**History:**2016, PL 34-20 § 1.

**25.2206 Responsibility of businesses.**

Notwithstanding any other provision of law, every owner or operator of a commercial establishment in the Territory shall be responsible for providing and maintaining litter receptacles of sufficient volume and in sufficient numbers to meet the needs of patrons customarily coming on to the business premises.

**History:**2016, PL 34-20 § 1.

**25.2207 Responsibility of pulenuu.**

(a) It shall be one of the duties of the pulenuu to regularly and thoroughly inspect all portions of his village and all other areas within his jurisdiction for compliance with the applicable provisions of this chapter.

(b) The pulenuu shall have the authority to charge any person within his jurisdiction with failure to comply with any provision of this chapter or any regulations adopted under it. If the matter charged is not made punishable by any village regulation in the village in which the offense occurs, the pulenuu shall consult the Attorney General, who shall take appropriate action.

(c) The pulenuu shall also assist the government in carrying out litter control efforts within his jurisdiction, and he may request the advice and assistance of the government on litter control problems within his jurisdiction.

**History:**2016, PL 34-20 § 1.

**25.2208 Enforcement powers.**

(a) This chapter shall be enforced by issuance of a written citation:



(1) The form of the citation shall be approved by the Attorney General, and copies of the form shall be ordered and paid for by each agency having authority to issue citations under this chapter.

(2) Citations shall be signed by the authorized person who issues the citation.

(3) A citation must be served by personal delivery to the defendant.

(4) No code sections need be specified if the charged violation is specifically designated through the use of indicated boxes provided on the citation.

(5) The citation may also contain other information pertinent to the offense charged, together with such forms for appearance, plea, and waiver as may be necessary.

(b) Answering and challenging citations shall follow the procedures set forth in A.S.C.A. Title 25 Chapter 20.

(c) The following departments and agencies may authorize employees to issue and serve citations for violations of this chapter, provided that any person so authorized has the training and experience necessary to perform the job as determined in consultation with the Attorney General:

(1) American Samoa Environmental Protection Agency (AS-EPA);

(2) American Samoa Power Authority (ASPA);

(3) Department of Health (DOH);

(4) Department of Marine and Wildlife Resources (DMWR);

(5) Department of Parks and Recreation (DPR);

(6) Department of Public Safety (DPS) ;

(7) Office of Samoan Affairs.

**History:**2016, PL 34-20 § 1.

## **25.2209 Penalties.**

(a) Littering, or violation of any provision of this chapter, is an infraction punishable under the following schedule of fines, at the discretion of the District Court;

	NO LESS THAN and NO MORE THAN	
First Offense	\$50.00	\$100.00
Second Offense	\$100.00	\$200.00
Third Offense	\$400.00	\$500.00
Fourth Offense	\$500.00	\$1,000.00

(b) Additionally, or in lieu of fines, any person convicted under this chapter may be ordered to pick up and remove litter from public places, including streams and the seashores, under the direction of the government agency designated by the Governor to oversee such litter removal. The designated government agency shall consult and coordinate with the appropriate judicial authorities, as necessary, to ensure compliance with the Court's orders.

(1) For the first offense, the violator shall spend four hours picking up litter.

(2) For any subsequent offense, the violator shall spend eight hours picking up litter.

(c) Any person convicted under this chapter shall be required to remove the litter that they caused or shall be liable for the costs of removing that litter.

(d) Any fine imposed under this chapter must be paid to the violations bureau within the time specified by the court. If the court does not specify a deadline, payment must be made no later than fourteen (14) calendar days from the date the fine is imposed.

(e) All fines collected shall be deposited into the general fund and subject to appropriation by the Legislature and approval by the Governor.

**History:**2016, PL 34-20 § 1.

**25.2210 Litter enforcement costs.**

(a) In addition to any fines or removal costs assessed under this chapter, the Court shall impose a litter enforcement costs offset fee of ten dollars (\$10.00) per conviction under this chapter.

(b) Such fee, when assessed, shall be segregated into a separate checking account designated “ASG – Litter Enforcement Account” overseen by the Treasurer of American Samoa. Such funds shall be expended solely for purchase and maintenance of equipment and materials used for government-led litter enforcement activities in the Territory. AS-EPA is the government agency designated to administer these funds.

(c) The revenues generated from the fee imposed in this section shall be subject to appropriation by the Legislature and approval by the Governor.

**History:**2016, PL 34-20 § 1.

**25.2211 Administrative management.**

(a) AS-EPA shall function as the lead agency for implementation and management of this chapter, to include the following:

(1) AS-EPA shall adopt regulations in accordance with 4.1001, et seq., the Administrative Procedures Act, as necessary to implement this chapter and to provide for its effective and efficient administration.

(2) AS-EPA shall develop and conduct a public education program to explain and clarify the purposes and requirements of this chapter to the public.

(3) AS-EPA shall conduct enforcement training for its authorized employees and those of other government agencies having litter enforcement responsibilities, to include refresher training at necessary periodic intervals as determined by AS-EPA.

(4) AS-EPA shall collaborate and coordinate with other government agencies, as well as interested community organizations, for the purpose of effectively and efficiently implementing this chapter.

**History:**2016, PL 34-20 § 1.

**25.2212 Preservation of authority.**

The provisions of this chapter shall not in any way preempt or diminish the authority of any government agency to enforce other laws or regulations relating to litter or solid waste in the Territory.

**History:**2016, PL 34-20 § 1.

**25.2213 Severability.**

If any provision of this chapter or its application to particular persons or circumstances is held invalid by a court of law, the application of such provision to other persons or circumstances shall not be affected, nor shall the remainder of the provisions of this chapter be affected thereby.

**History:**2016, PL 34-20 § 1.

## Chapters 23-29

(RESERVED)

## Chapter 30

### SAFE DRINKING WATER STANDARDS

#### Sections:

- 25.3001** Short title.
- 25.3002** Definitions.
- 25.3003** Drinking water standards.
- 25.3004** Variances and exemptions.
- 25.3005** Imminent hazards.
- 25.3006** Plan for emergency provision of water.
- 25.3007** Notification of users and regulatory agencies.
- 25.3008** Prohibited acts.
- 25.3009** Administration.
- 25.3010** Penalties and remedies.

#### **25.3001** Short title.

The act codified in this chapter shall be known and may be cited as the “Safe Drinking Water Act”.

**History:** 1979, PL 16-13 § 1.

#### **25.3002** Definitions.

As used in this chapter:

- (a) “Administrator” means the Administrator of the U.S. Environmental Protection Agency.
- (b) “Agency” means the Department of Health or such other Territorial agency as shall be charged with responsibility for implementation and enforcement of this chapter.
- (c) “Contaminant” means any physical, chemical, biological, or radiological substance or matter in water.
- (d) “Director” means the Director of the Health agency or his designee.
- (e) “Federal act” means the federal Safe Drinking Water Act PL 93-523 and PL 95-190 and any amendments to them.
- (f) “Federal agency” means any department agency, or instrumentality of the United States.
- (g) “Municipality” means a district, county, village or other public body created by or pursuant to territorial law.
- (h) “National primary drinking water regulations” means primary drinking water regulations promulgated by the administrator under the federal act.
- (i) “Person” means an individual, corporation, company, association, partnership, municipality, or federal agency, or department of the government other than the department of health.
  - (ii) “Primary drinking water rules” means a Territorial rule which:
    - (1) applies to a public water system;
    - (2) specifies contaminants which, in the judgment of the Director, may have any adverse

effect on the health of persons;

(3) specifies for each contaminant either;

(A) a maximum contaminant level, if in the judgment of the director it is economically and technologically feasible to ascertain the level of such contaminant in public water systems; or

(B) if in the judgment of the Director it is not economically or technologically feasible to ascertain the level of the contaminant, each treatment technique known to the Director which leads to a reduction in the level of the contaminant sufficient to satisfy the requirements of 25.3003: and

(4) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels: including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system and requirements as to:

(A) the minimum quality of water which may be taken into the system: and

(B) new construction or alteration of public water systems.

(k) "Public water system" means a system for the provision to the public of piped water for human consumption through pipes or other constructed conveyances; if that system has at least 15 service connections or regularly serves at least 25 individuals. A public water system includes:

(1) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system;

(2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such systems.

(1) "Supplier of water" means any person who owns or operates a public water system.

**History:** 1979, PL 16-13 § 1; amd 1980, PL 16-61 § 1; amd 2002, PL 27-30.

**Amendments:** 1980 Subsection (e): added "and PL 95-190 and any amendments to them". Subsection (1): added ", or department of the government other than the Department of Health".

### **25.3003 Drinking water standards.**

(a) The Director shall adopt and enforce primary drinking water rules that at any given time shall be no less stringent than the complete interim or revised national primary drinking water regulations in effect at that time.

(b) Subject to 25.3004 the primary drinking water rules shall apply to each public water system in American Samoa.

(c) The Director shall adopt and implement adequate procedures for the enforcement of the primary drinking water rules including monitoring and inspection procedures that comply with regulations established by the administrator under the federal act.

(d) The Director shall keep records and make reports with respect to his activities under subsections (a) and (c) as may be required by regulations established by the Administrator under the federal act.

(e) No primary drinking water rule may require the addition of substances for preventive health care purposes unrelated to the contamination of drinking water other than fluoride.

**History:** 1979, PL 16-13 § 1; and 1980, PL 16-68 § 1.

**Amendments:** 1980 Subsection (e): added "other than fluoride" at the end of sentence.

### **25.3004 Variances and exemptions.**

Rules adopted under 25.3003 under conditions and in a manner as he considers necessary and desirable; provided, that those variances or exemptions are permitted under conditions and in a manner in which variances and exemptions may be granted under the federal act.

**History:** 1979, PL 16-13 § 1.

**25.3005 Imminent hazards.**

The Director, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, may take action as he considers necessary in order to protect the health of those persons. The actions which the Director may take include, but shall not be limited to:

- (1) issuing orders as may be necessary to protect the health of persons who are, or may be, users of that system, including travelers: and
- (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

**History:** 1979, PL 16-13 § 1.

**25.3006 Plan for emergency provision of water.**

The Director shall adopt an adequate plan for the provision of safe drinking water under emergency circumstances. When, in the judgment of the Director, emergency circumstances exist in American Samoa with respect to a need for safe drinking water he may take action as he considers necessary in order to provide that water where it otherwise would not be available.

**History:** 1979, PL 16-13 § 1.

**25.3007 Notification of users and regulatory agencies.**

Whenever a public water supply system:

- (1) is not in compliance with the primary drinking water rules;
- (2) fails to perform monitoring required by rules adopted by the Director;
- (3) is subject to a variance granted for an inability to meet a maximum contaminant level requirement;
- (4) is subject to an exemption: or
- (5) fails to comply with the requirements prescribed by a variance or exemption; the operator of the system shall, as soon as practicable, and at least every 3 months while the condition continues, notify the Director, the administrator, and communications media serving the area served by the system of that fact and the extent and nature and possible health effects of that fact. The Director may adopt by rule notice requirements for the public.

**History:** 1979, PL 16-13 § 1.

**25.3008 Prohibited acts.**

The following acts are prohibited:

- (1) failure by a supplier of water to comply with the requirements of 25.3007, or dissemination by that supplier of any false or misleading information with respect to notices required under 25.3007 or with respect to remedial actions being undertaken to achieve compliance with primary drinking water rules;
- (2) failure by a supplier of water to comply with rules adopted under 25.3003 or with conditions for variances or exemptions authorized under 25.3004;
- (3) failure by persons to comply with orders issued by the Director under 25.3005.

**History:** 1979, PL 16-13 § 1.

### **25.3009 Administration.**

To carry out the provisions and purposes of this chapter the Director is authorized and empowered to:

- (1) perform any and all acts necessary to carry out the purposes and requirements of this chapter relating to the adoption and enforcement of primary drinking water rules;
- (2) administer and enforce the provisions of this chapter and all rules, regulations, and orders adopted, issued, or effective under it;
- (3) enter into agreements, contracts, or cooperative arrangements under terms and conditions as he considers appropriate, with other States, Territorial, Federal or interstate agencies, municipalities, political subdivisions, educational institutions, or other organizations or individuals;
- (4) receive financial and technical assistance from the federal government and other public or private agencies;
- (5) participate in related programs of the federal government, and other states, territories, interstate agencies or other public or private agencies or organization;
- (6) establish adequate fiscal controls and accounting procedures to assure proper disbursement of and accounting for funds appropriated or otherwise provided for the purpose of carrying out provisions of this chapter;
- (7) delegate those responsibilities and duties considered appropriate for the purpose of administering this chapter;
- (8) enter upon and inspect public water systems, and take samples of water or other liquids on the premises for analyses during normal business hours of the government or at any time when the Director is informed of imminent and substantial endangerment to the health of persons to determine the presence of contaminants;
- (9) establish and collect fees for conducting inspections and laboratory analyses as necessary; and
- (10) adopt rules considered necessary or appropriate to carry out his function under this chapter.

**History:** 1979, PL 16-13 § 1; amd 1980, PL 16-61 § 3.

**Amendments:** 1980 Subsection (8): deleted "private or communal premises" and added "public water systems".

### **25.3010 Penalties and remedies.**

- (a) A fine not less than \$1,000 and not more than \$10,000 may be imposed on persons who violate paragraph (1) of 25.3008.
- (b) Persons who violate or fail or refuse to comply with orders issued by the Director under 25.3005, or pay a civil penalty issued pursuant to this section, may, to enforce those orders, be fined not less than \$1,000 and not more than \$10,000 for each day in which the violation occurs or failure to comply continues.
- (c) Persons who violate the provisions of 25.3003 or any rule adopted under it are guilty of a class A misdemeanor punishable by a fine of not less than \$2,000 and not more than \$10,000 per violation. In the instance of a continuing violation, each day of violation constitutes a separate offense.
- (d) In addition to the remedies provided in paragraph (c) of this section, for public water systems serving in excess of 10,000 persons the Director may impose by order an administrative penalty of not less than \$1,000 per violation per day for violation of 25.3003 and rules adopted under it. For public water systems serving less than 10,000 persons, the Director may impose administrative penalties of not less than \$500 per violation per day for such violations.

However, an administrative penalty shall not be imposed under this chapter without first providing the alleged violator with notice and opportunity for hearing in accordance with the provisions of the Administrative Procedures Act, 4.1001 et seq., A.S.C.A.

(e) The Director may institute civil actions for injunctive relief to prevent violations of orders or rules issued or adopted under this chapter, or threatened violations, in addition to other remedies provided for in this section.

(f) The trial division of the High Court of American Samoa has original jurisdiction in actions brought under this chapter.

**History:** 1979, PL 16-13 § 1; amd 1980, PL 16-61 § 2; amd 2002, PL 27-30.

Amendments: 1980 Subsection (c); added. Subsections (d) and (e) relettered from previous (c) and (d), and “or threatened violations” added to subsection (d).