

# TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

## SUBCHAPTER 140-20.3

### RULES AND REGULATIONS GOVERNING ANY ESTABLISHMENT OR ACTIVITY INVOLVING FOOD OR DRINK SERVICE, TEMPORARY FOOD SERVICE, FOOD RETAIL, WHOLESALE AND TRANSPORTATION OPERATIONS, PUSHCARTS, CATERERS, OR MOTOR VEHICLE VENDORS

<b>Part 001</b>	<b>General Provisions</b>	<b>Part 300</b>	<b>Screening of Food Handlers</b>
§ 140-20.3-001	Authority	<b>[Repealed]</b>	
§ 140-20.3-005	Purpose	§ 140-20.3-301	Definitions
§ 140-20.3-010	Binding	<b>[Repealed]</b>	
§ 140-20.3-015	Definitions	§ 140-20.3-305	Physical Examination
		<b>[Repealed]</b>	
<b>Part 100</b>	<b>Adoption of the Federal Food and Drug Administration Model Food Code and Annexes 2022</b>	§ 140-20.3-310	Screening for Communicable Disease <b>[Repealed]</b>
§ 140-20.3-101	Adoption of the Federal Food and Drug Administration Model Food Code and Annexes 2022	§ 140-20.3-315	Food Handler Education <b>[Repealed]</b>
§ 140-20.3-105	Amendments	§ 140-20.3-320	Issuance of Food Handler Certificate <b>[Repealed]</b>
§ 140-20.3-110	Description of Food Code Regulations Adopted	§ 140-20.3-325	Division Record Keeping and Tracking Measures <b>[Repealed]</b>
		§ 140-20.3-330	Food Handlers with Positive Test Results <b>[Repealed]</b>
<b>Part 200</b>	<b>Enforcement</b>	§ 140-20.3-335	Application of These Rules and Regulations to Food Handlers Currently Working in the CNMI <b>[Repealed]</b>
§ 140-20.3-201	Adoption of Enforcement and Compliance Procedures	§ 140-20.3-340	Penalties for Violation of These Rules and Regulations <b>[Repealed]</b>
§ 140-20.3-205	Authorities, Methods, Fines, and Sentences		
§ 140-20.3-210	Petitions, Penalties, and Continuing Violations		

Subchapter Authority: 1 CMC §§ 2603 and 2605; 3 CMC § 2123.

Subchapter History: Amdts Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024); Amdts Adopted 24 Com. Reg. 19033 (Feb. 28, 2002); Amdts Proposed 23 Com. Reg. 18359 (Sept. 24, 2001); Adopted 21 Com. Reg. 16446 (Jan. 18, 1999); Proposed 20 Com. Reg. 16163 (Oct. 15, 1998).

Commission Comment: PL 1-8, tit. 1, ch. 12, codified as amended at 1 CMC §§ 2601-2633, created the Department of Public Health and Environmental Services (DPHES) within the Commonwealth government. See 1 CMC § 2601. 1 CMC § 2603(a) grants the Department the power and duty to maintain and improve health and sanitary conditions in the CNMI. 1 CMC § 2605 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles, and effected numerous other revisions. According to Executive Order 94-3 § 105:

Section 105. Department of Public Health.

The Department of Public Health and Environmental Services is re-designated the Department of

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Public Health.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

PL 12-48 (effective Apr. 26, 2001), the “Commonwealth Environmental Health and Sanitation Act of 2000,” codified at 3 CMC §§ 2121-2147, revised the Commonwealth statutes related to environmental health and sanitation. PL 12-48 § 3 repealed former 3 CMC §§ 2121-2126 and enacted new sanitation provisions. PL 12-48 § 3 (§ 2122), 3 CMC § 2122, requires a sanitary permit to operate enumerated establishments, including any establishment or activity involving food or drink service, food retail, wholesale and transportation operations, or food manufacturing, processing, etc. PL 12-48 § 3 (§ 2123), 3 CMC § 2123, directs the Secretary of Public Health to promulgate rules and regulations required to ensure the sanitary operation of listed establishments.

Public Law 16-51 (effective Jan. 15, 2010), the “Commonwealth Healthcare Corporation Act of 2008,” codified at 3 CMC § 2801 et seq., established the Commonwealth Healthcare Corporation, which assumed the duties of the Department of Public Health as of January 15, 2011.

## **Part 001 - General Provisions**

### **§ 140-20.3-001 Authority**

Pursuant to the authorities of Public Law 12-48 (Commonwealth Environmental Health and Sanitation Act of 2000) [3 CMC §§ 2121-2147] the Secretary of the Department of Public Health is authorized to establish regulations for any establishment or activity involving food or drink service, temporary food service, food retail, wholesale and transportation operations, pushcarts, caterers, or motor vehicle vendors, and all aspects of food or drink vending services in the Commonwealth of the Northern Mariana Islands. 3 CMC §§ 2123(a)(2) and (a)(3).

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024).

### **§ 140-20.3-005 Purpose**

The regulations in this subchapter are being adopted pursuant to PL 12-48 [3 CMC §§ 2121- 2147]. They are designed to provide minimum requirements, policies, and procedures pertaining to any establishment or activity involving food or drink service, temporary food service, food retail, wholesale and transportation operations, pushcarts, caterers, or motor vehicle vendors, to assure sanitary operations of food facilities that provide food directly to consumers in order to minimize or eliminate possible transmission or introduction of disease that may be injurious to human beings.

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024).

### **§ 140-20.3-010 Binding**

The regulations in this subchapter shall be binding upon all persons in the Commonwealth of the Northern Mariana Islands.

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024).

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### § 140-20.3-015 Definitions

The Commonwealth Healthcare Corporation (CHCC) hereby adopts the definitions provided in the Food Code 2022 and Annexes.

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024).

### Part 100 - Adoption of the Food Code 2022 and Annexes

#### § 140-20.3-101 Adoption of the Food Code 2022 and Annexes

(a) The Commonwealth Healthcare Corporation (CHCC) hereby adopts by reference the following regulations and annexes contained in the Food Code, 2022 Recommendations of the United States Public Health Service/Food and Drug Administration as published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration (the “Food Code 2022 and Annexes”).

(b) Due to the length of the FDA Model Food Code and Annex 2022, it is incorporated by reference herein, and a person wishing a copy shall be directed to the publisher of the Food Code. Non-certified copies are also available online at <https://www.fda.gov/media/164194/download?attachment>

#### Incorporated by Reference

- Chapter 1 Purpose and Definitions
- Chapter 2 Management and Personnel
- Chapter 3 Food
- Chapter 4 Equipment, Utensils, and Linens
- Chapter 5 Water, Plumbing, and Waste
- Chapter 6 Physical Facilities
- Chapter 7 Poisonous or Toxic Materials
- Chapter 8 Compliance and Enforcement
- Annex 1 Through 7

Modified, 1 CMC § 3806(a).

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024).

#### § 140-20.3-105 Amendments

The regulations referenced in § 140-20.3-101 are adopted in their entirety with the following amendments:

##### (a) Demerit Values

For each violation of a critical control point, a demerit value shall be assigned. Upon completion of an inspection, the regulatory authority shall total the demerit point values for all requirements in violation, such total becoming the grade for the establishment.

(b) Demerit Scores; Grades

Grades shall be based on the following demerit scores:

- (1) Grade A - An establishment having a score of not more than ten demerits.
- (2) Grade B - An establishment having a score of more than ten, but not more than twenty.
- (3) Grade C - An establishment having a score of more than twenty, but not more than thirty.

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024).

**§ 140-20.3-110 Description of Food Code Regulations Adopted**

(a) Chapter 1 Purpose and Definitions: establishes definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for food establishment plan review, permit issuance, inspection, employee restriction, and permit suspension.

(b) Chapter 2 Management and Personnel: Prescribes the requirements and duties for supervision, employee health, personal cleanliness, hygienic practices, and responding to contaminated events.

(c) Chapter 3 Food: Prescribes the requirements for food characteristics, sources, specifications, and original containers and records, protection from contamination after receiving, destruction of organisms of public health concerns, limitation of growth organisms, food identity, presentation, and on-premises labeling, contaminated food and special requirements for highly susceptible populations.

(d) Chapter 4 Equipment, Utensils, and Linens: Specifications for materials for construction and repair, design and construction, equipment capacities, location and installation, maintenance and operations, cleaning methods and frequency, sanitization, laundering and protection from contamination.

(e) Chapter 5 Water, Plumbing, and Waste: Specifications for water, plumbing system, mobile water tank, sewage, liquid waste, rainwater, refuse, recyclables and returnables.

(f) Chapter 6 Physical Facilities: Requirements for materials for construction and repair, design, construction and installation, number and capacities, location and placement, maintenance and operation.

(g) Chapter 7 Poisonous or Toxic Materials: Requirement for labeling and identification, operational supplies and applications, stock and retail sale.

(h) Chapter 8 Compliance and Enforcement: Prescribes procedures for plan submission and approval, permit to operate, inspection and correction of violations, prevention of foodborne disease and transmission by employees.

(i) Annex 1 Compliance and Enforcement: Provisions, in codified form, that provides a full array of enforcement mechanisms.

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- (j) Annex 2 References: Reference to federal statutes contained in the United States Code (USC) and the Code of Federal Regulations (CFR), and scientific data.
- (k) Annex 3 Public Health Reasons/ Administrative Guidelines: Provides the scientific reasoning behind the regulations.
- (l) Annex 4 Management of Food Safety Practices-Achieving Active Managerial Control of Foodborne Illness Risk Factors: Overview of each of the seven principles of Hazard Analysis Critical Control Point (HACCP) principles.
- (m) Annex 5 Conducting Risk-Based Inspections: Provide regulatory staff with guidance on planning, scheduling, conducting, and evaluating risk-based inspections.
- (n) Annex 6 Food Processing Criteria: Processing criteria for different types of food manufacturing/processing operations for use by those preparing and reviewing HACCP plans and proposals.
- (o) Annex 7 Model Forms, Guides, and Other Aids: Documents intended to facilitate the application of provisions related to employee health and food establishment inspections.

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024).

### **Part 200 - Enforcement**

#### **§ 140-20.3-201 Adoption of Enforcement and Compliance Procedures**

Enforcement and compliance with the Food Code 2022 and Annexes shall be performed in accordance with Chapter 8 of the Food Code 2022 and Annexes as modified by this subchapter.

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024).

#### **§ 140-20.3-205 Authorities, Methods, Fines, and Sentences**

- (a) The Regulatory Authority may seek to enforce the provisions of this Code and its orders by instituting criminal proceedings as provided by law against the permit holder or other persons who violate its provisions.
- (b) A person who violates a provision of this Code shall, upon issuance of notice to the permit holder or person in charge by the Secretary, be guilty of a misdemeanor, punishable by:
  - (1) On conviction for a first offense, a fine of not more than (\$500.00) dollars, or by imprisonment not exceeding three (3) months, or both the fine and imprisonment; and for a subsequent offense, a fine not exceeding (\$1,000.00) or imprisonment not exceeding six ( 6) months, or both; or
  - (2) If the person has been convicted once of violating this Code or if there is an intent to defraud or mislead, a fine not exceeding (\$5000.00) or imprisonment not exceeding three (3) years

or both.

(c) Each day on which a violation occurs is a separate violation under this section.

Modified, 1 CMC § 3806(a).

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024).

**§ 140-20.3-210 Petitions, Penalties, and Continuing Violations**

(a) The regulatory authority may petition a court of competent jurisdiction to enforce the provisions of this Code or its administrative order and according to law collect penalties and fees for violations.

(b) In addition to any criminal fines and sentences imposed as specified in § 8-911.10, or to being enjoined as specified in § 8-912.10, a person who violates a provision of this Code, any rule or regulation adopted in accordance with law related to Food Establishments within the scope of this Code, or to any term, condition, or limitation of a permit issued as specified in §§ 8-303.10 and 8-303.20 is subject to a civil penalty:

- (1) First Offense: The permit holder shall receive a warning letter.
- (2) Second Offense: A fine of not more than (\$500.00) dollars.
- (3) Subsequent Offenses: The permit holder shall be subject to a fine of up to \$1,000.00 for each subsequent offense.

(c) Each day on which a violation occurs is a separate violation under this section.

Modified, 1 CMC § 3806(a).

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024).

**Part 300 - Screening of Food Handlers [Repealed]**

**§ 140-20.3-301 Definitions [Repealed]**

[Repealed]

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024); Adopted 24 Com. Reg. 19033 (Feb. 28, 2002); Proposed 23 Com. Reg. 18359 (Sept. 24, 2001); Adopted 21 Com. Reg. 16446 (Jan. 18, 1999); Proposed 20 Com. Reg. 16163 (Oct. 15, 1998).

**§ 140-20.3-305 Physical Examination [Repealed]**

[Repealed]

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024); Adopted 24 Com. Reg. 19033 (Feb. 28, 2002); Proposed 23 Com. Reg. 18359 (Sept. 24, 2001); Adopted 21 Com. Reg. 16446 (Jan. 18, 1999); Proposed 20 Com. Reg. 16163 (Oct. 15, 1998).

**§ 140-20.3-310      Screening for Communicable Disease [Repealed]**

[Repealed]

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024); Adopted 24 Com. Reg. 19033 (Feb. 28, 2002); Proposed 23 Com. Reg. 18359 (Sept. 24, 2001); Adopted 21 Com. Reg. 16446 (Jan. 18, 1999); Proposed 20 Com. Reg. 16163 (Oct. 15, 1998).

**§ 140-20.3-315      Food Handler Education [Repealed]**

[Repealed]

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024); Adopted 24 Com. Reg. 19033 (Feb. 28, 2002); Proposed 23 Com. Reg. 18359 (Sept. 24, 2001); Adopted 21 Com. Reg. 16446 (Jan. 18, 1999); Proposed 20 Com. Reg. 16163 (Oct. 15, 1998).

**§ 140-20.3-320      Issuance of Food Handler Certificate [Repealed]**

[Repealed]

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024); Adopted 24 Com. Reg. 19033 (Feb. 28, 2002); Proposed 23 Com. Reg. 18359 (Sept. 24, 2001); Adopted 21 Com. Reg. 16446 (Jan. 18, 1999); Proposed 20 Com. Reg. 16163 (Oct. 15, 1998).

**§ 140-20.3-325      Division Record Keeping and Tracking Measures [Repealed]**

[Repealed]

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024); Adopted 24 Com. Reg. 19033 (Feb. 28, 2002); Proposed 23 Com. Reg. 18359 (Sept. 24, 2001); Adopted 21 Com. Reg. 16446 (Jan. 18, 1999); Proposed 20 Com. Reg. 16163 (Oct. 15, 1998).

**§ 140-20.3-330      Food Handlers with Positive Test Results [Repealed]**

[Repealed]

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024); Adopted 24 Com. Reg. 19033 (Feb. 28, 2002); Proposed 23 Com. Reg. 18359 (Sept. 24, 2001); Adopted 21 Com. Reg. 16446 (Jan. 18, 1999); Proposed 20 Com. Reg. 16163 (Oct. 15, 1998).

**§ 140-20.3-335      Application of These Rules and Regulations to Food Handlers Currently Working in the CNMI [Repealed]**

[Repealed]

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024);

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Adopted 24 Com. Reg. 19033 (Feb. 28, 2002); Proposed 23 Com. Reg. 18359 (Sept. 24, 2001); Adopted 21 Com. Reg. 16446 (Jan. 18, 1999); Proposed 20 Com. Reg. 16163 (Oct. 15, 1998).

### **§ 140-20.3-340 Penalties for Violation of These Rules and Regulations [Repealed]**

[Repealed]

History: Adopted 46 Com. Reg. 51451 (Nov. 15, 2024); Amdts Proposed 46 Com. Reg. 51308 (Sept. 15, 2024); Adopted 24 Com. Reg. 19033 (Feb. 28, 2002); Proposed 23 Com. Reg. 18359 (Sept. 24, 2001); Adopted 21 Com. Reg. 16446 (Jan. 18, 1999); Proposed 20 Com. Reg. 16163 (Oct. 15, 1998).