

## TITLE 4

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**CHAPTER 1**  
**Commerce Generally**

Article 1  
Director of Commerce

**NOTE:** Rule-making authority cited for Director of Commerce, 5  
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No Rules Filed

**Article 2**  
**Guam Product Seal**

- §1201. Guam Product Seal: Eligibility; Application Procedure, Issuance & Term of Permit.
- §1202. Use of the Guam Product Seal.
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**NOTE:** Rule-making authority cited for Guam Product Seal of the Director of Commerce, 5 GCA, Chapter 70. These Rules and Regulations were filed with the Legislative Secretary on April 21, 1987.

**§1201. Guam Product Seal: Eligibility; Application Procedure, Issuance & Term of Permit.** The purpose of this Section is to establish the requirements and procedures involved in obtaining a permit to use the Guam Product Seal, the criteria for issuance of said permit, and the permit's effective term.

(a) In order for a manufacturer to be eligible to use the Guam Product Seal on its product, it must:

(1) be licensed to do business on Guam;

(2) engage in a process or processes which entail the substantial transformation of the input(s) to the production process such that the output represents a product of a different and distinguishable commercial use or character from the input(s), as evidenced by the produce falling into a different Schedule B category at the four-digit level than any of its inputs. Schedule B numbers are commodity classifications defined by the U.S. Department of Commerce, Bureau of the Census; and

(3) add value on Guam to the input(s) in the production process or processes such that the price for which the manufacturer sells the product is at least twice that of the value of imported material(s) used in the production process or processes, measured at landed cost, but excluding any allowance for depreciation of machinery or other capital equipment. For purposes of these regulations, any input to a production process, produced by one manufacturer,

that, itself, qualifies for the Guam Product Seal may be counted at full value in the assessment of the local value added component of another manufacturer's product.

(b) Applications for permits to use the Guam Product Seal as prescribed by the Department of Commerce shall be submitted to the Office of Business and Overseas Affairs of the Guam Department of Commerce, and shall include the following:

- (1) the name of the firm applying for such permit;
- (2) the mailing address and street address and/or location description, where appropriate, of the firm's manufacturing facility or facilities;
- (3) a detailed description of the product for which the application is submitted;
- (4) a detailed verbal description of the manufacturing process or processes in which the product for which the application is submitted will be produced;
- (5) a detailed description of the costs of production, input by input, separated as to the source of those inputs, i.e., Guam-source or imported into Guam. This information shall be held in strict confidence by the Department of Commerce, except in administrative and legal proceedings; and,
- (6) certification that the information in the application is accurate and correct, signed by the person named on the firm's business license or an authorized corporate officer; this signature shall be made at the time of the filing of the application, and shall be notarized by a Department of Commerce official.

A copy of the firm's current business license shall also be attached to the application.

The application shall be accompanied by a non-refundable fee of Twenty-five Dollars (\$25.00), payable to the Treasurer of Guam, for credit to the General Fund.

Application forms shall be made available to prospective applicants at the Department of Commerce offices during regular office hours.

(c) The Office of Business and Overseas Affairs, upon receipt of an application for permit to use the Guam Product Seal shall:

- (1) investigate the firm's compliance with the

eligibility requirements, stated in §1201(a) of these regulations, by inspecting the firm's manufacturing facility and production cost records;

(2) obtain photographic documentation of the firm's production process or processes, and its product, to be included with the firm's completed application form in Department of Commerce files; and

(3) assess compliance with both the value-added and substantial transformation requirements for permit eligibility.

The Office of Business and Overseas Affairs shall make its determination as to the eligibility of the applicant firm for use of the Guam Product Seal within a period of thirty (30) working days.

If the firm is determined to be eligible for the use of the seal on its product, it shall be issued a permit for said use within a period of seven calendar days of such determination.

If the firm is determined to be ineligible for the use of the seal on its product, it shall be so informed within a period of seven calendar days of such determination, in writing, with an explanation as to why the application has been denied.

(d) The effective term of a permit to use the Guam Product Seal shall be one (1) calendar year, commencing on the date of the permit's issuance.

(e) Single and Multi-Product Permits

(1) A permit to use the Guam Product Seal will typically be issued for a single type of product, visually indistinguishable from other products of the same classification; however, a multi-product permit may be issued for distinguishable products that fall within the same Schedule B classification at the four-digit level, provided that each product type meets the eligibility requirements of §1201(a) of these regulations in its own right.

(2) If products of a manufacturer that fall within the same Schedule B classification at the four-digit level are distinguishable solely because of variations in the natural raw materials used in their manufacture, but otherwise serve the same use and function, they shall be considered to be of the same product type for the

purpose of §1201(e)(1) of these regulations.

**§1202. Use of the Guam Product Seal.** (a) A permit to use the Guam Product Seal is issued for the exclusive use of the applicant manufacturing firm, and may neither be sold nor transferred in any other manner during the course of its effective term.

(b) Those firms holding valid permits to use the Guam Product Seal may use the seal design in any form that they wish (i.e., printed on the product's package, as a decal on the product or its package, stamped onto the product or its package, burned, engraved or molded into the product, etc.), in any size that they wish, and in any location on the product or the product's package, including attached labels or tags, that they wish. The seal may also be used in advertisements and displays of the products of permit holders.

**§1203. Renewal of the Permit.** (a) For the continued use of the Guam Product Seal, a firm must renew its permit to use the Guam Product Seal annually. Application for renewal shall be in the same form and meet the same criteria as specified in §1201 of these regulations.

(b) A holder of a permit to use the Guam Product Seal may apply for renewal of said permit at any time after sixty (60) calendar days prior to the expiration of its existing permit.

(c) Should a firm holding a permit to use the Guam Product Seal allow its expiration date to pass without renewing said permit, it shall be granted an extension period of thirty (30) calendar days to renew the permit, during which time the firm shall be conditionally exempted from the penalties specified under §§1204 and 1105 of these regulations; however, should the holder of a permit which has not been renewed fail to renew the permit within said thirty (30) day period, the firm shall be liable for any violation of §1203 of these regulations during that thirty (30) day period as if it had never held a permit to use the Guam Product Seal.

(d) Any permit to use the Guam Product Seal that is renewed within sixty (60) days prior to the expiration date of the permit holder's permit or within thirty (30) days subsequent to said expiration date shall have as its effective date that date upon which the permit being renewed would or did expire.

(e) Holders of permits to use the Guam Product Seal who have not renewed their permits before the expiration date

of said permits will be notified by the Guam Department of Commerce, via registered mail to their last known addresses, of such expiration.

**§1204. Enforcement.** Enforcement of the Guam Product Seal law and these regulations will require inspections at Guam's ports of entry, at manufacturing facilities on Guam, and at whole sale and retail establishments on Guam. Personnel of the Guam Department of Commerce, including Guam Customs and Quarantine officers, shall perform these inspections.

**§1205. Enforcement at the Ports of Entry.** (a) Entry of products bearing the Guam Product Seal; Disposition.

(1) If the Collector of Customs or his authorized representative detects, during the course of inspections at any of Guam's ports of entry, any product bearing the Guam Product Seal or any reasonable likeness of the Guam Product Seal not identical to the Guam Product Seal, the Collector or his authorized representative shall seize and hold such product in custody at the risk and expense of the importer or consignee.

(2) In order to gain the release from Customs custody of a product seized because it bears the Guam Product Seal or any reasonable likeness of the Guam Product Seal not identical to the Guam Product Seal, the importer or consignee shall provide both a current permit to use the Guam Product Seal on that product and a shippers export declaration, giving sufficient evidence that the product meets the eligibility requirements for the use of such seal.

(3) If a product seized by Customs because it bears the Guam Product Seal or any reasonable likeness of the Guam Product Seal not identical to the Guam Product Seal is not released or re-exported within thirty (30) days of such seizure, it shall be forfeited to the government and subsequently destroyed.

(b) Entry of products marked with or bearing the word *Guam*, the name of any place therein, the word *Chamorro*, or any derivation of such names or words; Disposition.

(1) If the Collector of Customs or his authorized representative detects, during the course of inspections at any of Guam's ports of entry, any product marked with or bearing the word *Guam*, the

name of any place therein, the word *Chamorro*, or any derivation of such names or words, the Collector or his authorized representative shall seize and hold such product in custody at the risk and expense of the importer or consignee, unless the country of origin of the product, preceded by *Made in, Product of*, or other words of similar meaning, is marked, legibly and in a conspicuous place, on the product or the package in which it will be sold to the consumer.

(2) In order to gain the release from Customs custody of a product seized under §1206(b)(1) of these regulations, the importer or consignee must mark the product in such a way that it conforms to the requirements for entry under §1221(b)(1) of these regulations, or provide for re-export of the product.

(3) If a product seized by Customs under §1205(b)(1) of these regulations is not re leased or re-exported within ninety (90) days of such seizure, it shall be forfeited to the government and subsequently destroyed.

**§1206. Enforcement at Manufacturing Facilities.** (a) Enforcement at the facilities of firms holding Guam Product Seal use permits:

(1) Any firm holding a permit to use the Guam Product Seal shall allow unrestricted access to its facilities for Department of Commerce personnel during its hours of operation. Such facilities shall include all spaces owned, rented or leased by the firm in connection with its manufacturing operations, including but not limited to its manufacturing plant, storage and office spaces.

(2) During the course of investigations, Department of Commerce personnel shall be unhindered in gathering information in any way, and shall be allowed to interview the firm's employees, photograph both in the interior and on the exterior of the firm's facilities, and shall be provided with any and all documentary information regarding the firm's costs of production, production process(es), and sales, upon request.

(b) Enforcement at the facilities of firms not holding Guam Product Seal use permits: Should the Department of Commerce have information regarding a possible violation of the Guam Product Seal law (P.L. 18-42) by a firm, Department of Commerce personnel shall have the same access to the firm's facilities and records as under

§1207(a)(1) and (2), regardless of whether the firm holds a permit to use the Guam Product Seal.

**§1207. Enforcement at Wholesale and Retail Establishments.** (a) Department of Commerce personnel who are responsible for the enforcement of these regulations shall have unrestricted access to the public areas of all wholesale and retail establishments on Guam during their ordinary business hours. Should such personnel have reasonable cause to believe that a wholesale or retail establishment is in violation of these regulations, such access shall extend to all storage areas and all other areas in which the business of that establishment is conducted that are owned, rented or leased by the firm.

(b) During the course of investigations, Department of Commerce personnel who are responsible for the enforcement of these regulations and who have reasonable cause to believe that a wholesale or retail establishment is in violation of these regulations shall be unhindered in any way in gathering information relating to such possible violations, and shall be allowed to interview the firm's employees, photograph both in the interior and on the exterior of the establishment's facilities, and shall be provided with any and all documentary information regarding the establishment's purchases of goods or receipt of goods on consignment, as it relates to products manufactured or represented as being manufactured on Guam, upon request.

**§1208. Violations.** (a) It shall be a violation of the law and these regulations for the Guam Product Seal or any reasonable likeness of the Guam Product Seal not identical to the Guam Product Seal to appear on any product held for sale which was not manufactured under a permit to use the Guam Product Seal.

(1) Any manufacturer who uses the Guam Product Seal must exhibit the permit to use such seal in a conspicuous place within the manufacturing facility.

(2) Any wholesale or retail firm, other than a manufacturer, must maintain copies of invoices for products bearing the Guam Product Seal sufficient to show that those products were purchased from a manufacturer holding a permit to use the Guam Product Seal, and the words "with Guam Product

Seal" shall succeed the description of the product on those invoices.

(b) It shall be a violation of the law and these regulations for any business establishment to state or imply that a product offered for sale is made on Guam, or is a product of Guam, in any advertisement or display unless the product bears the Guam Product Seal. This proscription shall extend to the packaging and labeling of the product itself.

(c) It shall be a violation of the law and these regulations for any product offered for sale to bear the word "Guam," the name of any place therein, the word "Chamorro," or any derivation of such words or names, in English or any other language, if such product was not manufactured on Guam, unless the place where the product was manufactured (the product's "country of origin"), preceded by "Made in," "Product of," or other words of similar meaning, is marked, legibly and in a conspicuous place, on the product or the package in which it will be sold to the consumer. For purposes of this paragraph, a tag attached to the product that includes such information shall suffice.

**§1209. Fines.** (a) The following fines shall be levied by the Director of Commerce for violations of these regulations:

(1) for the first violation of §1203(a) of these regulations within a one-year period, the sum of Two Thousand Five Hundred Dollars (\$2,500.00); for each subsequent violation of that section within one year after such first violation, the sum of Five Thousand Dollars (\$5,000.00);

(2) for the first violation of §1203(b) of these regulations within a one-year period, the sum of Five Hundred Dollars (\$500.00); for each subsequent violation of that section within one year after such first violation, the sum of Two Thousand Dollars (\$2,000.00);

(3) for the first violation of §1203(c) of these regulations within a one-year period, the sum of Five Hundred Dollars (\$500); for each subsequent violation of that section within one year after such first violation, the sum of Two Thousand Dollars (\$2,000).

Such fines shall be paid to the Licensing Division of the Department of Revenue and Taxation for credit to the General Fund.

(b) A receipt for payment of any fine levied under

subsection (a) of this section shall be provided to the payer of said fine, and a duplicate copy of said receipt shall be delivered by the Department of Revenue and Taxation to the Department of Commerce.

(c) The fines levied under subsection (a) of this section shall be levied independently for each product type found to be in violation of these regulations; a violation by an individual firm may be subject to fine no more than once per seven-day period for any given product type.

(d) Appeals from fines levied under this Section shall be made within fifteen (15) days, in writing, to the Director of Commerce. The Director shall respond, in writing, to all such appeals within thirty (30) days of their receipt.

(e) Failure to pay fines levied under this Section within ninety (90) calendar days of the date levied shall be grounds for revocation, subject to hearing by the Licensing Division of the Department of Revenue and Taxation, of the firm's business license.

(f) The Department of Revenue and Taxation shall not renew the business license of any firm that has not paid any outstanding fine levied under this section.

**§1210. Recovery of Merchandise.** Any manufacturer or importer who places the Guam Product Seal or any reasonable likeness of the Guam Product Seal not identical to the Guam Product Seal upon any product which was not manufactured under a permit to use the Guam Product Seal shall be ordered by the Director of Commerce to recover from wholesalers and retailers all units of the product.

(a) In the case of merchandise delivered by the manufacturer to a wholesaler or retailer on consignment, the merchandise shall be returned to the manufacturer by the wholesaler or retailer without charge; any merchandise not so returned, within one week of documented request, shall subject the wholesaler or retailer to the same penalties as if the wholesaler or retailer had been the manufacturer of the product, and absolve the true manufacturer of further liability in connection therewith.

(b) In the case of merchandise sold by the manufacturer to a wholesaler or retailer, the manufacturer shall recover the merchandise at any price agreed to by the wholesaler or retailer, up to and including the price for which the merchandise is offered to the customers of the wholesaler

or retailer; any merchandise not so recovered, within one week of documented request, shall subject the wholesaler or retailer to the same penalties as if the wholesaler or retailer had been the manufacturer of the product, and absolve the true manufacturer of further liability in connection therewith.

(c) For the purpose of this section, a *documented request* shall be made in writing to the appropriate party or parties, witnessed by an official of the Department of Commerce.

(d) Failure to recover merchandise as ordered under this Section within ninety (90) calendar days of such order shall be grounds for revocation, subject to hearing by the Department of Revenue and Taxation, of the firm's business license.

**§1211. Exemptions.** (a) The following items are exempted from the requirement of having the Guam Product Seal, but may not be represented as being made on Guam, or products of Guam, in any advertisement or display, including packaging, unless such items qualify to have the Guam Product Seal:

(1) Items manufactured on Guam strictly and solely for export from Guam, and not to be re-imported;

(2) Items manufactured on Guam by firms having less than Five Thousand Dollars (\$5,000) in gross sales annually;

(3) Original works of art that are produced on Guam; and,

(4) Printed materials, labels and packages that include the word "Guam" (and/or the name of a place in Guam) as a part of a postal or street address in which such word and/or name are no larger than the other numbers and words in such address.

(b) The following goods shall not be considered to be in violation of Section 3000.03(b) or (c) of these regulations:

(1) Goods documented to be on Guam on or before August 28, 1986; and

(2) Goods documented to have been acquired under a firm order placed on or before August 28, 1986.

However, manufacturers of items described in (a), above, may use the seal, at their option, provided that the items meet all of the requirements of §1201(a) of these regulations and the manufacturer obtains a permit to use the Guam Product Seal.

The exemptions granted under (b), above, shall expire one hundred and eighty (180) days after the effective date of these regulations.

**§1212. Exceptions.** The following exceptions are made to these regulations:

(a) Agricultural and fisheries producers shall neither be required to be licensed to do business in Guam, as specified in §1201(a)(1), nor to attach a copy of their business license when filing an application to use the Guam Product Seal, as specified in §1201(b). This exception shall not extend to food processing or packaging operations; and

(b) The Director of Commerce may waive the seizure of products, as provided for in §1202.1 of these regulations, for items exempted under §1201(b)(2), if and only if the importing firm provides evidence that the goods are acquired under a firm order placed on or before August 28, 1986. Such evidence must be in a form and of a type acceptable to the Director.