

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS**



COMMONWEALTH REGISTER

**VOLUME 41
NUMBER 07
JULY 28, 2019**

COMMONWEALTH REGISTER

VOLUME 41
NUMBER 07
JULY 28, 2019

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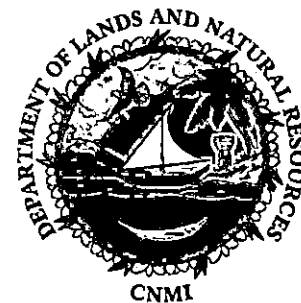
Commonwealth of the Northern Mariana Islands

Department of Lands and Natural Resources

Lower Base, Caller Box 10007

Saipan, MP 96950

Tel: 670-322-9834 Fax: 670-322-2633



PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF The Department of Land & Natural Resources

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED REGULATIONS

Volume 41, Number 03, pp 041339-041350, of February 28, 2019

Regulations of the Department of Lands & Natural Resources: Title 85 Chapter 85-30 Division of Fish & Wildlife, Subchapter 85-30.5 (Commercial Fishing Recording and Reporting Regulations)

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, Department of Lands & Natural Resources ("DLNR"), HEREBY ADOPTS AS PERMANENT regulations the Proposed Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The DLNR announced that it intended to adopt them as permanent, and now does so. (Id.) With changes: A true copy is attached. I also certify by signature below that:

as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations, and that they are being adopted without modification or amendment, except as stated as follows:

Items below are non-material and are underlined and lighted in yellow within the attached regulation:

1. Part 100 – General Procedures (f), (3) adding business to in order to be consistent with first sentence.
2. §85-30.5-105 Data Reporting (a) Recordation (2) adding no cost which is consistent with current data collection services under the Division of Fish & Wildlife;
3. Also (b) Reporting (2) and (3) to allow commercial purchasers and commercial harvester more to time complete and provide forms to the Division;
4. Lastly under (c) Prohibited conduct (7) to illustrate the actual amount as describes by within sentence.

PRIOR PUBLICATION: The prior publication was as stated above.

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: None

AUTHORITY: The regulations in this subchapter are promulgated under the authority of 1 CMC §§ 2653(a), (b) and 2654 providing the Department of Lands and Natural Resources with the authority to adopt rules and regulations in furtherance of its powers and duties. Pursuant to 2 CMC §§ 5104 (b)(7)(G) and (H), the Department must establish a catch recording and reporting system for any individual and/or business engaged in the commercial harvest, purchase and/or sale of marine life products caught within the Commonwealth waters.

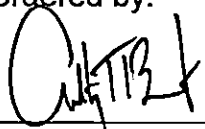
EFFECTIVE DATE: Pursuant to the APA, 1 CMC sec. 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC sec. 9104(a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. Please see the following pages for this agency's concise statement, if there are any, in response to filed comments.

The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law).

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 18th day of July, 2019, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:




Anthony T. Benavente,
DLNR Secretary

7/17/19

Date

Filed and
Recorded by:



ESTHER SN. NESBITT
Commonwealth Registrar

07-18-2019

Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the certified final regulations, modified as indicated above from the cited proposed regulations, have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General, and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 17 day of July, 2019.



EDWARD MANIBUSAN
Attorney General

**NORTHERN MARIANA ISLANDS ADMINISTRATIVE CODE
TITLE 85
DEPARTMENT OF LANDS AND NATURAL RESOURCES REGULATIONS**

Regulation Title: Northern Mariana Island Administrative Code
Title 85 (Department of Lands and Natural Resources)
Chapter 85-30 (Division of Fish and Wildlife)
Subchapter 85-30.5 (Commercial Fishing Recording and Reporting
Regulations)

The following subchapter shall be added to Chapter 85-30 of Title 85:

Part 001 - General Provisions

85-30.5-001 Authority

The regulations in this subchapter are promulgated under the authority of 1 CMC §§ 2653(a), (b) and 2654 providing the Department of Lands and Natural Resources with the authority to adopt rules and regulations in furtherance of its powers and duties. Pursuant to 2 CMC §§ 5104 (b)(7)(G) and (H), the Department must establish a catch recording and reporting system for any individual and/or business engaged in the commercial harvest, purchase and/or sale of marine life products caught within the Commonwealth waters.

85-30.5-005 Purpose

The purpose of this subchapter is to establish regulations to create a recording and reporting system for the commercial harvest, purchase and/or sale of marine life products that are caught within the marine waters surrounding the Commonwealth of the Northern Mariana Islands that would enable the Division of Fish and Wildlife to effectively monitor the harvest, purchase, and sale on a biweekly basis and to regularly report annual catch trends. The regulations serve to insure that accurate and reliable data on commercial harvest, purchase and/or sale of marine life products are uniformly recorded and reported by individuals and businesses harvesting such species from the CNMI waters. This information will provide marine resource scientists, fishery managers and regulatory agencies a sound foundation from which to formulate and rationalize decisions on the management of CNMI fisheries and marine resources.

85-30.5-010 Application and Scope

The regulations codified in this subchapter shall apply to CNMI wide.

§ 85-30.5-015 Severability

If any provision of the regulations in this subchapter shall be held invalid by court of competent jurisdiction, the validity of the remainder of the regulations shall not be affected thereby.

§ 85-30.5-020 Definitions

(a) Unless the context clearly indicates otherwise, the following definitions shall apply to the terms used in this subchapter:

(1) “Business” means a company or corporation engaged in commercial harvest, purchase or sale of marine life harvested from CNMI waters, i.e., fish vendors, restaurants, hotels, commercial fishing vessels, etc.

(2) “Catch Recording” means the documentation of commercial harvest, purchase and/or sale of fish required by the Division.

(3) “Catch Reporting” means the submission of documentation required by the Division.

(4) “CNMI waters” means the waters from the low-water line along the coast of the CNMI and extending 200 nautical miles, except for water under federal jurisdiction.

(5) “Commercial Harvester” means an individual or business catching fish, or other marine species either in whole or in part, that is intended to enter commerce or enter commerce through sale, barter or trade.

(6) “Commercial Purchaser” means an individual or business who buys marine life for resale or for use in producing value added products.

(7) “Data Collector” any Division staff, agency or private entity authorized by the Director of Fish and Wildlife to collect, record and report commercial harvest, purchase or sale of locally harvested fish from, i.e., fish vendors, restaurants, hotels, commercial fishing vessels, etc.

(8) “Department” means the Department of Lands and Natural Resources.

(9) “Director” means the Director of Fish and Wildlife

(10) “Division” means the Division of Fish and Wildlife.

- (11) “Fish” means any aquatic or marine animal life.
- (12) “Individual” means any person engaged in commercial harvesting of fish in CNMI waters.
- (13) “Form” means approved form by Division for catch recording and reporting.
- (14) “License” means the authorization of an individual or business by the Division to commercially harvest, purchase or sale of marine life caught in CNMI waters.
- (15) “Marine Life” means any species of marine animals or plants;
- (16) “Secretary” means the Secretary of Lands and Natural Resources or his or her designee.

§ 85-30.5-025 Exemptions

The regulation does not apply to non-commercial harvest of fish resources.

§ 85-30.5-030 Penalties

Violation of the regulations in this subchapter shall be subject to penalty in accordance with 2 CMC § 5109.

Part 100 – General Procedures

§ 85-30.5-101 Licenses

(a) Licenses required

- (1) Licenses will be required for commercial harvester and vendors that purchase and sale of fish caught in the CNMI waters. Commercial harvesters and vendors will not be allowed to sell fish without a valid license.

(b) License fees

- (1) The annual license fee is \$25.
- (2) Fees collected will be deposited into the Fish and Game Conservation Revolving Fund established pursuant to 2 CMC § 5107.

(c) Duration of license

- (1) A license shall be valid for one year from the date of issuance and must be renewed thereafter for as long as an individual continues to engage in the commercial harvesting of fish in CNMI waters.
- (2) The Director may suspend, revoke, modify or cancel any license in addition to any other penalty provided under this act. The Director must notify the licensee in writing of the action and include the factual basis for the action. The notice shall inform the licensee that he has a right to contest the action and a right to a hearing. The notice shall provide the licensee with at least five days to request a hearing and/or contest the notice.

(d) Display of license

- (1) An individual or business to whom a license has been issued may not permit any other individual or business to carry, display or use the license in any way.
- (2) Every individual to whom a license has been issued shall carry the license upon his or her person when harvesting or selling fish, and show the license upon request of any conservation officer from the Division.

(e) License conditions

- (1) Any license, issued pursuant to the regulations in this subchapter, may include any conditions deemed necessary by the Division to further the functions delegated to the Division by law. To include the reporting of catch and sales of marine life. Information on licenses will include type of license, name, date of birth, gender, height, weight, eye and hair color, village of residence, address, contact information, business license number, primary fishing method, and type(s) of gear used and expiration of the said license.

(f) Issuance of license

- (1) Any individual or business who will engage in commercial harvest of marine life in CNMI waters must apply for a commercial harvest license at the Division.
- (2) Prior to the issuance of a license the applicant shall read and agree to the terms and conditions of the license.
- (3) The Director reserves the right to refuse issuance of a license to any individual or business found to be in violation or noncompliance of any part of regulations under the Division. An individual or business whose application is denied may contest the denial by requesting a hearing within five days of notice of the denial.

§ 85-30.5-105 Data Reporting

(a) Recordation

- (1) The Division will develop a form which will include the following fields: Type of license activity, vendor name, business license number, address, phone number and contact person; fisherman name, license number and phone number; date and time; location of fishing; hours fished; number and gears used; fish species sold, discarded, fish counts and weights by species and price per pound; fish species not sold, counts, weights and reason fish was not sold
- (2) The Division will provide the hard copies or electronic forms to all commercial purchasers and harvesters at no cost.
- (3) Commercial harvesters and purchasers should identify all fish harvested and purchased to the lowest taxonomic level as possible. Fish species/family, common name, local names will be acceptable, however, lumping groups of fish as “miscellaneous or assorted” reef fish or bottom fish is unacceptable. If recorded as “miscellaneous or assorted” penalties may be imposed.

- (4) Commercial harvesters and purchasers shall record all fish whether sold or not sold.
- (5) Commercial harvesters and purchasers are required to record and report to the Division all fish harvested and purchased regardless if other data collection programs are collecting similar data
- (6) The Division personnel will work with commercial harvesters and purchasers to establish fish identification and recording procedures
- (7) Any commercial purchaser is required to document each transaction on the required form to include but not limited the license number of the commercial harvester, a signature to verify that the commercial harvester had sold the fish to the commercial purchaser.
- (8) Commercial harvesters are required to fill out the Division forms when selling to non-commercial purchasers.
- (9) All non DFW staff data collectors must be authorized by the Director through a special data collection permit. A non DFW staff data collector not authorized by the Director is not covered by this regulation.

(b) Reporting

- (1) The Division will visit all commercial purchasers at their place of business ~~2x a month (1st and the 15th)~~ to pick up filled out forms.
- (2) Commercial harvesters are required to drop off their forms every ~~1st and 15th~~ of the month with a 3-day grace period at the Division data office or in the form drop off box.
- (3) Commercial harvesters and purchasers must contact Division if problems arise with respect to reporting.

(c) Prohibited conduct. The following conduct is prohibited and subject to penalty:

- (1) Harvesting fish for commercial purposes without obtaining a valid license and or complying with mandatory reporting of catch harvested and sold;
- (2) Selling fish without a valid license if required to obtain a license under this subchapter;
- (3) Using a license known to be fictitious or fraudulent;
- (4) Selling fish using a license known to have been cancelled, revoked, or suspended;
- (5) Selling fish using a license belonging to another commercial harvester;
- (6) Obtaining a license using a false or fictitious name or address in any application for licenses;
- (7) The penalty upon first conviction shall be a fine of twice the cost of the required license, or \$50, whichever is greater.
- (8) The penalty upon second and subsequent convictions shall be a mandatory minimum fine of four times the cost of the required license, or \$100, whichever is greater.
- (9) Failure to Have in Possession a Valid License
 - A. Any commercial harvesters and purchasers, who sells fish without having on his person or in his immediate possession a valid license, shall be guilty of an infraction.

- B. The penalty shall be a fine of \$25.00.
- (10) Failure to Comply with Terms, Stipulations, Conditions, Requirements and/or Restrictions of License
 - A. Any person who fails to comply with any or all of the terms, stipulations, conditions, requirements, or restrictions of any license shall be guilty of a misdemeanor.
- (11) Submission of False Information to the Division
 - A. Any person who knowingly and willfully submits false information to the Division for the purpose of obtaining a license shall be guilty of a misdemeanor.
 - (1) The penalty shall be a fine of \$1,000.00.
 - B. Any person who knowingly and willfully submits false information, misleading information, or omits information required by law to be delivered to the Division shall be guilty of a misdemeanor.
 - (1) The penalty upon first conviction shall be a fine of \$1,000.00.
 - (2) The penalty upon second and subsequent convictions shall be a maximum fine of \$2,000, with a mandatory minimum fine of \$250.00.



COMMONWEALTH PORTS AUTHORITY

Main Office: FRANCISCO C. ADA/SAIPAN INTERNATIONAL AIRPORT

P.O. Box 501055, Saipan, MP 96950-1055

Phone: (670) 237-6500/1 Fax: (670) 234-5962

E-mail Address: cpa.admin@pticom.com

Website: www.cpa.gov.mp



PUBLIC NOTICE

Proposed Amendments to the Personnel Rules and Regulations of the Commonwealth Ports Authority

The Executive Director of the Commonwealth Ports Authority (“CPA”) hereby notifies the public that the Commonwealth Ports Authority intends to promulgate amendments to its Personnel Rules and Regulations.

INTENDED ACTION TO ADOPT THESE PROPOSED AMENDMENTS TO THE PERSONNEL RULES AND REGULATIONS OF THE COMMONWEALTH PORTS AUTHORITY: Notice is hereby given pursuant to 1 CMC § 9104(a) of the Administrative Procedure Act that the Commonwealth Ports Authority intends to promulgate the following additional section to the Personnel Rules and Regulations.

TERMS, SUBSTANCE, AND DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED: The proposed regulations amend NMIAC §§ 40-40-115(a), 120(f), 320, 415(c)-(d), and add NMIAC §§ 40-40-115(c), 120(f)(6), 145, 325, 330, 335, 340, 345, and 1001 to the Personnel Rules and Regulations of the Commonwealth Ports Authority. Section 115 is amended to clarify that drug tests for candidates and employee shall be conducted in accordance with Part 500 of these regulations. Section 115(c) is added to clarify that physical and medical examinations shall be administered by a licensed physician, recorded on forms provided by the Human Resource Manager, and that such examinations will be paid for by the Commonwealth Ports Authority. Section 120(f)(6) was added to allow CPA to place ARFF firefighters that are expected to engage in interior structural firefighting and that fail the Firefighter Fitness Test and the subsequent retake of that test on leave without pay status. Section 145 is added to authorize the Executive Director to terminate employees that contract an infectious or contagious disease that may endanger the health of others, become mentally incapacitated, or is otherwise physically unable to satisfactorily perform the duties of the position to which the employee is assigned. Section 320 is amended to remove subsections (e)(3) and (4), to clarify subsection (e)(7), and for renumbering. Section 325 is added to establish CPA’s disability and reasonable accommodations as a separate regulation. Section 330 is added to establish CPA’s open-door policy as a separate regulation. Section 335 is added to establish CPA’s prohibition against retaliation as a separate regulation. Section 340 is added to establish the reporting procedure for employees that experience discrimination or sexual harassment as a separate regulation. Section 340(c)(1) is added to state CPA’s confidentiality policy. Section 340(c)(4) is added to state that applicants or employees have the right to file a formal complaint of illegal discrimination or harassment with applicable local or federal regulatory agencies or to request outside mediation as an alternative means of dispute resolution. Section 340(c)(5) states that if the complaint cannot be resolved through other efforts, it shall be mandatorily submitted to binding arbitration. Section 345 is added to establish CPA’s policy

prohibiting workplace bullying policy. Section 415(c) is amended to state that current employees with sick leave exceeding the 1,040-hour threshold will no longer accrue sick leave until such time that their sick leave hours are reduced to 1,040 hours or below. Section 415(d)(2) is added to state that accrued but unused sick leave will not prevent a termination for medical reasons and that employees are not entitled to exhaust accrued and unused sick leave. Section 1001 makes the CNMI Personnel Service System Rules and Regulations applicable to CPA whenever the CNMI Personnel Service System Rules and Regulations address a personnel matter or issue that CPA's personnel rules and regulations do not address.

AUTHORITY: The following proposed amendments have been fully reviewed by the CPA Board of Directors, which exercises all powers vested in the Commonwealth Ports Authority. During the board meeting held on May 10, 2019, the Board of Directors approved the proposed amendments for publication in the Commonwealth Register for Notice and Comment pursuant to the Administrative Procedure Act and for approval by the Attorney General pursuant to 1 CMC § 2153(e). The Commonwealth Ports Authority has the authority to promulgate these regulations pursuant to 2 CMC § 2122.

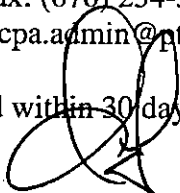
DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on Proposed and Newly Adopted Regulations, 1 CMC § 9102(a)(1), and posted in convenient places in the civic center and in local governments in each senatorial district, both in English and in the principal vernacular. 1 CMC § 9104(a)(1).

TO PROVIDE COMMENTS: Persons or entities wishing to submit comments must do so in writing to Mr. Christopher S. Tenorio, Executive Director, CPA, by means of one of the following: Email, fax, mail or hand-delivery to the CPA Administrative Office located on the Second Floor of the Francisco C. Ada/Saipan International Airport with the subject line "**Comments on Proposed Personnel Rules and Regulations.**"

Commonwealth Ports Authority
P.O. Box 501055 Saipan, MP 96950
Tel. (670) 237-6500/6501
Fax: (670) 234-5962
Email: cpa.admin@pticom.com


All written comments shall be submitted within 30 days after publication of this notice.

Submitted by:


CHRISTOPHER S. TENORIO
Executive Director, CPA

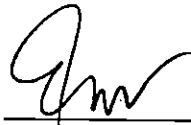
7/8/19
Date

Received by:


MATHILDA A. ROSARIO
Special Assistant for Administration

07/16/19
Date

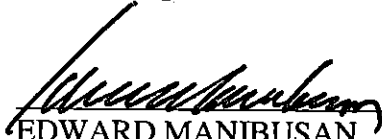
Filed and Recorded by:



ESTHER SN. NESBITT
Commonwealth Registrar

07.18.2019
Date

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published. 1 CMC § 2153(f).


EDWARD MANIBUSAN
Attorney General

7/16/19
Date



COMMONWEALTH PORTS AUTHORITY

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E-mail Address: cpa.admin@pticom.com

Website: www.cpa.gov.mp



NUTISIAN PUBLIKU

I Manmaproponi na Amenda siha para i Areklamentu yan Regulasion gi Commonwealth Ports Authority

I Direktot Eksakatibu gi Commonwealth Ports Authority guini ha infotma i publiku na i Commonwealth Ports Authority ma'intensiona para u macho'gui i amenda siha gi iyon-ñiha Areklamentu yan Regulasion i Personnel.

I AKSION NI MA INTENSIONA PARA U MA'ADAPTA ESTE I MANMAPROPO NI NA AMENDA PARA I AREKLAMENTU YAN REGULASION I PERSONNEL GI

COMMONWEALTH PORTS AUTHORITY: I nutisia guini munã'i sigun para 1 CMC § 9104(a) nu i Æktun i Administrative Procedure na i Commonwealth Ports Authority ma'intensiona para u macho'gui i tinattiya na dinanña na seksion para i Areklamentu yan Regulasion i Personnel.

I TEMA, SUSTANSIA, YAN I DISKRIPSION I SUHETU NI MASUMARIA YAN ASUNTU NI

TINEKKA: I maproponi na regulasion siha ha amenda i NMIAC §§ 40-40-115(a), 120(f), 320, 415(c)-(d), yan na'hålum i NMIAC §§ 40-40-115(c), 120(f)(6), 145, 325, 330, 335, 340, 345, yan 1001 para i Areklamentu yan Regulasion i Personnel gi Commonwealth Ports Authority. I seksion 115 ma'amenda para u klarifika'atyu i drug test para i kandidatu yan impli'ao siha na debi u makondukta gi sigun yan i Pättin 500 gi esti na regulasion siha. I seksion 115(c) manahålum para u klarifika atyu i fisikåt yan mediku na eksaminasion na debi u macho'gui ni licensed physician, marikod gi fotma siha ni prumibebeni ni Human Resource Manager, yan kumu yuhi na eksiminasion u ma'apasi ni Commonwealth Ports Authority. I seksion 120(f)(6) ginin manahålum para u sedi i CPA para u pe'ga i bombaderu siha gi ARFF ni manma'ekspekta para u famunu' guafi gi interior structure yan atyu i Firefighter Fitness na Tes yan tumåtatti mata'lun chumuli' atyu na tes an gaigi gi on leave sin ma'apasi na status. I seksion 145 manahålum para u aturisa i Eksakatibun Direktot para u terminate i impli'ao siha ni manmaninfekta i taktakmi na chotnut siha atyu i siña ha endanger i hinemlu' nu i otu siha, mentally incapacitated, pat sino physically ti mana'siña mana'satisfekchu chumo'gui i che'chu nu i pusision ni ma'asikna i impli'ao. I seksion 320 ma'amenda para u na'suha i subsections (e)(3) yan (4), para u klarifika i subsection (e)(7), yan para renumbering. I seksion 325 manahålum para u istaplesi i disibidat yan rasonãpbli na accommodations i CPA kumu sepirao na regulasion. I seksion 330 manahålum para u istaplesi i open-door policy i CPA kumu sepirao na regulasion. I seksion 335 manahålum para u istaplesi i maneran ripotti para impli'ao siha atyu ma'ekspirensia diskriminasion pat sexual harassment kumu sepirao na regulasion. I seksion 340(c)(1) manahålum para u sangan gi confidentiality policy i CPA. I seksion 340(c)(4) manahålum para u sangan atyu i aplikanti pat impli'ao siha na gua' direkchun-ñiha para u file formal complaint nu i iligat na diskriminasion pat harassment yan i applicable local pat regulatorin Fedirãt na ahensia pat para u rikuesta sanhiyung na ayudu kumu otu sumãtba i difirensian-ñiha. I seksion 340(c)(5) sumangan na kumu ti siña i keha masãtba ginin otu na empeñu siha, debi na u mandatorily ma'intrega para binding arbitration. I seksion 345 manahålum para u istaplesi policy CPA ni prumuhihibi i workplace bullying policy. I seksion 415(C) ma'amenda para u sangan na i presenti na impli'ao siha ni manggai oran sick leave ni inipus i 1,040 threshold na

oras siempri ti siña manrisibi sick leave asta ki tumakpapa' i oran-ñiha sick leave para 1,040 pat pápa' mäs. I seksion 415(d)(2) manahålum para u sangan na i marikoi lão ti ma'usa na sick leave siempri ti ha pruhibi i termination para rason mediku yan etyu na impli'ão ti entitled para u lachai i marikoi yan ti ma'usa na sick leave. I seksion 1001 fuma'tinas i Areklamentu yan Regulasion i CNMI Personnel Service System aplikao para i CPA annai mãnu i Areklamentu yan Regulasion i CNMI Personnel Service System address i personnel matter pat problema ni i areklamentu yan regulasion i CPA ti ma-address.

ÁTURIDÁT: I tinattitiyi na manmaproponi na amenda siha manmaribisa mãolik ni i Kuetpun Direktot CPA siha, ni manggai fuetsas ginin bitut i aturidát gi hálum i Commonwealth Ports Authority. Gi durántin iyon-ñiha Regulát na huntan Kuetpu ni magopti gi Mãyu diha dies, dos mit diesi nuebi na sákkan (May 10, 2019), i Kuetpun Direktot siha ma'aprueba i manmaproponi na amenda para publikasion gi hálum i Rehistran Commonwealth para Nutisia yan Upiñon sigun gi para i Áktun Administrative Procedure yan para inaprueba ginin i Abugádu Henerát sigun gi 1 CMC § 2153(e). I Commonwealth Ports Authority manggai aturidát para u macho'gui esti na regulasion siha sigun para 2 CMC § 2122.


DIREKSION PARA U MAPO'LU YAN PARA PUPBLIKASION: Esti i Manmaproponi na Regulasion siha debi na u mapublika gi hálum i Rehistran Commonwealth gi seksiona ni Manmaproponi yan Nuebu na Ma'adãpta na Regulasion siha, (1 CMC § 9102(a)(1)), yan u mapega gi kumbinienti na lugát siha gi hálum i civic center yan i ufisinan gubietnamentu siha gi kada distritun senadot, parehu Englis yan prinsipát na lingguáhin natibu. (1 CMC § 9104(a)(1)).

PARA U MAPRIBENIYI UPIÑON SIHA: I petsona siha pat atyu i manmalagu' para u na hálum upiñon siha debi na u cho'gui gi tinigi' para guatu as: Siñot Christopher S. Tenorio, Eksakatibun Direktot, CPA, gi unu na tinattiyi siha: Email, fax, mail pat entrega hálum gi Ufisinan Atministrasion i CPA ni gaigni gi Sigundu na Bibienda gi Francisco C. Ada/Saipan Internation Airport yan i suhetu na rãya "I Upiñon gi Manmaproponi na Areklamentu yan Regulasion i Personnel Siha".

Commonwealth Ports Authority
P.O. Box 501055 Saipan, MP 96950
Tel. (670) 237-6500/6501
Fax: (670) 234-5962
Email: cpa.admin@pticom.com

Todu tinigi' upiñon siha debi na u manahålum gi hálum trenta (30) dihas dispues di publikasion esti na nutisia.

Nina hálum as:


CHRISTOPHER S. TENORIO
Eksakatibun Direktot, CPA


7/8/19
Fetcha

Rinisibi as:


MATHILDA A. ROSARIO
Ispisiát Na Ayudánti Para I Atministrasion

07/16/19
Fetcha

Pine'lu yan
Ninota as:



ESTHER SN. NESBITT
Rehistran Commonwealth

07-18-2019
Fetcha

Sigun i 1 CMC § 2153(e) yan i 1 CMC § 9104(a)(3) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligåt ginin i Abugådu Heneråt CNMI yan debi na u mapuplika, 1 CMC § 2153(f).



EDWARD MANIBUSAN
Abugådu Heneråt

7/18/19
Fetcha



COMMONWEALTH PORTS AUTHORITY

Main Office: FRANCISCO C. ADA/SAIPAN INTERNATIONAL AIRPORT

P.O. Box 501055, Saipan, MP 96950-1055

Phone: (670) 237-6500/1 Fax: (670) 234-5962

E-mail Address: cpa.admin@pticom.com

Website: www.cpa.gov.mp



ARONGORONGOL TOULAP

Pommwol Liiwel ngáli Alléghúl me Mwóghutughutúl Personnel me Commonwealth Ports Authority

Executive Director-il Commonwealth Ports Authority ("CPA") e aronga ngáli toulap bwe Commonwealth Ports Authority re mángemángil rebwe arongawow liiwel kkal ngáli Allégh me Mwóghutughutúl Personnel.

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL LIIWEL NGÁLI ALLÉGH ME MWÓGHUTUGHUTÚL PERSONNEL ME COMMONWEALTH PORTS AUTHORITY: Arongorong yeel nge e isiisiwow sáangi 1 CMC § 9104(a) reel Administrative Procedure Act iye Commonwealth Ports Authority re mángemángil rebwe arongawow tánil ikka re aschuulong ngáli Alléghúl me Mwóghutughutúl Personnel.

KKAPASAL, AWEEWEL, ME MASAMASAL KKAPAS ME ÓUTOL: Pommwol mwóghutughutúl liiwel NMIAC §§ 40-40-115©, 120(f)(6), 145,325,330,335,340, me 1001 ngáli Alléghúl me Mwóghutughutúl Personnel reel Commonwealth Ports Authority. Tánil 115 ebwe liiwel reel ebwe ffat bwe drug tests ngáliir candidates me schóól angaang ebwe ffil mwóghutughutúl fengál me Part 500 reel mwóghutughut kkal. Tánil 115(c) e schuulong bwe ebwe ffat bwe physical me medical examinations ebwe akkatééwow sáangi physician iye e licensed, ebwe bwal yoor ammwelil wóól pappid ikka e tooto me reel Human Resource Manager, me Commonwealth Ports Authority ebwe óbwóssu examination kkal. Re aschuulong Tánil 120(f)(6) reel ebwe mweiti ngáli CPA rebwe isáli ARFF firefighters ikka aar angaang nge rebwe toolong llól kkayú kka e bwuppwul me iye e ppúng bwe ese attakkaló mille Firefighter Fitness Test me e lool me bwughi sefááliy test nge e lo yaal status wóól leave without pay. E schuulong Tánil 145 reel ebwe yoor bwángil Executive Director reel igha ebwe terminate-li schóól angaang ikka eyoor semwááyúúr me emmwelil tééghúr ghatchúl ákkááschay, mentally incapacitated, ngáre ese bwáng ngáli bwe ebwe fféerú yaal angaang me mwóghutughutúl igha e angaang. Tánil 320 re liiweli bwulul rebwe siiweli subsection (e)(3) me (4), ebwe ffat subsection (e)(7), fengál me numurol. E schuulong Tánil 325 reel ebwe itittiw aar CPA disability me ghatchúl accommodations bwe e sefánng mwóghutughutúl. E schuulong Tánil 330 reel ebwe itittiw aar CPA open-door policy bwe e sefánng mwóghutughutúl. E schuulong Tánil 335 reel ebwe itittiw bwe mwóghutughutúl milikka re atippa kontura retaliation bwe e sefánng mwóghutughutúl. Tánil 340 nge re aschuulong reel ebwe itittiw mwóghutughutúl repoot ngáliir schóól angaang ikka re schuungiló discrimination ngáre sexual harassment bwe e sefánng mwóghutughutúl. Tánil 340(c)(1) e schuulong ebwe arongowow reel aar CPA confidentiality policy. Tánil 340(c)(4) e schuulong reel ebwe arongowow bwe eyoor aar weel applicants ngáre schóól angaang reel rebwe ayoorai kkaosal formal complaint reel illegal discrimination ngáre harassment

ngáli local ngáre federal regulatory agencies ngáre rebwe tingór me lughul igha eew alternative means reel rebwe ayoorai aweewel. Tálil 340(e)(5) e arongowow bwe ngáre angingi ese yoor aweewel, ebwe isiisilong bwe e ffil reel mille binding arbitration. Tálil 345 e schuulong reel ebwe itittiw reel aar mwóghutughutúl CPA reel rebwe ayoorai mwóghutughutúl me pileey workplace bullying. Tálil 415(c) re liiweli reel ebwe arongowow bwe schóól angaang ikka re lo me eyòor 1,040-hour ngáre mas reel sick leave ese mmwel rebwe bweibwoghlo sick leave mmwalil aar aghitighitááiló ngáli 1,040 ngáre eghusuló. Tálil 415(d)(2) re aschuulong bwe ebwe arongowow bwe milikka uwa bweibwogh nge usu yááyá reel sick leave ese piléégh sáangi termination ngáli bwulul medical me schóól angaang ese mmwel rebwe yááli alongal sick leave ikka rese yááyá me re bweibwogh. Tálil 1001 e arongowow bwe Alléghúl me Mwóghutughutúl CNMI Personnel e ffil ngáli CPA inamwo ileeta CNMI Personnel Service System Allégh me Mwóghutughut re apasa personnel matter ngáre e isiisiwow alléghúl me mwóghutughutúl CPA Personnel iye rese apasa.

BWÁNGIL: Pommwol liiwel ikka e amwirimwiritiw nge ra takkal amwuri fischiiy sáangi CPA Board-il Directors, iye eyoor mwóghutughutúl sáangi Commonwealth Ports Authority. Atol igha re yéélágh wóól Ghúúw 10, 2019, Board-il Directors ra átirowa pommwol liiwel ngáli arongorong me llól Commonwealth Register ngáli Arongorong me Kkapas sáangi Administrative Procedure Act me ngáli átirow sáangi Soulemelemil Allégh Lapalap sáangi 1 CMC § 2153(e). Eyoor bwángil Commonwealth Ports Authority reel rebwe arongawow mwóghutughut kkal sáangi 2 CMC § 2122.

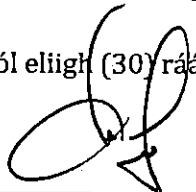
AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pommwol Mwóghutughut kkal me llól Commonwealth Register llól tálil Pommwol me Ffél Mwóghutughut ikka ra adóptááilil, 1 CMC § 9102(a)(1), ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento me llól senatorial district, fengál reel English me llól mwáliyaasch. 1 CMC § 9104(a)(1).

REEL ISIISILONGOL KKPAS: Aramas ngáre schóó kka re tipáli rebwe isiisilong kkapas rebwe isch ngáli Mr. Christopher S. Tenorio, Executive Director, CPA, ngáli milikka e amwirimwiritiw: Email, fax, afanga ngáre bwughiló reel Bwulasiyol CPA Administration iye e lo Second Floor me Francisco C. Ada/Saipan International Airport nge ebwe lo wóól subject line bwe **“Comments on Proposed Personnel Rules and Regulations.”**

Commonwealth Ports Authority
P.O. Box 501055 Saipan, MP 96950
Tel. (670) 237-6500/6501
Fax: (670) 234-5962
Email: cpa.admin@pticom.com

Ebwe isiisilong alongal ischil kkapas llól eliigh (30) ráál mwiril aal akkatééwow arongorong yeel.

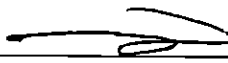
Isáliyalong:


CHRISTOPHER S. TENORIO
Executive Director, CPA

07/08/19

Ráál

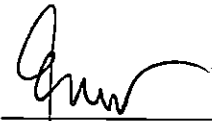
Bwughiyal:


MATHILDA A. ROSARIO
Special Assistant ngáli Administration

07/16/19

Ráál

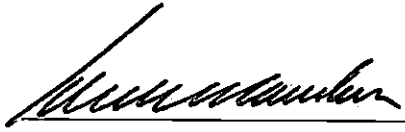
Ammwelil:


ESTHER SN. NESBITT
Commonwealth Register

07.18.2019

Ráál

Sáangi 1 CMC §2153(e) me 1 CMC § 9104(a)(3) reel pommwol mwóghutughut ikka e appasch bwe ra takkal anwuri fischiiy me átirowa bwe aa ffil reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow. 1 CMC § 2153(f).


EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

7/16/19
Ráál

§ 40-40-115 Pre-Employment Physical Condition Standard

(a) All employees must undergo a post-offer pre-employment urine test to check for the presence of any illegal drugs (see § 40-40-545). Drug tests for candidates and employees shall be conducted in accordance with Part 500 of these regulations.

(b) All new firefighting and law enforcement hires must submit to a post-offer pre-employment physical examination.

(1) The examination is required to ensure that the employee is physically fit to perform the duties of the position.

(2) If a claim is made by a candidate or appointee that she or he has a condition that constitutes a disability under the federal Americans with Disabilities Act (ADA), the provisions of that Act shall be followed, as applicable.

(c) Physical and medical examinations for fitness-for-duty and Family Medical Leave Act purposes shall be administered by a licensed physician authorized by the Commonwealth Ports Authority to conduct such examinations and shall be recorded on forms provided by the Human Resource Manager. Fitness-for-duty examinations will be paid for by the Commonwealth Ports Authority.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 40 Com. Reg. 40924 (Sept. 28, 2018); Amdts Proposed 39 Com. Reg. 40425 (Dec. 28, 2017); Adopted 24 Com. Reg. 19402 (July 29, 2002); Proposed 24 Com. Reg. 18913 (Jan. 29, 2002).

§ 40-40-120 Disciplinary Actions for Reasons of Cause

(a) Employee Coverage. This section applies to all permanent employees of the Commonwealth Ports Authority but does not apply to Board-appointed, contracted, or probationary employees, except where stated elsewhere in this Chapter.

(b) Merit of Disciplinary Action. An action against an employee should only be taken under this section for cause in order to promote the efficiency and the mandates of the Commonwealth Ports Authority.

(c) The Commonwealth Ports Authority Legal Counsel and the Commonwealth Ports Authority Human Resource Manager must review all proposed disciplinary actions that could result in reduction in rank or pay, suspension, or termination.

(d) The Commonwealth Ports Authority will utilize management measures to prevent ethical misbehavior and misconduct. Employees, at all levels, will be held accountable for their actions, and disciplinary actions will be used as deterrent and corrective measures to assist in attainment and maintenance of the high standards of ethical conduct and behavior set by the Commonwealth Ports Authority. Disciplinary actions will be categorized as Adverse Action where a tangible change to employment status occurs, and Non-Adverse Action where no tangible change occurs.

(1) Authority to Take Adverse Action Disciplinary Measures. Unless otherwise specified by law, the authority to hire is followed by the authority to effect adverse actions. For this purpose,

the designated official will be the Executive Director.

(2) **Authority to Take Disciplinary Measures.** Unless otherwise restricted by the Executive Director, managers and supervisors are authorized to affect Non-Adverse Action disciplinary measures and to recommend Adverse Action disciplinary measures.

Managers and supervisors will keep the Executive Director advised of performance and conduct problems.

(e) **Grounds for Disciplinary Action.** Employees may be subjected to disciplinary action for reasons of cause, which shall include, but not be limited to, the following:

- (1) Non-performance of duties;
- (2) Incompetence (inexcusable failure to discharge duties in a prompt and efficient manner);
- (3) Insubordination;
- (4) Breach of trust, dishonesty, or violation of Commonwealth Ports Authority policies, rules, regulations, or law;
- (5) Excessive tardiness or absenteeism;
- (6) Violent conduct in the workplace;
- (7) Inappropriate behavior in the form of discrimination or harassment;
- (8) Convicted of a felony or of a misdemeanor involving moral turpitude.

(f) **Non-Adverse Action Disciplinary Measures.**

(1) **Verbal Admonishment.** A verbal admonishment, in the form of a counseling or warning, is an informal disciplinary measure. A manager or supervisor may discuss at any time minor deficiencies in performance or conduct with the objective of improving an employee's effectiveness. Verbal admonishments shall not be made a matter of record in the employee's Official Personnel File (OPF).

(2) **Written Admonishment.** A written admonishment, in the form of a counseling or warning, is also an informal disciplinary measure that normally occurs when minor deficiencies in performance or conduct reoccur after a verbal admonishment or for a more serious deficiency or incident. Written admonishments will be maintained as a matter of record in the employee's OPF.

(3) **Reprimand.** A reprimand is a formal means of calling to an employee's attention minor deficiencies in performance or conduct which, if continued, may result in further disciplinary measures. It is the first formal step in the disciplinary process. Reprimands are always in writing and should contain specific references to performance deficiencies, citations of instances of misconduct, and a warning that more stern disciplinary measures may be taken if the employee's performance or conduct is not improved. A copy of the reprimand becomes a part of the employee's OPF as a matter of record. There is no recourse to formal appeal processes as a result of a reprimand; however, an employee who feels a reprimand is not justified may resort to the grievance procedure.

(4) **Suspension Not to Exceed Three Working Days.** A suspension is an action placing an employee in a non-duty and non-pay status for disciplinary reasons for a period not to exceed three working days. There is no formal appeal from such a suspension, although the employee may resort to the grievance procedure if the employee feels the suspension is improper or not justified.

(5) **Overtime-Exempt Employee Suspensions.** A suspension without pay for periods less than five working days shall only be imposed in respect to an employee who is covered by the overtime provisions of the Fair Labor Standards Act (FLSA). An employee who is exempt from the overtime provisions of the FLSA must receive suspensions without pay in periods of a full five working

days, except in situations of misconduct, defined by the FLSA as serious safety or work rule infractions, where a lesser period may be permitted by the FLSA. The period of suspension for an exempt employee for attendance or performance matters shall be served in five working day periods on consecutive days consisting of entire workweeks.

(6) ARFF Physical Fitness Suspension. An ARFF firefighter expected to engage in interior structural firefighting as part of his or her job responsibilities who fails the Firefighter Fitness Test and the subsequent retake of that test shall be placed on leave without pay status. The firefighter shall remain on leave without pay status until the ARFF Chief receives a written opinion from a certified medical physician that the firefighter has a health or medical issue that limits the firefighters' ability to participate in the ARFF Physical Fitness Program or the firefighter successfully completes the Firefighter Fitness Test upon its third and final administration.

(g) Adverse Action Disciplinary Measures

(1) Furlough. A furlough is an action placing an employee in a non-duty and non-pay status because of lack of work or funds. It is an adverse action if for a period of 30 calendar days or less. Furloughs of more than 30 calendar days are reduction-in-force actions and shall be accomplished using reduction-in-force procedures, as set forth in § 40-40-135.

(2) Suspension for More than Three Working Days. A suspension is an action placing an employee in a non-duty and non-pay status for disciplinary reasons. The Executive Director may suspend an employee for such cause as will promote the efficiency of the government service, provided all adverse action procedures are followed.

(i) A suspended employee shall be put on leave without pay status and shall not be allowed to use annual leave, sick leave, or compensatory time during the period of suspension (once the decision is final and all appeals processes exhausted).

(ii) The period of suspension shall not exceed 30 days for a single adverse action and will consist of five work day periods, for example, five days, ten days, and 15 days. Suspensions in respect to an FLSA overtime exempt employee shall be served on consecutive days and for entire workweeks.

(iii) No employee shall be suspended for a total of more than 30 days in any 12 month period.

(3) Termination. The Executive Director may terminate an employee for just cause provided all adverse action procedures are followed.

(4) Termination for Abandonment of Job.

(i) An employee absent without leave without valid reason, for a combined total of ten working days in any 12 month period, may be terminated from employment for job abandonment, provided all adverse action procedures are followed.

(ii) An employee absence without leave without valid reason, for ten consecutive working days may be considered, in effect, a resignation. Adverse Action procedures will not be required in such instances. The Executive Director may elect not to effect such termination, however, if it is determined that circumstances warrant such action. Nothing in this subsection shall preclude the Executive Director from taking other disciplinary action against an employee for absence without leave.

(5) Reduction in Rank or Pay.

(i) "Reduction in rank" means a reduction in status of more than one numerical grade or pay level under the classification system. It means lowering an employee's relative standing in the organizational structure as determined by the employee's official position description. An

employee's position assignment may be changed only by an official personnel action. When an employee is made the subject of an official personnel action which results in lowering the employee's relative standing in the organizational structure, a reduction in rank has occurred even though there has not been a reduction in class or pay level. Such actions may be taken only under adverse action procedures.

(ii) "Reduction in pay" means reduction in basic class and pay level of an employee. The base pay is fixed by law or administrative action. Base pay does not encompass extra or additional payment for special conditions or duties which are regarded as premium pay or allowances. To reduce class and pay level for disciplinary reasons, such actions must follow adverse action procedures.

(h) Procedure for Taking Adverse Actions.

(1) The Executive Director determines, based on information received from the Human Resource Manager, that a disciplinary action requiring termination, suspension for more than three working days, furlough without pay, or reduction in rank or pay is necessary.

(2) The Executive Director must give the employee at least 30 days' advance written notice of the proposed action. In the event that criminal charges are filed against an employee, the employee may be immediately suspended without pay, reassigned, allowed to take annual leave, or be subject to such other action as management may deem necessary. In the event the charges are dismissed or the employee is found not guilty, the employee may be reinstated with benefits and pay.

(3) The notice must state specifically and in detail any and all reasons for the proposed action.

(4) The employee has the right to answer personally and/or in writing. The employee shall be allowed not more than 20 days to answer the notice of proposed action. Three work days within the allowed 20 days shall be official time in which to secure affidavits and prepare an answer.

(5) If the employee answers, the Executive Director must consider that answer.

(6) If at all practicable, the employee must be kept on active duty in the regular position during the notice period. Based upon the circumstances, however, the employee may be suspended during the advance notice period and placed on leave with pay. However, if the adverse action is a termination or is drug-related, the employee may be placed on leave without pay or, with the employee's consent, carried on annual leave during the notice period.

(7) If not placed on leave without pay, an employee whose adverse action is drug-related (as prohibited by Part 500 of this Chapter) will not be permitted to perform any safety-sensitive functions during the notice period.

(8) The Executive Director must give the employee a written decision before the adverse action is put into effect. The decision must state which of the reasons in the advance notice have been found sustained and which have been found not sustained.

(9) The decision must tell the employee of appeal rights.

(10) After a decision resulting in an adverse ruling, the Executive Director shall apprise the employee of the employee's right to appeal the adverse action to the Personnel Affairs Committee. The employee shall present such appeal, in writing, to the Personnel Affairs Committee, which will review and act upon the written submission of the employee. The employee shall submit such appeal within 15 working days after receipt of notice of the Executive Director's action. The Personnel Affairs Committee shall act on the employee's appeal within 15 days after it is received from the employee by beginning the hearing process as set forth in § 40-40-125;

(11) A majority of the members of the Personnel Affairs Committee must consider the appeal. A decision on the appeal shall be made by a majority vote of the members of the Personnel Affairs

Committee considering the appeal. The decision of the Personnel Affairs Committee shall be final;

(12) In the event that the Committee overrules the adverse action, the employee shall be reinstated with full rights and privileges and shall receive 100% of the pay and associated benefits to which the employee would have been entitled during the employee's termination, furlough, or suspension, or as a result of the employee's reduction in rank or pay;

(13) Advance written notice and opportunity to answer are not necessary if the employee is furloughed due to unforeseeable circumstances, such as sudden breakdowns in equipment, acts of God, or emergencies requiring curtailment of activities.

(i) Summary of Steps for Taking Adverse Actions.

- (1) Misconduct triggering use of the adverse action procedural system
- (2) Executive Director's letter of proposed adverse action
- (3) Employee's answer and/or presentation of evidence
- (4) Executive Director's letter of decision
- (5) Employee's written appeal to Personnel Service Committee
- (6) Personnel Affairs Committee hearing
- (7) Personnel Affairs Committee decision (administrative remedies exhausted at this point)
- (8) Legal recourse

(j) Separation during Probation.

(1) If it becomes evident during the probationary period that the employee lacks the ability, attitude, or desire to become an efficient and productive employee in the position to which appointed, or there is lack of funds or work to be done, that employee shall be separated from the service. However, if the probationary employee claims that the apparent lack of ability, attitude, or desire is due to a disability under the Americans with Disabilities Act (ADA), the provisions of that Act shall be followed, as applicable.

(2) The Executive Director shall provide the employee with not less than 14 calendar days of notice, in writing, specifying the reasons for the separation.

(3) Grievance, adverse action, and reduction-in-force procedures do not apply to separations during probation.

Modified, 1 CMC § 3806(a), (f), (g).

History: Amdts Adopted 40 Com. Reg. 40924 (Sept. 28, 2018); Amdts Proposed 39 Com. Reg. 40425 (Dec. 28, 2017); Adopted 24 Com. Reg. 19402 (July 29, 2002); Proposed 24 Com. Reg. 18913 (Jan. 29, 2002).

Commission Comment: [Historical comment removed.]

§ 40-40-145 Termination for Medical Reasons

(a) When an employee contracts an infectious or contagious disease that may endanger the health of others, becomes mentally incapacitated, or is otherwise physically unable to satisfactorily perform the duties of the position to which he is assigned, the Executive Director may terminate the employee provided:

(1) The Commonwealth Ports Authority has complied with the applicable terms of all federal and CNMI employment law, including the Americans with Disabilities Act (ADA) and the Family and Medical Leave Act (FMLA).

§ 40-40-320 Policy Against Sexual Harassment

(a) **Prohibition Against Sexual Harassment.** It is the policy of the Commonwealth Ports Authority that all of its employees shall enjoy a work environment free from sexual harassment and other forms of job discrimination.

(b) **Sexual Harassment Defined.** Any behavior that is coercive, intimidating, harassing, or sexually offensive in nature is inappropriate and prohibited. Based on guidelines developed by the U.S. Equal Employment Opportunity Commission, sexual harassment includes unwelcome sexual advances or requests for sexual favors, or other verbal or physical conduct based on gender when:

- (1) submission to such conduct is an explicit or implicit term or condition of employment;
- (2) submission to or rejection of the conduct is used as the basis for an employment decision;
- (3) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

(c) **Inappropriate Sexual Conduct.** Inappropriate sexual conduct can take many forms and is not limited to physical assault, unwelcomed or unwanted sexual requests, or demands for sexual favors. Sexual harassing actions may include, but are not limited to, any of the following kinds of behavior:

- (1) Explicit sexual propositions, sexual innuendos, sexually suggestive comments;
- (2) Obscene or sexually suggestive pictures or drawings;
- (3) Obscene gestures or language, sexually oriented jokes and teasing;
- (4) Intimate touching or other unwanted physical contact, such as hugging, pinching, patting, or "accidental" brushing up against.

(d) **Sexual Harassment Is Prohibited by Law.** Sexual harassment is illegal under Title VII of the Civil Rights Act of 1964, as amended and as implemented by 29 CFR 1604.11. It is also prohibited under this section.

(e) **Policy against Sexual Harassment.**

(1) Sexual harassment is specifically prohibited by the Commonwealth Ports Authority and will not be tolerated, regardless of whether the offensive conduct is committed by its supervisors, managers, non-supervisors (co-workers) or non-employees (consultants, contractors, general public).

(2) To ensure a fair and equitable work environment, all Commonwealth Ports Authority employees also have a responsibility to advise management of inappropriate and/or unprofessional activities occurring in the work environment. The reporting of such incidents will assist management in addressing sexual harassment in the workplace.

~~(3) The Commonwealth Ports Authority prohibits retaliation of any kind against any employee who complains about harassment or assists or participates in any manner in the investigation. (3) The Commonwealth Ports Authority will take disciplinary action against any fellow employee or management staff who attempts to retaliate in any way.~~

~~(4) Confidentiality will be maintained throughout the investigation to the extent possible while still meeting the Commonwealth Ports Authority's legal obligations to conduct a full investigation and to provide the individual accused of harassment with an opportunity to respond.~~

(5) No employee will be denied or receive employment opportunities and/or benefits because of a sexual relationship of a co-worker or supervisor. No employee or non-employee shall imply to an employee or applicant for employment that conduct of a sexual nature will have an effect on that person's employment, assignment, advancement, or any other condition of employment.

(64) Supervisors will be held responsible for the acts of sexual harassment in the workplace when they know or should have known of the prohibited conduct but fail to prevent such conduct or fail to take steps to stop such act or conduct from occurring and/or fail to report the acts of harassment to a higher authority.

~~(7) The Commonwealth Ports Authority is responsible when a management official fails to~~
Management official must report or take action when aware of an act or harassment, even if the employee does not want it reported.

(85) Managers and supervisors are responsible for providing an environment free from any form of discrimination and harassment, and for ensuring that all employees under their supervision are fully aware of the Commonwealth Ports Authority's equal employment opportunity policy and complaint procedure.

(96) Managers and supervisors who become aware of situations involving discrimination or harassment are responsible for immediately contacting the Human Resource Manager and the EEO Coordinator to determine the appropriate action to be taken.

~~(10) Open Door Policy: (7) Employees are encouraged to discuss work-related issues or concerns with their supervisor or manager. If, after discussion with the supervisor or manager, a circumstance continues to exist that an employee believes is in violation of this policy, or will in some other way adversely affect the employee or the Commonwealth Ports Authority, the employee should contact the Human Resource Manager or the EEO Coordinator to report the problem.~~

(11) Each department manager shall distribute a copy of this policy to every employee and shall post this policy in an accessible location.

~~(128)~~ The Commonwealth Ports Authority will ensure that all employees are trained in the protections and responsibilities provided under this policy. All supervisors will be provided additional training on conducting an investigation and resolving cases of harassment.

(f) Sanctions Against Sexual Harassment.

(1) The Commonwealth Ports Authority shall take immediate and appropriate action for acts which violate this policy against sexual harassment.

(2) Such actions may include, if warranted, disciplinary actions per NMIAC § 40-40-120.

§ 40-40-325 Disability and Reasonable Accommodations

(a) General. The Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAAA) are federal laws that require employers to not discriminate against applicants and employees with disabilities and, when needed, to provide reasonable accommodations to applicants and employees who are qualified for a job, with or without reasonable accommodations, so that they may perform the essential job duties of the position.

(b) Disability Employment Policy. It is the policy of the Commonwealth Ports Authority to comply with all federal and state laws concerning the employment of persons with disabilities and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity

Commission (EEOC). Furthermore, it is the Commonwealth Ports Authority's policy not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions and privileges of employment.

(1) An individual meets the Americans with Disabilities Act's definition of "disability" if they have "a physical or mental impairment that substantially limits one or more major life activities."

(2) Not all disabilities require an accommodation. If a disability is not obvious, the Commonwealth Ports Authority may ask for medical documentation from a health care provider to confirm the need for an accommodation and the recommended nature of the accommodation. It is the responsibility of the employee to request the accommodation that he seeks.

(c) Reasonable Accommodation Defined. A reasonable accommodation is any change to the application or hiring process, to the job, to the way the job is done, or the work environment that allows a person with a disability who is qualified for the job to perform the essential functions of that job and enjoy equal employment opportunities. Accommodations are considered "reasonable" if they do not create an undue hardship or a direct threat to the health or safety of the individual or others.

(1) The following types of accommodations are generally considered reasonable:

(i) Change job tasks.

(ii) Provide reserved parking.

(iii) Improve accessibility in a work area.

(iv) Change the presentation of tests and training materials.

(v) Provide or adjust a product, equipment, or software.

(vi) Allow a flexible work schedule.

(vii) Provide an aid or a service to increase access.

(viii) Reassign to a vacant position.

(2) Reassignment is a reasonable accommodation in some situations. The Commonwealth Ports Authority may reassign an employee to an open position if the employee can no longer perform the essential functions of their current job. The Commonwealth Ports Authority does not have to create a new position, no other employees need be transferred or terminated in order to make a position vacant for the purpose of reassignment, and the individual with a disability should be qualified for the new position.

(d) Undue Hardship. Undue hardship means, with respect to the provision of an accommodation, significant difficulty or expense incurred by the Commonwealth Ports Authority.

(1) The Commonwealth Ports Authority will determine whether an accommodation is reasonable or causes an undue hardship, based upon relevant federal and local statutes, prior EEOC determinations, consideration of the cost of the accommodation as compared to Commonwealth Ports Authority's budget, and whether the accommodation will be unduly disruptive to other Commonwealth Ports Authority employees or the functioning of the Commonwealth Ports Authority's business.

(2) An accommodation will not be considered an undue hardship if the accommodation is disruptive due to the fears or prejudices toward the individual's disability or if the accommodation has a negative impact on the morale of Commonwealth Ports Authority's other employees, but not on the ability of these employees to perform their jobs.

(e) Limits to Accommodation.

(1) When an applicant with a disability requests accommodation and can be reasonably accommodated without creating an undue hardship or causing a direct threat to workplace safety, he or she will be given the same consideration for employment as any other applicant. Applicants who pose a direct threat to the health, safety, and well-being of themselves or others in the workplace, when the threat cannot be eliminated by reasonable accommodation, will not be hired.

(2) The Commonwealth Ports Authority will reasonably accommodate qualified employees or applicants with a disability so that they can perform the essential functions of a job unless doing so causes:

(i) A direct threat to the health or safety of these individuals or others in the workplace; or

(ii) The accommodation creates an undue hardship to the Commonwealth Ports Authority.

(3) All employees are required to comply with the Commonwealth Ports Authority's safety standards. Current employees who, as a result of their disability, pose a direct threat to the health or safety of themselves or other individuals in the workplace will be placed on leave until an organizational decision has been made in regard to the employee's immediate employment situation. Employees who cannot effectively or safely perform the essential functions of their job and cannot be reasonably accommodated will be separated from their employment.

(4) Individuals disabled by prior alcoholism or drug addiction, as diagnosed by a licensed medical provider, are entitled to the same protections accorded to other individuals with disabilities. However, individuals who are currently using illegal drugs are excluded from coverage under the CPA ADA policy. Employees are liable for the consequences of their actions when under the influence of alcohol or drugs.

(f) Disability Accommodation Requests. If an employee has any questions or requests for accommodation, the employee shall contact the Human Resource Manager.

§ 40-40-330 Open Door Policy

Employees are encouraged to discuss work-related issues or concerns with their supervisor or manager. If, after discussion with the supervisor or manager, a circumstance continues to exist that an employee believes is in violation of this regulation, or will in some other way adversely affect the employee or the Commonwealth Ports Authority, the employee should contact the Human Resource Manager or the EEO Coordinator to report the problem.

§ 40-40-335 Prohibition Against Retaliation

The Commonwealth Ports Authority prohibits retaliation of any kind against any employee who complains about discrimination or harassment or assists or participates in any manner in the investigation. The Commonwealth Ports Authority will take disciplinary action against any fellow employee or management staff who attempts to retaliate in any way.

(g) —

§ 40-40-340 Reporting Procedure~~Reporting Procedure.~~

(†

(a) All acts or conduct of discrimination or sexual harassment shall be reported to the department manager, unless he or she is the discriminator or harasser, the Human Resource

Manager, or the Executive Director or his/her designee. If the harasser is the victim's supervisor or manager, the victim may go to another supervisor or manager, an EEO Counselor or Coordinator, the Human Resource Manager, or the Executive Director to make the complaint.

(2)

(b) An employee who is subjected to discrimination or harassment may make a verbal report first and, if assistance is needed, shall be assisted in preparing a written report of the incident(s) by

the department manager, an EEO Counselor or Coordinator, or the Human Resource Manager for presentation to the Executive Director. The written report shall contain the following information:

~~(3) — 1 The written report shall contain the following information:~~

(i) The identity of the aggrieved employee and the department in which the employee works;

~~(ii)~~ (2) The identity of the alleged discriminator or harasser and the department in which the employee works;

~~(iii)~~ (3) A detailed description of the grievance with discriminating harassing action, time, date, location, and witnesses;

~~(iv)~~ (4) The corrective action desired; and

~~(v)~~ (5) The name of the aggrieved employee's representative, if any.

(4)

(c) Commonwealth Ports Authority management will examine the grievance, conduct an investigation, discuss it with the grievant or his representative and the alleged discriminator/harasser, and render a decision, in writing, within 14 calendar days after receiving the complaint report.

~~(5)~~ (1) Confidentiality will be maintained throughout the investigation to the greatest extent possible while still meeting the Commonwealth Ports Authority's legal obligations to conduct a full investigation and to provide the individual accused of discrimination/harassment with an opportunity to respond.

(2) If management is not successful in settling the grievance to the complainant's satisfaction within 14 days after it is presented to the employer in writing, the employee shall, within 14 calendar days after receiving written notification of the decision, submit a petition to the Personnel Affairs Committee for a review of such decision by the Committee.

~~(6)~~ (3) The Personnel Affairs Committee shall conduct a de novo hearing on the grievance filed by the complainant and render a final decision on the matter, no later than 30 days thereafter.

~~(h)~~ (4) Any applicant or employee also has the right to file a formal complaint of illegal discrimination or harassment with an applicable local or federal regulatory agency or request outside mediation as an alternative means of dispute resolution.

(5) If the complaint cannot be resolved through other efforts, it shall be, to the exclusion of a court of law, mandatorily submitted to binding arbitration, per 42 U.S.C.A. § 12212.

(d) Equal Employment Opportunity Commission.

(1) If a grievance complaint is not acted upon to a complainant's satisfaction, the complainant may file a complaint with the federal Equal Employment Opportunity Commission (EEOC).

(2) The district EEOC office in Hawaii is located at 300 Ala Moana Blvd., Room 7123A, Box 50082, Honolulu, Hawaii, 96850, or call (808) 541-3120.

(3) The regional EEOC office in Los Angeles, California is located at the Roybal Federal Building, 255 East Temple Street, 4th Floor, Los Angeles, 90012, or call (800) 669-4000.

Modified, 1 CMC § 3806(a), (f), (g).

History: Amdts Adopted 40 Com. Reg. 40924 (Sept. 28, 2018); Amdts Proposed 39 Com. Reg. 40425 (Dec. 28, 2017); Adopted 24 Com. Reg. 19402 (July 29, 2002); Proposed 24 Com. Reg. 18913 (Jan. 29, 2002).

Commission Comment: [Historical comment removed.]

§ 40-40-345 Anti-Bullying Policy

(a) Prohibition Against Workplace Bullying. It is the policy of the Commonwealth Ports Authority that all of its employees shall enjoy a work environment free from workplace bullying.

(b) Definitions.

(1) “Workplace bullying” is repeated and unreasonable behavior directed towards a worker or a group of workers that creates a risk to health and safety.

(2) “Repeated behavior” refers to the persistent nature of the behavior and can involve a range of behaviors over time.

(3) “Unreasonable behavior” means intentional or unintentional behavior that a reasonable person, having considered the circumstances, would see as unreasonable, including behavior that is victimizing, humiliating, intimidating, or threatening. Unreasonable behavior that may be workplace bullying includes, without limitation, the following:

(i) Abusive, insulting, or offensive language or comments;

(ii) Aggressive and intimidating conduct;

(iii) Belittling or humiliating comments;

(iv) Victimization;

(v) Practical jokes or initiation;

(vi) Unjustified criticism or complaints;

(vii) Deliberately excluding someone from work-related activities;

(viii) Withholding information that is vital for effective work performance;

(ix) Setting unreasonable timelines or constantly changing deadlines;

(x) Setting tasks that are unreasonably below or beyond a person’s skill level;

(xi) Denying access to information, supervision, consultation, or resources to the detriment of the worker;

(xii) Spreading misinformation or malicious rumors; and

(xiii) Changing work arrangements, such as leave, to deliberately inconvenience a particular worker or workers.

(4) “Health and Safety” includes, but is not limited to, an employee’s physical or psychological health, the safety of an employee, or the safe and efficient operation of the Ports.

(c) Policy against Workplace Bullying.

(1) Workplace bullying is specifically prohibited by the Commonwealth Ports Authority and will not be tolerated, regardless of whether the offensive conduct is committed by supervisors, managers, non-supervisors (coworkers), or non-employees (consultants, contractors, general public).

(2) All Commonwealth Ports Authority employees have a responsibility to advise management of workplace bullying occurring in the work environment.

(3) The Commonwealth Ports Authority prohibits retaliation of any kind against any employee that complains about workplace bullying or against any employee that assists or participates in any manner in the investigation of an alleged instance of workplace bullying.

(4) Confidentiality will be maintained throughout the investigation to the greatest extent possible. Disclosures of confidential material is permitted to further the Commonwealth Ports Authority's investigation of the alleged workplace bullying and to provide the individual accused of workplace bullying with an opportunity to respond.

(5) Supervisors may be held responsible for a supervisee's acts of workplace bullying when the supervisor suspects workplace bullying is occurring but fails to prevent or take steps to prevent such conduct from occurring or fails to report the workplace bullying to a higher authority.

(6) Managers and supervisors may take reasonable management action to effectively direct and control the way work is carried out. It is not workplace bullying if the management action is carried out in a lawful and reasonable way that takes the particular circumstances into account.

The following are examples of reasonable management action:

(i) Setting realistic and achievable performance goals, standards and deadlines;

(ii) Fair and appropriate allocation of working hours;

(iii) Transferring a worker to another area or role for operational reasons;

(iv) Deciding not to select a worker for a promotion or salary increase where a fair and transparent process is followed;

(v) Informing a worker about unsatisfactory work performance in an honest, fair, and constructive way;

(vi) Informing a worker about poor behavior in an objective and confidential way;

(vii) Implementing organizational changes or restructuring; and

(viii) Taking disciplinary action where appropriate or justified in the circumstances.

(7) Each department manager shall distribute a copy of this policy to every employee and shall post this policy in an accessible location.

(d) Procedures and Disciplinary Actions.

(1) The Commonwealth Ports Authority shall take appropriate action for acts that violate this policy against workplace bullying.

(2) An employee alleging workplace bullying is required to follow the grievance procedure outlined in NMIAC § 40-40-301.

(3) Disciplinary actions for workplace bullying includes all actions listed in NMIAC §§ 40-40-125(f)-(g). The Executive Director is authorized to affect all disciplinary measures, and unless otherwise restricted by the Executive Director, Managers and Supervisors are authorized to affect non-adverse action disciplinary measures and recommend adverse action disciplinary measures.

(4) The procedure for taking and appealing adverse actions disciplinary measures shall be governed by NMIAC §§ 40-40-125(h), 40-40-130.

§ 40-40-415 Sick Leave

(a) An employee commences sick leave accrual at the beginning of the first full pay period following the employee's employment. Each employee will accrue four hours of sick leave per pay period. If an employee's accrued sick leave is depleted, any additional days the employee is

not at work will be deducted from accrued annual leave. When accrued annual leave has been depleted, the employee will go on leave without pay (LWOP). If an official holiday occurs while an employee is on sick leave, that day will not be deducted from accrued sick leave.

(b) When an employee is absent due to illness, the employee himself/herself, unless incapacitated, should give notice of his/her illness to the employee's supervisor within the first hour of scheduled duty or the entire day may be charged against annual leave, at the discretion of the immediate supervisor. Each employee returning from sick leave after an absence of three days or more shall furnish a written certification from the attending physician regarding the employee's illness. If the required certification is not furnished, all absence which would have been covered by such certification shall be indicated on the time and attendance record and payroll as absent without leave (AWOL). The Executive Director may require certification for such other period(s) of illness as is determined appropriate due to suspected abuse of the sick leave benefit.

(c) Sick leave may be accumulated and carried over to succeeding years up to 1,040 hours of sick leave. A report showing the accrued sick leave balance will be provided the employee each pay period. Any current employee with sick leave in excess of the 1,040-hour threshold will no longer accrue sick leave until such time that their sick leave hours are reduced to 1,040 hours or below.

(d) The use of sick leave is subject to the following special provisions:

(1) Falsification of an illness report shall be considered sufficient cause for disciplinary action, including termination from employment.

~~(2)~~ Accrued and unused sick leave will not prevent a termination for medical reasons. Employees are not entitled to exhaust accrued and unused sick leave.

(3) No employee shall be allowed to undertake gainful employment while on sick leave status.

(e) Sick leave accrued for service with the government in any branch or agency shall vest in the employee upon accrual and shall remain vested so long as the individual is employed by the government, provided that if such employee is separated from government service for a period longer than three years, the employee shall be divested of accumulated sick leave.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 40 Com. Reg. 40924 (Sept. 28, 2018); Amdts Proposed 39 Com. Reg. 40425 (Dec. 28, 2017); Adopted 24 Com. Reg. 19402 (July 29, 2002); Proposed 24 Com. Reg. 18913 (Jan. 29, 2002).

Commission Comment: [Historical comment removed.]

§ 40-40-1001 Applicability of CNMI Personnel Service System Rules and Regulations

Whenever CPA's personnel rules and regulations in this chapter do not have any particular regulation on a personnel matter or issue affecting CPA or any of its employees, CPA shall refer to and shall apply the CNMI Personnel Service System Rules and Regulations [NMIAC, title 10, chapter 20.2] to address such personnel matter or issue, until such time as the CPA Board of Directors has adopted a regulation addressing such personnel matter or issue.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 40 Com. Reg. 40924 (Sept. 28, 2018); Amdts Proposed 39 Com. Reg. 40425 (Dec. 28, 2017);
Adopted 24 Com. Reg. 19402 (July 29, 2002); Proposed 24 Com. Reg. 18913 (Jan. 29, 2002).

Commission Comment: [Historical comment removed.]



PUBLIC NOTICE

**OF PROPOSED AMENDMENTS TO THE
DEVELOPMENT CORPORATION DIVISION (DCD) RULES AND REGULATIONS OF
THE COMMONWEALTH DEVELOPMENT AUTHORITY (CDA)**

INTENDED ACTION TO ADOPT THE PROPOSED AMENDMENTS TO THE DCD RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands, Development Corporation Division of the Commonwealth Development Authority intend to adopt the attached amendments to the DCD Rules and Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Amendments to the DCD Rules and Regulations would become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b)).

AUTHORITY: The Board of Directors of the Development Corporation Division of the Commonwealth Development Authority thru its Chairman and the Board of Directors of the Commonwealth Development Authority thru its Chairman are authorized to promulgate the DCD Rules and Regulations pursuant to §6 of the CDA Act of 1985 (P.L. 4-49, as amended), 4 CMC §10203(a)(2) and (a)(30), and Section 1.4 of the DCD Rules and Regulations.

THE TERMS AND SUBSTANCE: The proposed amendments to the DCD Rules and Regulations were formulated to restate, enhance and clarify the existing regulations and are necessary to effectively carry out the intent of the Development Corporation Division of the Commonwealth Development Authority.

THE SUBJECTS AND ISSUES INVOLVED: The proposed amendments to the DCD Rules and Regulations are promulgated:

1. To add a Chapter on Non-Collectible Debt to provide guidance to CDA as to when a debt should be scrutinized as to whether or not further collection efforts would be feasible, so that CDA can ensure that its accounting practices reflect the differences between reasonably collectible debts, and those that cannot be reasonably collected.

CITATION OF RELATED AND/OR AFFECTED STATUTES, RULES AND REGULATIONS. These proposed amendments would affect other sections of the existing DCD Rules and Regulations.

DIRECTIONS FOR FILING AND PUBLICATION: The proposed amendments to the DCD Rules and Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1) and posted in convenient places

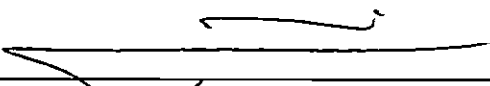
in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1))

TO PROVIDE COMMENTS: Send or deliver your comments to Manuel A. Sablan, CDA Executive Director, to the following address, fax or email address, with the subject line "Proposed Amendments to DCD Rules & Regulations".


Commonwealth Development Authority
P.O. Box 502149 • CDA Building, Beach Road • Oleai
Saipan, MP 96950
Tel. No.: 234-7145/7146/6293/6245 ext. 311 • Fax No.: 235-7147
Email address: e.borja@developcnmi.com

Comments are due within 30 days from the date of publication of this notice. Please submit your data, views and arguments. (1 CMC § 9104(a)(2))

These proposed amendments to DCD Rules and Regulations were approved by the Board of Directors of DCD on June 3, 2019 & Board of Directors of CDA on June 20, 2019.

Submitted by: 
Frank Lee SN. Borja, Chairman
DCD Board of Directors
Date: 7/15/19


Ignacio L. Perez, Chairman
CDA Board of Directors
Date: 07/12/19

Received by: 
Mathilda A. Rosario
Special Assistant for Administration
Date: 07/16/19

Filed and Recorded by: 
Esther SN. Nesbitt *nan*
Commonwealth Register
Date: 07-18-2019

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed amendments to the DCD Rules & Regulations attached hereto have been reviewed and approved as to form and legal sufficiency

by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 17 day of July 2019.



EDWARD MANIBUSAN
Attorney General



NUTISIAN PUPBLIKU

PUT I MANMAPROPONI NA AMENDA NA AREKLAMENTU YAN REGULASION SIHA PARA I DIBISION KORPORASION DEVELOPMENT (DCD) GI COMMONWEALTH DEVELOPMENT AUTHORITY

I AKSION NI MA'INTENSIONA NA PARA U ADÁPTA I MANMAPROPONI NA AMENDA NA AREKLAMENTU YAN REGULASION SIHA PARA I DCD: I Commonwealth gi Sangkattan na Islas Marianas, Dibision Korporasion Development gi Commonwealth Development Authority ha intensiona para u adápta i mañechettun na amenda na Areklamentu yan Regulasion siha gi DCD, sigun para i manera gi Áktun i Administrative Procedure, 1 CMC § 9104(a). I Amenda para i Areklamentu yan Regulasion siha gi DCD para u ifektibu gi halum i dies (10) dihas dispues di adáptasion yan i publikasion gi hálum i Rehistran Commonwealth. (1 CMC § 9105(b)).

ÁTURIDÁT: I Kuetpun Direktot siha gi Dibision Korporasion Development gi Commonwealth Development Authority ni ginin i iyon-ñiha Kabiseyu yan i Kuetpun Direktot siha gi Commonwealth Development Authority ni ginin i Kabiseyu manma'aturisa para u macho'gui i Areklamentu yan Regulasion i DCD sigun gi §6 gi Áktun CDA gi 1985 (P.L. 4-49, kumu ma'amenda), 4 CMC § 10203(a)(2) yan i (a)(30), yan i Seksiona 1.4 gi Areklamentu yan Regulasion i DCD siha.

I TEMA YAN SUSTÁNSIAN I PALÁBRA SIHA: I manmaproponi na amenda siha para i Areklamentu yan Regulasion i DCD siha manmafa'tinas para u restate, enhance yan u klarifika i prisenti na regulasion siha yan mannisársariu para u ifektibu kumátga huyung i intension nu i Dibision Korporasion Development gi Commonwealth Development Authority.

I SUHETU NI MASUMÁRIA YAN ASUNTU NI TINEKKA: I manmaproponi na amenda siha para i Areklamentu yan Regulasion i DCD siha ni manmacho'gui:

1. Para u manahálum Pátti gi Non-Collectible Debt para u pribeniyi guidance i CDA para ha ngai'an i dibi debi na u ma'eksamina para maseha pat ti na'siñayun kumonsigi i kuleksion, kosa ki i CDA siña ha na'siguru atyu iyon-ñiha accounting practices ha riflekta i difirensian i rasonáppli rumikoi i dibi siha, yan atyu siha i ti siña rasonáppli marikoi.

SITASION NI MANA'ACHULI' YAN/PAT INAFEKTA I ISTATUA, AREKLAMENTU YAN I REGULASION SIHA. Esti i manmaproponi na amenda siha para u inafekta i pumalu na seksion siha gi prisenti na Areklamentu yan Regulasion siha gi DCD.

DIREKSION NI PARA U MAPO'LU YAN U MAPUPBLIKA: I manmaproponi na amenda siha para i Areklamentu yan Rugulasion i DCD siha debi na u mapupblika gi hâlum i Rehisran Commonwealth gi seksiona ni maproponi yan nuebu na ma'adâpta na regulasion siha (1 CMC § 9102(a)(1) yan u mapega gi mangkumbinienti na lugât siha gi halum i civic center yan gi ufisinan gubietnamentu gi kada distritun senadot, parehu gi English yan gi lingguâhin natibu. (1 CMC § 9104(a)(1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Na'hânão pat intrega i upiñon-mu guatu gi as Manuel A. Sablan, Eksakatibun Direktot i CDA, para i sigienti na address, fax pat email address, yan i râyan suhetu "Manmaproponi na Amenda para i Areklamentu yan Regulasion siha gi DCD".

Commonwealth Development Authority
P.O. Box 502149 • CDA Building, Beach Road • Oleai
Saipan, MP 96950
Tel. No.: 234-7145 / 7146 / 6293 / 6245 ext. 311 – Fax No.: 235-7147
Email address: e.borja@developcnmi.com

Todu tinigi' imfotmasion siha debi na u manahâlum gi hâlum trenta (30) dihas ginin i fetchan pupublikasion esti na nutisia. Put fabot na'hâlum i imfotmasion-mu, upiñon pat testamoñon kinentra siha. (1 CMC 9104(a)2)).

Esti i manmaproponi na amend para i Areklamentu yan Regulasion siha gi DCD manma'aprueba ginin i Kuetpun Direktot Siha gi DCD gi Hunio 3, 2019 yan i Kuetpun Direktot Siha gi CDA gi Hunio 20, 2019.

Nina'hâlum as:

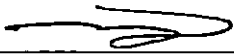

Frank Lee SN. Borja, Kabiseyu
DCD Kuetpun Direktot Siha


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Ignacio L. Perez, Kabiseyu
CDA Kuetpun Direktot Siha

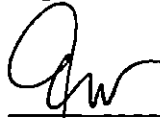

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Rinisibi as:


Mathilda A. Rosario,
Ispisiât Na Ayudânti Para I Atministrasion

07/16/19
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Pine'lu yan
Ninota as:


Esther SN. Nesbitt
Rehistran Commonwealth

07-18-2019
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Sigun i 1 CMC § 2153(e) (I Abugâdu Henerât ha aprueba i regulasion siha na para u macho'gui kumu fotma) yan 1 CMC § 9104(a)(3) (hentan inaprueban Abugâdu Henerât) i manmaproponi na amendasion para i DCD na Areklamentu yan Regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligât ginen i CNMI Abugâdu Henerât yan debi na u mapupblika, 1 CMC § 2153(f) (publikasion areklamentu yan regulasion siha).

Mafetcha gi diha 17 gi July 2019.


EDWARD MANIBUSAN
Abugâdu Henerât



ARONGORONGOL TOULAP

**RELL POMMWOL LIIWEL NGÁLI
ALLÉGHÚL ME MWÓGHUTUGHUTÚL DEVELOPMENT CORPORATION DIVISION
(DCD) REE
COMMONWEALTH DEVELOPMENT AUTHORITY (CDA)**

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁALI POMMWOL LIIWEL NGÁLI ALLÉGHÚL ME MWÓGHUTUGHUTÚL DCD: Commonwealth Téél Falúw kka Efáng Ilól Marianas, Development Corporation Division reel Commonwealth Development Authority re mángemángil rebwe adóptáali liiwel ikka e appasch ngáli Alléghúl me Mwóghutughutúl DCD, sáangi mwóghutughutúl Administration Procedure Act, 1 CMC § 9104(a). Ebwe bwunguló Liiwel kkal ngáli Alléghúl me Mwóghutughutúl DCD seigh ráál mwiril adóptáali me akkatééwowul me Ilól Commonwealth Register. (1 CMC § 9105(b)).

BWÁNGIL: Board of Directors me Development Corporation Division reel Commonwealth Development Authority sáangi layúr Chairman sáangi layúr Chairman me Board-il Directors me Commonwealth Development Authority sáangi layúr Chairman iye eyoor bwángil ebwe arongorowow reel Alléghúl me Mwóghutughutúl DCD sáangi §6 reel CDA Act of 1985 (P.L. 4-49, igha re liiweli), 4 CMC § 10203(a)(2) me (a)(30), me Tálil 1.4 reel Alléghúl me Mwóghutughutúl DCD.

KKAPASAL ME AWEEWEL: Pommwol liiwel ngáli Alléghúl me Mwóghutughutúl DCD re ayoorai ammwelil reel ebwe apiyouta, aghatchúw me ebwe ffat mwóghutughut ikka e lo me e ffil ngáli igha ebwe toowow mángemángil Bwulasiyol Development Corporation reel Commonwealth Development Authority.

KKAPASAL ME ÓUTOL: Ebwe arongowow pommwol liiwel ngáli Alléghúl me Mwóghutughutúl DCD:

1. Aschuulong eew Chapter wóól Non-Collectible Debt ebwe ayoorai afal ngáli CDA reel ileeta diibi rebwe piipiyy ngáre esóóbw yoor ngáre ebwe yoor bweibwoghil selaapi, bwulul igha CDA ebwe aghatchú aar accounting practices reel ebwe bwáá leepatal mille reasonably collectible debts, me ikka ese mmwelil ebwe reasonably collected.

CITATION REEL TAFATAFAL ME/ NGÁRE STATUES IKKA E AFFEKKTÁÁLI, ALLÉGH ME MWÓGHUTUGHUT: Pommwol liiwel e affekktááli tálil ikka e lo llól Alléghúl me Mwóghutughutúl DCD.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow pommwol liiwel ngáli Alléghúl me Mwóghutughutúl DCD me llól Commonwealth Register llól tálil pommwol me ffél mwóghutughut ikka ra adóptááli (1 CMC § 9104(a)(1) me ebwe appaschetá me llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwaliyaasch. (1 CMC § 9104(a)(1))

REEL ISIISILONGOL KKAPAS: Afanga ngáre bwughiló yóómw ischil kkapas ngáli Manuel A. Sablan, CDA Executive Director, ngáli féféféf iye e amwirimwiritiw, fax ngáre email address, ebwe lo wóól subject line bwe "Proposed Amendments to DCD Rules & Regulations".

Commonwealth Development Authority
P.O. Box 502149 • CDA Building, Beach Road • Oleai
Saipan, MP 96950
Tel. No.: 234-7145/7146/6293/6245 ext. 311 • Fax No.: 235-7147
Email address: e.borja@developcnmi.com

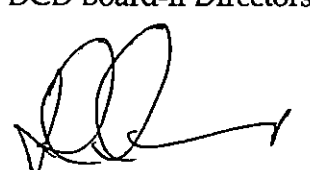
Ebwe toolong kkapas llól eliigh ráál mwiril aal akkatééwow arongorong yeel. Isiisilong yóómw data, views me angiiingi. (1 CMC § 9104(a)(2))

Aa átirow pommwol liiwel ngáli Alléghúl me Mwóghutughutúl DCD sáangi DCD Board-il Directors wóól Unnyo 3, 2019 me CDA Board-il Directors wóól Unnyo 20, 2019.


Isáliyalong:


Frank Lee SN. Borja, Chairman
DCD Board-il Directors

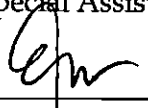

Ráál


Ignacio L. Perez, Chairman
CDA Board-il Directors


Ráál

Bwughiyal: 
Mathilda A. Rosario
Special Assistant ngáli Administration


07/16/19
Ráál

Ammwelil: 
Esther SN. Nesbitt
Commonwealth Register *new*

07.18.2019
Ráál

Sáangi 1 CMC § 2153(e) (sáangi átirowal AG bwe aa ffil reel fféerúl) me 1 CMC § 9104(a)(3) (sáangi átirowal AG) reel pommwol liiwel ngáli Mwóghutughutúl DCD ikka e appasch bwe ra takkal amwuri fischiiy bwe aa lléghló reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalalpal CMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut).

Aghikkilátiw wóól 17 rááilil July 2019.


EDWARD MANIBUSAN
Soulemelemil Allégh Lapalalpal

CHAPTER NINETEEN-A

NON-COLLECTIBLE DEBT

The CDA Management shall take all reasonable steps to attempt to see that debts owed to it are satisfied prior to determining whether or not a particular debt should be classified as non-collectible. At a minimum, these steps should include (in no particular order):

19-A.1 The CDA Management should conduct foreclosure sales on any and all property mortgaged to satisfy the debt.

19-A.2 The CDA Management, in consultation with its attorneys, should seek an Order in Aid of Judgment to determine the most reasonable means by which to seek full satisfaction of the debt.

19-A.3 The CDA Management should conduct a thorough and complete asset search to determine whether or not the debtor owns any property (not mortgaged to secure the debt) that can legally be utilized to satisfy the debt. Such asset searches should include, but not be limited to:

(a) a thorough grantor/grantee search of recorded documents with the CNMI Recorder's Office to determine what, if any, interests in non-mortgaged real property are owned by the debtor;

(b) employment of an asset search specialist, or the utilization of CDA personnel, to determine what, if any, interests in non-mortgaged personal property are owned by the debtor;

(c) any and all other reasonable steps the CDA Management may take to determine what property the debtor owns that is subject to collection within the CNMI and/or Guam, and as applicable in other jurisdictions; and

(d) any and all other reasonable steps the CDA Management deems fit, in its discretion, under each individual circumstance.

19-A.4 The CDA Management should, once a determination is made that the debtor owns an interest in real or personal property sufficient value to justify collection efforts, work in consultation with its attorneys to take any and all legal steps to utilize said property to satisfy the debt.

19-A.5 The CDA Management should attempt, when reasonable, to implement a payment plan with debtors when any deficiency on an account remains after efforts to satisfy the debt through the collection and sale of a debtor's property. CDA shall develop a standard operating procedure by which it will assess a debtor's financial ability to participate meaningfully in a payment plan.

If, after all reasonable efforts to satisfy the debt (including those specific steps mentioned above) have been exhausted, and the debt in question remains unpaid, the CDA Management is hereby directed to determine (by applying GAAP and its best judgment) whether the remaining debt should be declared non-collectible. When such a determination has been made, the CDA Management will present its recommendation for classification as non-collectible to this Board at the earliest practicable meeting, at which this Board shall consider the CDA Management's recommendation to declare the debt non-collectible. Should such a declaration be made, CDA may refer the remainder of the non-collectible debt to an appropriate collections attorney or collection agency and reflect that such debt is non-collectible in all future financial records and statements.



Commonwealth of the Northern Mariana Islands
HEALTH CARE PROFESSIONS LICENSING BOARD

P.O. Box 502078, Bldg., 1242 Pohnpei Court
Capitol Hill, Saipan, MP 96950
Tel No: (670) 664-4809 Fax: (670) 664-4814
Email: cnmi@cnmibpl-hcplb.net
Website: cnmibpl-hcplb.net

**NOTICE OF PROPOSED AMENDMENTS TO THE
HEALTH CARE PROFESSIONS LICENSING BOARD**

INTENDED ACTION TO ADOPT THIS PROPOSED REGULATION: The Health Care Professions Licensing Board (HCPLB) intends to adopt as permanent regulation the attached Proposed Amendment, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The regulation would become effective 10 days after compliance with 1 CMC §§ 9102 and 9104(a) or (b) (1 CMC § 9105(b)).


AUTHORITY: The Health Care Professions Licensing Board has statutory power to promulgate and effect regulations pursuant to 4 CMC § 2206(b), as amended.

THE TERMS AND SUBSTANCE: The attached proposed amendment is to allow foreign trained Dental Hygienists who graduated from a recognized School of Dentistry to provide proof of a U.S. equivalent of Bachelor's Degree in Dental Hygiene and 160 hours of supervised clinical practice certified by a Dentist licensed in the CNMI.

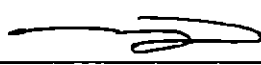
THE SUBJECTS AND ISSUES INVOLVED: Amendment to the regulation:

- 1. § 140-50.3-2615 – Dental Hygienist – Licensure

DIRECTIONS FOR FILING AND PUBLICATION: The Board is soliciting comments regarding this proposed amendment which must be received by the Board within thirty (30) days of first publication of this notice in the Commonwealth Register. Interested persons may request copies of the proposed amendment by contacting us at 664-4809 or by email at cnmi@cnmibpl-hcplb.net or come by our office located at Bldg. 1242, Pohnpei Ct., Capitol Hill, Saipan. Written comments on these amendments should be dropped off at our office or sent to the BPL, P.O. Box 502078, Saipan, MP, 96950.


Submitted By: 
Juan V. Diaz
Acting Executive Director

7/15/19
Date

Received By: 
Matilda A. Rosario
Special Assistant for Administration

07/16/19
Date


Filed and Recorded By:



Esther SN Nesbitt
Commonwealth Registrar

07.18.2019
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a) (3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).



EDWARD MANIBUSAN
Attorney General

7/16/19
Date

§ 140-50.3-2615 **Dental Hygienist – Licensure**

(a) Requirements.

An applicant applying for a license to practice dental hygiene in the CNMI must be at least twenty-one years of age, be a U.S. citizen or a foreign national lawfully entitled to remain and work in the CNMI, and must meet the following requirements:

- (1) Applicant is a graduate of an accredited program for dental hygiene accredited by the Commission on Dental Accreditation (CODA) of the American Dental Association (ADA) or the Commission on Dental Accreditation of Canada; and
- (2) Applicant is a foreign trained dental hygienist who graduated from a school of dentistry recognized by the department of health in that respective country and can provide evidence of:
 - a. Attaining the U.S. equivalent of a Bachelor's Degree in Dental Hygiene, and
 - b. Provide evidence of 160 hours of supervised clinical practice, demonstrating competent skills to the satisfaction of and as witnessed and certified by a Dentist licensed in the CNMI who is approved by the Board, and:
- ~~(2)~~ (3) Applicant has taken and passed the National Board Dental Hygiene Examination administered by the Joint Commission on National Dental Examinations or the Canadian National Board Dental Hygiene Examination; or the applicant has a current and active license to practice dental hygiene in any U.S. state or Canada; and
- ~~(3)~~ (4) Applicant has no adverse action against their license to practice dental hygiene in any U.S. State, Canada, or other foreign jurisdiction, and is not the subject of any pending litigation in regard to their practice of dental hygiene; and
- ~~(4)~~ (5) Applicant must specify in the application the dentist(s) by whom the applicant is to be employed

Commonwealth Téél Falúw kka Efáng llól Marianas
HEALTH CARE PROFESSIONS LICENSING BOARD

P.O. Box 502078, Bldg., 1242 Pohnei Court

Capitol Hill, Saipan, MP 96950

Tel. No: (670) 664-4809 Fax: (670) 664-4814

Email: cnmi@cnmibpl-hcplb.net

Website: cnmibpl-hcplb.net

**ARONGORONGOL TOULAP REEL POMMWOL LIIWEL NGÁLI
HEALTH CARE PROFESSIONS LICENSING BOARD**

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁALI POMMWOL MWÓGHUTUGHUT YEEL:

Health Care Professions Licensing Board (HCPLB) re mángemángil rebwe adóptáali Pommwol Liiwel ikka e appasch bwe ebwe lléghló mwóghutughutúl, sáangi mwóghutughutúl Administrative Procedure Act, 1 CMC §§ 9104(a). Ebwe bwunguló mwóghutughut kkal llól seigh ráál mwiril aal angúungú ngáli 1 CMC §§ 9102 me 9104(a) ngáre (b) (1 CMC § 9105(b)).

BWÁNGIL: Eyoor bwángiir Health Care Professions Licensing Board reel rebwe arongowow me ebwe toowow mwóghutughutúl sáangi 4 CMC § 2206(b), igha aa liiwel.

KKAPASAL ME AWEEWEL: Pommwol liiwel iye e appasch ebwe mweiti ngáliir Dental Hygienists ikka re foreign trained ikka re amwúchúwóló aar meleitey sáangi School of Dentistry iye e ffil ebwe abwáariló aal U.S. iye e weewe ngáli Bachelor's Degree llól Dental Hygiene me 160 hours reel supervised practice certified sáangi eschay Dentist iye e licensed llól CNMI.

KKAPASAL ME ÓUTOL: Liiwel ngáli mwóghutughut:

1. § 140-50.3-2615 – Dental Hygienist - Licensure

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Board re tingór kkapas ikka e ssul ngáli pommwol liiwel yeel iye Board deebi rebwe bwughi sáangi Board llól eliigh (30) ráál mwiril aal akkatééwow arongorong yeel me llól Commonwealth Register. Schóó kka re mwuschel pappidil pommwol liiwel kkal rebwe faingi gháámem me 664-4809 ngáre email me cnmi@cnmibpl-hcplb.net ngáre mweteto reel bwulasiyo iye yáámem me Bldg. 1242, Pohnpei Ct., Capitol Hill, Seipél. Ischil kkapas reel liiwel kkal ebwe mweteló reel bwulaisyo iye yáámem ngáre afanga ngáli BPL, P.O. Box 502078, Saipan, MP, 96950.


Isáliyalong: _____

Juan V. Diaz

Acting Executive Director

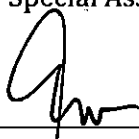
7/15/19

Ráál

Bwughiyal: 

Mathilda A. Rosario
Special Assistant ngáli Administration

07/16/19
Ráál

Ammwelil: 

Esther SN. Nesbitt
Commonwealth Registrar

07.18.2019
Ráál

Sángi 1 CMC § 2153(e) (mwiril átirowal AG reel mwóghutughut kkal bwe aal ffil reel fféerúl) me 1 CMC § 9104(a) (3) (sángi átirowal AG) reel pommwol mwóghutughut kka e appasch bwe ra takkal amwuri fischiiy me átirowa bwe aa ffil reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalalap CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (arongowowul allégh me mwóghutughut).



EDWARD MANIBUSAN
Soulemelemil Allégh Lapalalap

7/16/19
Ráál

**Commonwealth gi Sangkattan Siha na Islan Marianas
KUETPUN PROFESSIONAL LICENSING I INADAHIN HINEMLU'**

P.O. Box 502078, #1242 Pohnpei Court
Capitol Hill, Saipan, MP 96950
Tel: No. (670) 664-4809 Fax No: (670) 664-4814
Email: cnmi@cnmibpl-hcplb.net
Website: cnmibpl-hcplb.net

**NUTISIA PUT I MANMAPROPONI NA AMENDA PARA I KUETPUN
PROFESSIONAL LICENSING I INADAHIN HINEMLU'**

I AKSION NI MA'INTENSIONA PARA U ADAPTA ESTI I MANMAPROPONI NA REGULASION SIHA: I Kuetpun Professional Licensing I Inadahin Hinemlu' (HCPLB) ha intensiona na para u adapta kumu petmanienti na regulasion siha i mañechettun na Manmaproponi na Amenda, sigun gi manera siha gi Aktun i Administrative Procedure, 1 CMC § 9104(a). I Regulasion para u ifektibu gi dies (10) dihas dispues di compliance yan i 1 CMC §§ 9102 yan i 9104 (a) pat i (b) (1 CMC § 9105 (b)).

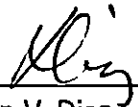
ÁTURIDÁT: I Kuetpun Professional Licensing i Inadahin Hinemlu' gai áturidát para u cho'gui yan effect i regulasion siha sigun gi 4 CMC § 2206(b), kumu ma'amenda.

I TEMA YAN SUSTANSIAN I PALÁBRA SIHA: I mañechettun manmaproponi na amenda sa' para u sedi i estrangheru mahayo' na Dental Hygienists ni magradua ginin i marekuknisa na iskuelan Dentistry para u pribeni ebidensia nu i U.S. ni pumarehu yan Bachelor's Degree gi hálum Dental Hygiene yan un sientus sisenta na oras ni mamanea clinical practice ginin i malisensia na dentist gi hálum i CNMI.

SUHETU NI MASUMÁRIA YAN ASUNTU NI TINEKKA: I amenda para i regulasion:

1. § 140-50.3-2615 – Dental Hygienist - Licensure

DIREKSION PARA U MAPO'LU YAN MAPUPUBLIKA: I Kuetpu mamamaisin upiñon siha put esti i manmaproponi na amenda ni debi na u marisibi ginin i Kuetpu gi hálum i trenta (30) dihas i primet na pupplikasion esti na nutisia gi hálum i Rehistran Commonwealth. I manintires na petsona siha siña manrikuesta kopian i manmaproponi na amenda gi 664-4809 pat email gi cnmi@cnmibpl-hcplb.net pat bisita i ufisinan-mâmi ni gaigi gi Bldg. 1242, Pohnpei Ct., Capito Hill, Saipan. I tinigi' upiñon put esti na amenda siha debi na u machuli' guatu gi ufisinan-mâmi pat na'hânão para i BPL, P. O. Box 502078, Saipan, MP 96950.

Nina'hálum as: 
Juan V. Diaz
Acting Eksakatibun Direktot


Fetcha

Rinisibi as:


Mathilda A. Rosario
Ispisiât Na Ayudânti Para l Atministrasion

07/16/19

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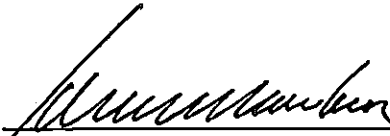
Pine'lu yan
Ninota as:


Esther SN Nesbitt
Rehistran Commonwealth

07.18.2019

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Sigun i 1 CMC § 2153(e) (l Abugâdu Henerât ha aprueba i regulasion siha na pâra u macho'gui kumu fotma) yan 1 CMC § 9104(a) (3) (ahentan inaprueban Abugâdu Henerât) i manmaproponi na Regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligât ginin i CNMI Abugâdu Henerât yan debi na u mapupblika, 1 CMC § 2153(f) (publikasion i areklamentu yan regulasion siha).



EDWARD MANIBUSAN
Abugâdu Henerât

7/16/19

Fetcha



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS

**NOTICE OF PROPOSED AMENDMENT OF REGULATIONS FOR THE
DEPARTMENT OF PUBLIC LANDS**

INTENDED ACTION: TO AMEND REGULATIONS AFTER CONSIDERING

PUBLIC COMMENT: The Commonwealth of the Northern Mariana Islands, Department of Public Lands ("the Department") intends to amend its regulations in accordance to the attached proposed amendments, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The amendments would become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The Department has the inherent authority to adopt rules and regulations in furtherance of its duties and responsibilities pursuant to Article XI of the Commonwealth Constitution and 1 CMC § 2801 et. seq.

THE TERMS AND SUBSTANCE: The attached Regulation proposes to reduce fees for the use of public lands for cattle grazing or livestock purposes and are in conformity with the Department's obligation to objectively manage the use and disposition of public lands set forth at 1 CMC § 2801 et. seq. The amendment will adjust the fees for subsistence purposes, correct the guidelines for livestock requirements and grandfather previous ranchers affected by the current regulation.

THE SUBJECTS AND ISSUES INVOLVED: These amendments to §145-70-201 General Requirements include the following:

1. Adjust the fees to coincide with Subsistence purposes.
2. Expand the terms for Livestock to consider Confined Livestock versus Grazing Livestock
3. Adjust the maximum amount of Hectares to be permitted.
4. Insert a clause in the regulation to grandfather previous grazers that were affected by the previous regulation to continue the use of the land greater than 5 hectares, provided they are maximizing the use of the land

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and this notice shall be posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1)).

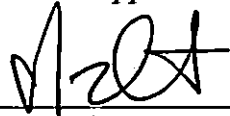
TO PROVIDE COMMENTS: Send or deliver your comments to the Department of Public Lands Attn: Secretary, at the address below, fax or email address. Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments: (1 CMC § 9104(a)(2)).

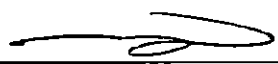
P.O. Box 500380, Saipan, MP 96950 • 2nd Floor, Joeten Dandan Commercial Building

Website: www.dpl.gov.mp • E-mail: dpl@dpl.gov.mp

Telephone: (670) 234-3751/52/53/54/55 • Fax: (670) 234-3755

The Department of Public Lands approved the attached Regulations on the date listed below.

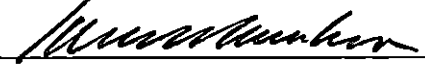
Submitted by:  23 JUL 2019
Marianne Concepcion-Teregeyo Date
Secretary, Department of Public Lands

Received and Filed by:  07/24/19
Mathilda A. Rosario Date
Special Assistant for Administration

Received and Filed by:  07.25.2019
Esther SN. Nesbitt Date
Commonwealth Registrar

Pursuant to I CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and I CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations.)

Dated the 24 day of July, 2019


Hon. Edward Manibusan
Attorney General



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS

Commonwealth Gi Sangkattan na Islas Mariãnas
DIPÀTTAMENTUN TANU' PUPBLIKU
Marianne Concepcion-Teregeyo, Sekretària
P.O. Box 500380 Saipan, MP 96950
Tel. 234-3751

**NUTISIA PUT I MANMAPROPONI NA AMENDA NU I REGULASION SIHA PARA I
DIPÀTTAMENTUN TANU' PUPBLIKU**

**I AKSION NI MA'INTENTSIONA: PARA U AMENDA I REGULASION SIHA
DISPUES DI MAKUNSIDEDERA I UPIÑON PUPBLIKU:** I Commonwealth gi Sangkattan
na Islas Mariãnas, Dipàttamentun I Tanu' Pupbliku ("i Dipàttamentu") ha intensiona para u
amenda i iyon-ñiha Regulasion gi tinattitiyi na mañechettun maproponi na amenda siha, sigun
para i maneran i Àkton Atministrasion Procedure, 1 CMC §9104(a). I manma'amenda siha para
u ifektibu gi hálum dies (10) dihas dispues di adàptasion yan publikasion gi hálum i Rehistran
Commonwealth. (1 CMC § 9105(b))

ÀTURIDÁT: I Dipàttamentu gai aturidát para u adàpta i areklamentu yan i regulasion siha ni
para u makonsigi mo'na i obligasion yan responsabilidát-ñiha siha sigun i Attikulu XI giya i
Commonwealth Konstitusion yan 1 CMC §2801 et. Seq.

I TEMA YAN SUSTÀNSIAN I PALÁBRA SIHA: I mañechettun na Regulasion prumuponi
para u ribâha i fees para i ma'usâ-ña i tanu' pupbliku para pàston guaka pat rason ga'ga' siha yan
kumunfotmi yan i ubligasion i Dipàttamentu ni para u makumpli mamaneha i usan yan
disposition nu i tanu' pupbliku ni mapega mo'na gi 1 CMC § 2801 et.seq. I amenda siempri
ahusta i fees para rason i subsistence siha, kurihi i guidelines para nisisidát ga'ga' yan i
manmo'fo'na na manma'pus na lancheru siha ni maninafakta ni tinilaikan i regulasion siha gi
ma'pus.

I SUHETU NI MASUMÀRIA YAN ASUNTU NI TINEKKA: Esti na amenda siha para i
§145-70-201 General Requirements ingklusu i tinattitiyi:

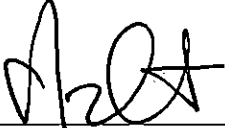
1. Ahusta i fees para u kunsisti yan i Subsistence na rason siha.
2. Ekstendi i tema nu i Ga'ga' siha para u makunsidera i Manmakollat na Ga'ga' kontra i Manmapápàstu na Ga'ga' siha.
3. Ahusta i mäs takkilu' na kinuántidát i Hektaria para u mapetmiti.
4. Na'hálum i clause gi hálum i regulasion para i manmo'fo'na na manma'pus na pastadot ni ginin maninafakta ni ma'pus na regulasion para u kontinua i usan tanu' ni takkilo'ña ki singku (5) hektaria, pribeni na u manasietbi todú i usan i tanu'.

DIREKSION PARA I PINE'LU YAN I PUPBLIKASION: Esti i Manmaproponi na Amenda siha debi na u mapublika gi hálum i Rehistran Commonwealth gi hálum i seksiona ni manmaproponi yan i mannuebu ma'adàpta na regulasion siha (1 CMC § 9102(a)(1)), yan esti na

nutisia debi na u mapega gi hálum kumbinienti na lugát siha giya i civic center yan gi hálum ufisinan gubietnu gi kada distritun senatorial, parehu Inglis yan i dos na lingguáhin natibu, (1 CMC § 9104(a)(1)).


PARA U MAPRIBENIYI UPIÑON SIHA: Na'hálum pat intrega i upiñon-mu siha para i Dipáttamentun Tanu' Publiku Attn: Sekretária, giya sanhilu' na address, fax pat email address. I upiñon siha debi na u fanhálum gi hálum trenta (30) dihas ginin esti na nutisian publikasion. Putfabot na'hálum iyo'-mu data, views pat atgumentu siha. (1 CMC § 9104(a)(2)).

I Dipáttamentun Tanu' Publiku ha aprueba i mañechettun na regulasion siha gi fetcha ni malista gi sanpapa'.

Nina'hálum as: 
Marianne Concepcion-Teregeyo
Sekretária, Dipáttamentun Tanu' Publiku

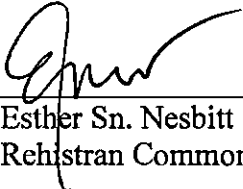
123 JUL 2019

Fetcha

Rinisibi yan
pine'lu as: 
Mathilda A. Rosario
Ispisiát Na Ayudánte Para I Atministrasion

07/24/19

Fetcha


Pine'lu yan
Ninota as: 
Esther Sn. Nesbitt
Rehistran Commonwealth

07.25.2019

Fetcha

Sigun i 1 CMC § 2153(e) (I Abugádu Henerát ha aprueba i regulasion siha na para u macho'gui kumu fotma) yan i 1 CMC § 9104(a)(3) (hentan inaprueban Abugádu Henerát) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligát ginen i CNMI Abugádu Henerát yan debi na u mapublika, 1 CMC § 2153(f) (publikasion areklamentu yan regulasion siha).

Mafetcha guini gi diha 24, gi July 2019.


Hon. Edward Manibusan
Abugádu Henerát



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS

Commonwealth Téel Falúw kka Efáng Iló Marianas
BWULASIYOL AMMWELIL FALUWEER TOULAP
Marianne Concepcion-Teregeyo, Sekkretóoriya
P.O. Box 500380 Saipan, MP 96950
Til. 234-3751

ARONGORONGOL TOULAP REEL POMMWOL LIIWELIL MWÓGHUTUGHUT NGÁLI
BWULASIYOL AMMWELIL FALUWEER TOULAP

MÁNGEMÁNGIL MWÓGHUT: REEL LIIWELIL MWÓGHUTUGHUT MWIRIL AAR TOULAP ISHISILONG KKPAS: Commonwealth Téel Falúw kka Efáng Iló Marianas, Bwulasiyol Ammwelil Faluweer Toulap ("Bwulasiyo we") re mángemángil rebwe liiweli mwóghutughutúl ikka e appasch bwe pommwol liiwel, sáangi mwóghutughutúl Administrative Procedure Act, 1 CMC § 9104(a). Ebwe bwunguló Mwóghutughut kkal Ilól seigh ráal mwiril aal adóptáali me akkatééwowul me Ilól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: Eyoor bwángil Bwulasiyo reel rebwe adóptáali allégh me mwóghutughut llól mwóghutughutúl me lemelemil sáangi Article XI reel Commonwealth Constitution me 1 CMC §2801 et.seq.

KKAPASAL ME AWEEWEL: Mwóghutughut iye e appasch e pommwol reel ebwe aghitighiitiló fees ngáli aar toulap yááyá falúw ngáli mwóghutughutúl tchoor maal ngáre mwóghutughutúl livestock me e ffil ngáli lemelemil Bwulasiyo me ghatch reel faluweer toulap sáangi 1 CMC § 2801 et.seq. Liiwel ebwe siiweli mwutta ngáli mwóghutughutúl subsistence, ffil ngáli afal ngáli requirement-il livestock me schóó kkewe re fasúl ffóól me e afekktáaliir reel mwóghutughut kkewe ighiwe nge ayoor siiwel.

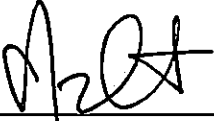
KKAPASAL ME ÓUTOL: Liiwel kkal ngáli § 145-70-201 General Requirement ebwe schuu me milikka e amwirimwiritiw:

1. Awelaló óbwóss reel ebwe weewe fengál me mwóghutughutúl me bwulul Subsistence.
2. Aschéélapayló kkapasal Livestock reel rebwe rághiiy Maal ikka re lo llól Ghollal kontura maal ikka re lo bwe tchoor maal
3. Awelaló lapal reel Hectares iye e wetigh.
4. Ayoorai clause llól mwóghutughut ngáliir schóó kkewe re ghommw le ffóól maal ikka e afekktaliir reel mwóghutughut kkewe e ghommw me ebwe sóbweeyló yááyál falúw iye e lapaló sáangi limoow (5) hectares, ebwe bwal schuulong bwe re yááyá alongal lapal falúw

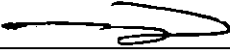
AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pommwol Liiwel kkal me llól Commonwealth Register llól táilil pommwol me ffél mwóghutughut ikka ra adóptááilil (1 CMC § 9102(a)(1) me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. (1 CMC § 9104(a)(1)).

REEL ISIISILONGOL KKAPAS: Afanga ngáre bwughiló yóómw kkapas ngáli Bwulasiyol Ammwelil Faluweer Toulap Attn: Acting Secretary, reel féféfé iye e lo weiláng, fax ngáre email address. Ebwe toolong kkapas llól eliigh ráál (30 days) mwiril aal akkatééwow arongrong yeel. Isiisilong yóómw data, views ngáre angingi. (1 CMC § 9104(a)(2)).


Bwulasiyol Ammwelil Faluweer Toulap re átirow reel Mwóghutughut ikka e appasch wóól ráál iye e e lo faal.

Isáliyalong: 
Marianne Concepcion-Teregeyo
Sekretóoria, Bwulasiyol Ammwelil Faluweer Toulap

23 JUL 2019
Ráál

Bwughiyal: 
Mathilda A. Rosario
Special Assistant ngáli Administration

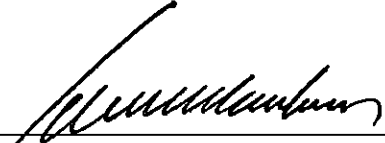
07/24/19
Ráál

Ammwelil: 
Esther SN. Nesbitt
Commonwealth Register *ran*

07.25.2019
Ráál

Sángi 1 CMC § 2153(e) (mwiril aal átirow sáangi AG bwe aa ffil reel fféerúl) me 1 CMC § 9104(a)(3) (sáangi átirowal AG) reel pommwol mwóghutughut ikke e appasch bwe ra takkal amwuri fischiiy me aa lléghló reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut.)

Aghikkilátiw wóól 24 ráálil July, 2019.


Hon. Edward Manibusan
Soulemelemil Allégh Lapalap

- (4) Be reviewed periodically for compliance;
- (5) Prohibit the construction of permanent structures;
- (6) Provide non-exclusive rights to the land or property unless otherwise stated in these regulations;
- (7) Be non-transferable, non-assignable, and cannot be sold, subjected to mortgage, or used as collateral;
- (8) Self-terminate should Occupant or Operator cease to exist or ceases the activity described in the application; and
- (9) Require compliance with all business licensing, permitting, and regulatory requirements for business or other activities to be conducted including without limitation all zoning, building and other permits as applicable.
- (10) Property valuations for purposes of calculating fees for TOA's may be determined by DPL's in-house appraiser.

§ 145-70-205 Occupancy and Easements for Private Telecommunications

Non-exclusive occupancy rights or easements granted to non-governmental telecommunications service providers may be granted for multiple year terms up to twenty five (25) years in total. Occupancy or proposed uses that sever, transect, or present a material impediment to the use of the surface land or air above or otherwise render the burdened and/or adjacent lands undevelopable, shall not be eligible for easement or similar authorization contemplated in this section but instead, shall only be authorized through leases of fully burdened parcels on commercially reasonable terms in accordance with the leasing regulations set forth herein.

- (a) **Underground Telecommunication Cables** – The activity involving the use of public lands to lay, maintain and operate underground telecommunication cable wires and related telecommunication equipment. Upon promulgation of these regulations the annual fee for buried cable trenches shall be 5.0% per year of 50.0% of average market price of lands on the island where the trenching will occur. Average market price shall be an area-weighted average determined by DPL based on recent publicly available real estate sales data for fee simple land transactions.
- (b) **Telecommunication Tower** – The activity involving the use of small parcels of public lands to, erect, maintain and operate commercial pedestals, access nodes underground telecommunication cable wires and radio transmitter antenna, and or wireless communication equipment shelter for cellular telephones, paging systems or similar related wireless telecommunication equipment. The annual fee for the use of public land for this purpose shall be 8.00% of the estimated fair market value. In environmentally, historically, or otherwise sensitive areas including tourist destinations, such activity (if permitted in DPL's sole discretion) may be subject to space-sharing conditions as imposed by DPL.

§ 145-70-210 Temporary Occupancy Agreement

Temporary Occupancy Agreements (TOA) shall be used for the temporary occupancy of certain public lands laying fallow at the time of application where no proposals have been received by DPL for the long term lease of those lands. In any case, TOA's do not in any way grant an interest in the land, written or implied, and the new construction of permanent structures shall not be allowed. Allowable purposes include short-term agricultural use, temporary livestock grazing, sporting or social events, or planning activities in anticipation of a lease. TOAs

are subject to termination upon thirty (30) day's written notice by DPL. DPL will consider issuing 5-year agricultural permits to NRCS eligible candidates.

For applications submitted by CNMI government entities for sporting events, signboards/banners, filming, and social events, DPL may provide an annual TOA for multiple department/agency requests throughout the period covered by the TOA provided, however, that the department/agency submits a written request to the Secretary for each occurrence. The Secretary may approve such requests via letterhead within thirty days of receipt after which the request shall be deemed approved if no action is taken by the Secretary. All fees and insurance requirements may be waived provided that the department/agency indemnify DPL of all risks and liabilities.

- (a) The following apply to all TOA's:
- (1) All TOAs are terminable by DPL at will;
 - (2) Applications for renewal (if any) shall be made annually two months prior to expiration or as solicited via a Request for Proposal or at auction;
 - (3) Unless otherwise provided in this section the fee per use shall be an annual charge of 8% of estimated value but not less than \$250 per month and 3% of revenue generated, or such greater amount as bid;
 - (4) TOAs are non-exclusive with the exception of Agricultural, Staging, and Quarry which shall be exclusive and limited to the activities performed directly by Occupant;
 - (5) Property shall be used solely as outlined in the application for TOA in accordance and DPLs regulations for the operations of the Occupant;
 - (6) DPL can demand the removal of any and all structures at any time at Occupant's expense;
 - (7) Liability insurance shall be required with exception of Agricultural (Farming and/or Livestock) and Residential Maintenance. The policy shall name DPL and the Commonwealth as co-insured, with a minimum coverage of \$50,000 in an action for wrongful death, \$200,000 for each occurrence, \$100,000 in bodily injury per person, and \$100,000 in property damage for each occurrence, or such higher amounts as DPL may reasonably require.
- (b) Agricultural use shall be limited to family subsistence (non-commercial) purposes and shall only be permitted as follows:
- (1) Farming - limited to up to 2,000 square meters (per household) of public lands determined by DPL to be suitable for farming, the annual application fee shall be \$150.00 per TOA; and
 - (2) Livestock – limited to up to 250,000 (25 Hectares) square meters (per household) of public lands for cattle grazing 50,000 square meters (5 Hectares) for livestock and/or goat graxing, and 20,000 square meters (2 Hectares) for confined livestock, the annual application fee shall be \$150.00 per TOA. TOA's shall be assessed an annual fee of \$10.00 per 10,000 square meters (equivalent to 1 hectare) but shall not exceed 250,000 square meters as follows:

Area Size	Per Hectare Fee	Annual Application Fee	Annual TOA Fee
0.01 – 1 Hectare	\$10.00	\$150.00	\$160.00
1.1 – 2 Hectare	\$20.00	\$150.00	\$170.00
2.1 – 3 Hectare	\$30.00	\$150.00	\$180.00
3.1 – 4 Hectare	\$40.00	\$150.00	\$190.00
4.1 - 5 Hectare	\$50.00	\$150.00	\$200.00
5.1 - 6 Hectare	\$60.00	\$150.00	\$210.00

6.1 - 7 Hectare	\$70.00	\$150.00	\$220.00
7.1 - 8 Hectare	\$80.00	\$150.00	\$230.00
8.1 - 9 Hectare	\$90.00	\$150.00	\$240.00
9.1 - 10 Hectare	\$100.00	\$150.00	\$250.00
10.1 - 11 Hectare	\$110.00	\$150.00	\$260.00
11.1 - 12 Hectare	\$120.00	\$150.00	\$270.00
12.1 - 13 Hectare	\$130.00	\$150.00	\$280.00
13.1 - 14 Hectare	\$140.00	\$150.00	\$290.00
14.1 - 15 Hectare	\$150.00	\$150.00	\$300.00
15.1 - 16 Hectare	\$160.00	\$150.00	\$310.00
16.1 - 17 Hectare	\$170.00	\$150.00	\$320.00
17.1 - 18 Hectare	\$180.00	\$150.00	\$330.00
18.1 - 19 Hectare	\$190.00	\$150.00	\$340.00
19.1 - 20 Hectare	\$200.00	\$150.00	\$350.00
20.1 - 21 Hectare	\$210.00	\$150.00	\$360.00
21.1 - 22 Hectare	\$220.00	\$150.00	\$370.00
22.1 - 23 Hectare	\$230.00	\$150.00	\$380.00
23.1 - 24 Hectare	\$240.00	\$150.00	\$390.00
24.1 - 25 Hectare	\$250.00	\$150.00	\$400.00

- (3) Agricultural uses in excess of the limitations in this subsection, or which require fixed terms shall be subject to the lease requirements of these regulations.
- (a) Occupants with permits to use properties for livestock/grazing prior to and through the effective date of the regulation of February 2016 and subsequent amendments thereafter that
- (b) a) have been continuously used/maintained and
- (c) b) are currently bound by USDA agricultural program support grant requirements, shall be exempt from the 25 Hectare limit as long as occupant continues to utilize the entire area and receive and is bound by USDA program agricultural grant requirements
- (c) Vehicular Parking - The activity that involves a location(s) and designated area(s)/assignment(s) on public land where motor vehicles may be temporarily stored or parked shall only be permitted under a temporary occupancy agreement as follows:
- (1) Temporary vehicular parking spaces are categorized as primary, secondary, and tertiary parking zones. The parking zone descriptions for Rota and Tinian, respectively are shown in Schedule 145-70-210(c)(1). The parking zones for Saipan are tied to the Saipan Zoning districts as follows:

<u>Primary</u>	<u>Secondary</u>	<u>Tertiary</u>
GC: Garapan Core	IN: Industrial	AG: Agriculture
GE: Garapan East	VC: Village Commercial	RU: Rural
BR: Beach Road		VR: Village Residential
MC: Mixed Commercial		
PR: Public Resource		

- (2) The annual permit fee per square meter shall be \$10.00 for primary, \$6.00 for secondary, and \$2.00 for tertiary zones.
- (3) Parking Permit Fees – Non-Income Generating Non-Commercial Humanitarian or Social Welfare Non-Profits (Charitable Organizations, NMC Foundation, Health & Social Welfare, and Churches). The annual permit fee per square meter shall be \$2.00 for All Zones.
- (d) Signboards/Banners – The activity that involves erecting or placement of a temporary board, poster, banner, a piece of cloth or bunting, placard, or other temporary sign varying in size, color, and design which is temporarily displayed, posted, erected, hung, or tied in a certain public location or tract of land to advertise or to convey information or a direction shall only be permitted as follows:
 - (1) Public lands zones for the placement of signboards or banners are categorized as primary, secondary, and tertiary zones identical to Vehicular Parking.
 - (2) CNMI government and non-commercial Humanitarian or Social Welfare non-profit organizations shall not be charged a fee for local government funded signboards for public awareness purposes. The fees for the placement of signboard by other Applicants are shown in the tables below:

SIGNBOARD PERMIT STANDARD FEES

	Primary Zone	Secondary Zone	Tertiary Zone
Annually	\$600.00	\$350.00	\$250.00
Monthly	\$100.00	\$ 70.00	\$ 50.00

SIGNBOARD PERMIT FEES – NON-COMMERCIAL NON-PROFITS

	All Zones
Annually	\$250.00
Monthly	\$ 50.00

- (3) Political signboards: political signboards are charged an administrative processing fee of \$50.00 along with a semi-annual fee of \$100.00 and cannot be erected sooner than six months before the election date. A candidate may erect and place a maximum of Ten (10) signboards on its respective electoral senatorial district. A Candidate running for office on a CNMI wide election may erect and place a maximum of Twenty (20) signboards on each senatorial district.
 - (i) No signboard shall be placed on the western beach side along Tun Thomas P. Sablan and along Beach Road in Saipan, or such other areas as determined by DPL.
 - (ii) No signboard shall be placed or erected on any trees on public land.
 - (iii) No signboard shall be placed or erected on any utility poles.
 - (iv) No signboard shall be placed or erected within 50 feet from any traffic light.
 - (v) No signboard shall be placed or erected within 6 feet of any road pavement and any public right-of-way.
 - (vi) No signboard shall be placed on any public buildings, facilities, monuments, public parks, and tourist sites.
 - (vii) No signboard exceeding dimensions of 4ft by 8ft shall be placed on public land.
- (e) Roadside Vendors - The activity that involves the use of a temporary structure, vehicle, or mobile canteen for the sale of local produce or fish, other perishables or non-perishable items such as handicrafts, trinkets, souvenirs, or other goods, at a permitted distance from the side of a road or thoroughfare at a location(s) or designated area(s)/assignment(s) on public land shall be permitted on the same financial terms as other concession TOA: A monthly fee of at least \$250.00 per concession (up to 100 square feet) shall be charged in addition to 1% of BGR.

Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS
Marianne Concepcion-Teregeyo, Secretary
P.O. Box 500380
Saipan, MP 96950
Tel. 234-3751

**NOTICE OF PROPOSED AMENDMENT OF REGULATIONS FOR THE
DEPARTMENT OF PUBLIC LANDS**

INTENDED ACTION: TO AMEND REGULATIONS AFTER CONSIDERING PUBLIC COMMENT: The Commonwealth of the Northern Mariana Islands, Department of Public Lands (“the Department”) intends to amend its regulations in accordance the attached proposed amendments, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The amendments would become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The Department has the inherent authority to adopt rules and regulations in furtherance of its duties and responsibilities pursuant to Article IX of the Commonwealth Constitution and 1 CMC §2801 et. seq.

THE TERMS AND SUBSTANCE: DPL’s Regulations prohibit the commercial use of public lands without a valid lease, temporary occupancy agreement, permit, or concession agreement; and govern the leasing and temporary occupancy of public lands whether by permit, lease, or temporary authorization in conformity with the Department’s obligation to objectively manage the use and disposition of public lands set forth at 1 CMC § 2801 et. seq. The Department wishes to amend its recently adopted regulations to add clarity, adjust certain fees, and correct errors.

THE SUBJECTS AND ISSUES INVOLVED: These amendments:


1. Expand the definition of commercial use and allow for 2% passive use of entire public land site for dedicated employee housing.
2. Allow DPL to reduce the security deposit and extend the deposit date for large development projects.
3. Expand the definition of Fees, Security Deposit, costs, and include language on security deposit phases.
4. Require the security deposit of \$250,000 must be maintained for the duration of the lease term.
5. Expand on base rent for large developments that will require 2 years to construct.
6. Clarify additional rent for all large development not to exceed \$5 Million to attract investors during this economic time.
7. Clarify passive uses.

8. Expand on the performance bond and expand on acceptable finance documents.
9. Clarify that all proceeds from the facility secured by the mortgage shall be used for the improvement of the leased property.
10. Expands on the lease form as an attachment to the regs.


DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and this notice shall be posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1)).

TO PROVIDE COMMENTS: Send or deliver your comments to the Department of Public Lands Attn: Secretary, at the above address, fax or email address. Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2)).

The Department of Public Lands approved the attached Regulations on the date listed below.

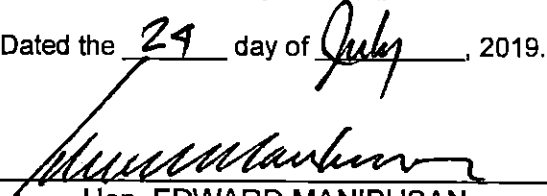
Submitted by:  25 JUL 2019
 MARIANNE CONCEPCION-TEREGEYO
 Secretary, Department of Public Lands
 Date

Received and filed by:  07/25/19
 MATHILDA A. ROSARIO
 Acting Special Assistant for Administration
 Date

Filed and Recorded by:  07/25/2019
 ESTHER SN NESBITT
 Commonwealth Register
 Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 29 day of July, 2019.


 Hon. EDWARD MANIBUSAN
 Attorney General

Commonwealth Gi Sankattan na Islas Mariãnas
Ufisinan Maga'lãhi
DIPÃTTAMENTUN TANU' PUPBLIKU
Marianne Concepcion-Teregeyo, Sekretãria
P.O. Box 500380
Saipan, MP 96950
Tel. 234-3751

**NUTISIAN I MANMAPROPONI NA AMENDA NU I REGULASION SIHA PARA I DIPÃTTAMENTUN
TANU' PUPBLIKU**

**I AKSION NI MA'INTENTSIONA: PARA U MA'AMENDA I REGULASION SIHA DISPUES DI
MAKUNSIDERA I UPIÑON I PUPBLIKU:** I Commonwealth gi Sankattan Siha na Islas Mariãnas,
Dipãttamentun I Tanu' Pupbliku ("I Dipãttamentu") ha intensiona para u amenda iyon-ñiha
Regulasion gi sigun mañechettun i mapropo ni amenda siha, sigun para i maneran i Åkton
Atministrasion Procedure, 1 CMC §9104(a). I amenda siha para u ifektibu gi hãlum dies (10)
dihas dispues di adãptasion yan publikasion gi hãlum i Rehistran Commonwealth. (1 CMC §
9105(b))

ÅTURIDÃT: Gai aturidãt i Dipãttamentu para u adãpta i areklamentu yan regulasion siha ni para
u makonsigi mo'na i obligasion yan responsabilidãt-ñiha siha sigun i Attikulu IX giya i
Commonwealth Konstitusion yan 1 CMC §2801 et. Seq.

I TEMA YAN SUSTÃNSIAN I PALÃBRA SIHA: I Regulasion DPL siha prumuhibi i isan kumisiãt i
tanu' pupbliku sin balidãd na atkilon, tempurãriu okupão na kontrãta, lisensia, pat kontrãtan
concession; yan gubietna i manma'atkikila yan tempurãriun okupão i tanu' pupbliku siha
maseha ginin lisensia, pat tempurãriu na aturidãt gi kontrãta yan i obligasion Dipãttamentu
para u objectively manage i inisan yan disposition i tanu' pupbliku ni mapega mo'na gi 1 CMC §
2801 et. Seq. I Dipãttamentu manmalagu para u amenda i mãs mannuebu manma'adãpta na
regulasion siha para u na'klãru yan ahusta i fitmi na ãpas siha, yan u manadinanchi i linachi siha.

I SUHETU NI MASUMÃRIA YAN ASUNTU NI TINEKKA: Esti na amenda siha:

1. Aomenta i sustãnsian nu i isan kumisiãt yan sedi para dos pusementu (2%) i passive use gi todũ i lugãt tanu' pupbliku para housing impli'ão.
2. Sedi i DPL para u ribãha i security deposit yan ekstendi i fetchan deposit para i mandãngkulu na dibelopmentu na project siha.
3. Aomenta i sustãnsian nu i Fees, Security Deposit, gãstu, yan ingklusu i lingguãhi gi security deposit phases.
4. Na'prisisu i security deposit gi dos sientus singkuenta mit pesus (\$250,000) ya debi na u mamantieni gi durãntin nu i timpun i atkilon.
5. Aomenta i base rent para todũ i mandãngkulu na dibelopmentu ni mu nisisita dos (2) sãkkan para u mahãtsa.

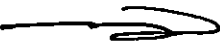
6. Na'kláru otru na atkila para todú i mandangkulu na dibelopmentu na ti para u ma'upus singku miyon (\$5 Million) para u bensi investors gi durántin esti na tiempun ikonomia.
7. Na'kláru i passive uses.
8. Aomenta i performance bond yan aomenta gi dokumentun inakseptan finansiát siha.
9. Na'kláru atyu todú i proceeds ginin i fasilidát secured ni mortgage na debi u ma'usa para i adilántun nu i atkilon propiedát.
10. Aomenta gi fotman atkilon komu mañechettun gi regulasion.

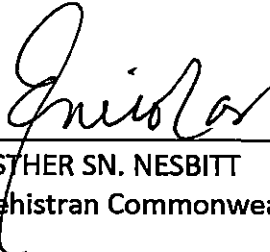
DIREKSION PARA I PINE'LU YAN I PUBLIKASION: Esti i Manmaproponi na Amenda siha debi na u mapupblika gi hálum i Rehistran Commonwealth gi hálum i seksiona ni manmaproponi na regulasion (1 CMC § 9102(a)(1)), ya u mapega gi hálum kumbinienti na lugát siha giya i civic center yan gi hálum ufisinan gubietnu gi kada distritun senatorial, parehu Inglis yan i dos na lingguáhin natibu, (1 CMC § 9104(a)(1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Na'hálum pat intrega i upiñon-mu siha para i Dipáttamentun Tanu' Puplicu Attn: Sekretária, giya sanhilu' na address, fax pat email address. I upiñon siha debi na u fanhálum gi hálum trenta (30) dihas ginin esti na nutisian publikasion. Putfabot na'hálum iyo'-mu data, views pat atgmentu siha. (1 CMC § 9104(a)(2)).

I Dipáttamentun Tanu' Puplicu ha aprueba i mañechettun na regulasion siha gi fetcha ni malista gi sanpapa'.

Nina'hálum as:  25 JUL 2019
 MARIANNE CONCEPCION-TEREGEYO
 Sekretária, Dipáttamentun Tanu' Puplicu
 Fetcha

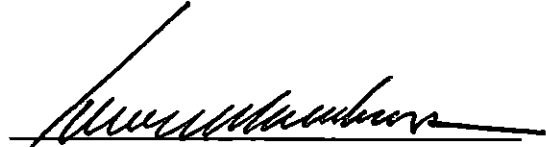
Rinisibi yan
 pine'lu as:  07/25/19
 MATHILDA A. ROSARIO
 Acting, Ispisiát Na Ayudánti Para I Atministrasion
 Fetcha

Pine'lu yan
 Ninota as:  07.25.2019
 ESTHER SN. NESBITT
 Rehistran Commonwealth
 Fetcha

Sigun i 1 CMC § 2153(e) (I Abugádu Henerát ha aprueba i regulasion siha na para u macho'gui

kumu fotma) yan i 1 CMC § 9104(a)(3) (hentan inaprueban Abugãdu Henerãt) i manmaproponi na regulasion siha ni mafetchettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligãt ginen i CNMI Abugãdu Henerãt yan debi na u mapupblika, 1 CMC § 2153(f) (pupplikasion areklamentu yan regulasion siha).

Mafetcha guini gi diha 29, gi July 2019.



Hon. EDWARD MANIBUSAN
Abugãdu Henerãt

Commonwealth Téél Falúw kka Efáng llól Marianas
Bwulasiyol Gobenno
Bwulasiyol Ammwelil Faluweer Toulap
Marianne Concepcion-Teregeyo, Sekkretóoriya
P.O. Box 500380
Saipan, MP 96950
Til. 234-3751

ARONGORONGOL TOULAP REEL LIIWELIL MWÓGHUTUGHUT NGÁLI
BWULASIYOL AMMWELIL FALUWEER TOULAP

MÁNGEMÁNGIL MWÓGHUT: REEL REBWE LIIWEL MWOGHUT MWIRIL AAR AMWURI MWÁLIYEER TOULAP: Commonwealth Téél Falúw kka Efáng llól Marianas, Bwulasiyol Ammwelil Faluweer Toulap (“Bwulasiyo we”) re mángemángil rebwe liiweli mwóghutughutúl ikka e appasch bwe liiwel, sáangi mwóghutughutúl Administrative Procedure Act, 1 CMC § 9104(a). Ebwe bwunguló Mwóghutughut kkal llól seigh ráál mwiril aal adóptááli me akkatééwowul me llól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: Eyoor bwángil Bwulasiyo reel rebwe adóptááli allégh me mwóghutughut llól mwóghutughutúl me lemelemil sáangi Article IX reel Commonwealth Constitution me 1 CMC § 2801 et.seq.

KKAPASAL ME AWEEWEL: Mwóghutughutúl DPL e pileey commercial use reel faluweer toulap nge ese yoor valid lease, abwungubwungúl temporary occupancy, angúúngú, ngáre abwungubwung iye e concession; me lemeli atkkilóónol me temporary occupancy reel faluweer toulap ngare sáangi angúúngú, Atkkilóón, ngáre temporary authorization llól rongoschigh ngáli angúúngúl Bwulasiyo reel rebwe lemeli yááyál me disposition reel faluweer toulap ebwe tééló mmwal me 1 CMC § 2801 et. seq. Bwulasiyo re tipáli rebwe liiweli mwóghutughut ikka re gheláál adóptááli bwe ebwe schuulong me siiweli óbwóss ngáre fees ikka e lo, me awelewelaló milikka e nngaw.

KKAPASAL ME ÓUTOL: Liiwel kkal:

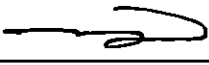
1. Aschéélapayló weewel commercial use me lighiti ngáli 2% passive use reel alongal faluweer toulap ngáli leliyál schagh schóól angaang.
2. Mweiti ngáli DPL reel rebwe aghitighitiló security deposit me sóbweeyló ráálil deposit ngáli project ikka e tomwógh.
3. Aschéélapayló weewel Óbwóss, Security Deposit, cost, me aschuulong kkapasal wóól security deposit phases.
4. Tip bwe security deposit-il \$250,000 ebwe isiis llól tempool abwungubwungúl atkkilóón.
5. Aschéélapayló base rent ngáli kkayú ikka e tomwógh iye ebwe yoor ruwoow ráágh bwe rebwe akkayú.
6. Ebwe ffat rent ikka ebwe schuulong ngáli kkayú ikka e tomwógh bwe esóóbw uppwusu \$5 Million reel rebwe amweschiyaar investors atol tempool economy yeel.
7. Affata passive uses.
8. Aschéélapayló performance bond me aschéélapayló pappidil acceptable finance
9. Ebwe ffat bwe alongal proceeds sáangi facility iye e secure sáangi mortgage rebwe yááyá ngáli ghatchúl lugóót iye re atkkilaay.
10. Aschéélapayló wóól pappidil atkkilóón bwe appasch ngáli mwóghutughut.

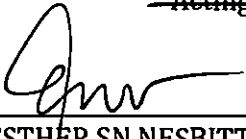
AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pommwol Liiwel kkal me llól Commonwealth Register llól táilil wóól pommwol me ffél mwóghutughut ikka ra adóptááli (1 CMC § 9102(a)(1)) me ebwe appaschetá arongorong yeel llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. (1 CMC § 9104(a)(2)).

REEL ISIISILONGOL KKAPAS: Afanga ngáre bwughiló yóómw ischil kkapas ngáli Bwulasiyol Ammwelil Faluweer Toulap Attn: Secretary, reel féléfél iye e lo weiláng, fax ngáre email address. Ebwe toolong kkapas llól eliigh ráál mwiril ráálil igha e akkatééwow arongorong yeel. Isiisilong yóómw data, views ngáre angiingi. (1 CMC § 9104(a)(2)).

Bwulasiyol Ammwelil Faluweer Toulap re átirowa Mwóghutughut ikka e appasch wóól ráál iye e lo faal.

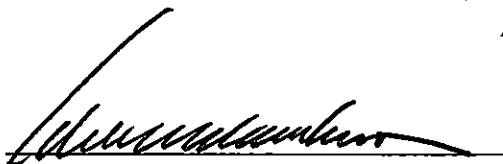
Isáliyalong:  25 JUL 2019
MARIANNE CONCEPCION-TEREGEYO
Sekretóoriya, Bwulasiyol Ammwelil Faluweer Toulap
Ráál

Bwughiyal me Ammwelil:  07/25/19
MATHILDA A. ROSARIO
~~Acting~~ Special Assistant ngáli Administration
Ráál

Ammwelil:  07/25/2019
ESTHER SN NESBITT
Commonwealth Register
Ráál

Sángi 1 CMC § 2153(e) (sángi átirowal AG bwe aa lléghló reel fféerúl) me 1 CMC § 9104(a)(3) (sángi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe ra takkal amwuri fischiiy me aa lléghló reel fféerúl me legal sufficiency sángi Soulemelemil Allégh Lapalpal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut).

Aghikkilátiw wóól 29 ráálil July, 2019.


Hon. EDWARD MANIBUSAN
Soulemelemil Allégh Lapalpal

TITLE 145: DEPARTMENT OF PUBLIC LANDS

§ 145-70-005 Purpose

These promulgated rules and regulations govern new leases, lease renewals, new temporary occupancy agreements, and temporary occupancy agreement renewals of public lands whether by permit, lease, or temporary authorization as in conformity with the obligation to objectively manage the use and disposition of public lands set forth at 1 CMC § 2801 *et. seq.* No commercial use of public lands is authorized or permitted without a valid lease, temporary occupancy agreement, permit, or concession agreement authorized by these regulations.

The Department of Public Lands (DPL) shall enforce these regulations to the extent allowed by law. DPL shall issue written notice of violation to any person or entity using or occupying public lands without authorization or in violation of these regulations for any activity or purpose.

History: Amdts Adopted 39 Com. Reg. 39605 (May 28, 2017); Amdts Proposed 39 Com. Reg. 39351 (Mar. 28, 2017); Adopted 38 Com. Reg. 37440 (Jan. 28, 2016); Emergency and Proposed 37 Com. Reg. 37247 (Nov. 28, 2015) (effective for 120 days from Nov. 28, 2015).

§ 145-70-010 Definitions

(a) "Applicant" means the person, persons, entity, or entities that have submitted a proposal to the DPL to lease or otherwise use public lands including respondents to requests for proposals issued by DPL for the leasing, development, or use of public lands, including without limitation persons or entities who have responded to one or more land use RFPs issued by the DPL.

(b) "Commercial Use" means used for revenue generating activities. Active use means the actual physical operations or facilities generating revenue. Passive use means a supplementary use that augments the revenue generating operations or facility (e.g. parking lots). For purposes of these regulations, residential dwellings (e.g. condominiums, apartments, or houses) are not recognized as Commercial Use, except that all development shall have no more than 2% of passive use dedicated for employee housing.

(c) "Department" means the Department of Public Lands (DPL).

(d) "Government" means, for purposes of the regulations in this chapter, the departments and agencies of the CNMI Government other than the Department of Public Lands, unless otherwise specified in these regulations.

(e) "Lessee" means the person, persons, entity, or entities holding leasehold interests in public lands.

(f) "Occupant" means the person or entity whose name appears on the temporary occupancy agreement.

(g) "Owner" means the person, persons, entity, or entities holding fee simple title in lands that are not public lands.

TITLE 145: DEPARTMENT OF PUBLIC LANDS

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 39 Com. Reg. 39605 (May 28, 2017); Amdts Proposed 39 Com. Reg. 39351 (Mar. 28, 2017); Adopted 38 Com. Reg. 37440 (Jan. 28, 2016); Emergency and Proposed 37 Com. Reg. 37247 (Nov. 28, 2015) (effective for 120 days from Nov. 28, 2015).

§ 145-70-110 Lease Agreement Requirements

DPL shall include in lease agreements provisions typical of commercial practices. All public land leases are on a “triple net” basis “as is where is”. All leases shall conform to the following provisions:

- (a) Legal description of the property(ies) subjected to the lease.
- (b) Purpose – a detailed description of the intended development and operations.
- (c) Term – the effective date and duration of the lease shall not exceed ~~25~~ 40 years. Note: Upon expiration of the term, the property including all improvements shall revert to DPL for renewal, extension, or re-leasing to the highest best bidder as determined by these regulations in accordance with CNMI law.
- (d) Fees, Security Deposit, Costs.
 - (1) Prior to the preparation of any lease or supporting document, the applicant shall deposit an administrative processing fee equal to the greater of ~~\$5,000~~ \$2,500, or ~~0.50%~~ 0.25% of the estimated value of the subject property, not to exceed \$100,000.
 - (2) Prior to any lease approval, lessee must deposit at least 5% of the total cost of the proposed project to which the lease pertains, whether the entire project or only a part of it will be situated on public lands. These funds will be held by the DPL to secure construction start up, and remediation costs. However, for large projects that certified engineers estimate will require more than two years to construct and will be constructed in phases, lessee shall deposit 5% of the first each phase, or an amount mutually agreeable to both parties prior to construction commencement and (for clarity, 5% prior to the commencement of each subsequent phase). Provided, however, that each phase is constructed in a manner that allows for the facility within each phase to be operable independent of other phases. DPL may seek the assistance of the Department of Public Works to certify each phase complete. ~~the total project shall not exceed four phases, and ten years for the total project to be completed.~~
 - (3) The security deposit requirement shall also apply to lease extensions or renewals where one or more key factors for approval is lessee’s proposal to further develop the property it currently occupies.
 - (4) Upon execution of a lease for public lands, lessee shall deposit as security \$250,000 that shall be maintained for the duration of the lease term. Funds remaining on account with the DPL after the completion of the proposed development in excess of \$250,000 ~~5,000 or 1% of the development cost (whichever is greater)~~ shall be released to lessee upon completion of the project development. Remaining funds shall be retained as security, and lessee shall be obligated to

TITLE 145: DEPARTMENT OF PUBLIC LANDS

maintain a constant balance for the term of the lease.

(5) Funds shall forfeit to DPL should the project be cancelled or start date delayed more than one year from the execution of the lease. Mere ceremonious commencement (i.e. ground breaking or ribbon cutting without materially beginning and continuing construction) will not avoid forfeiture.

(6) All costs related to the lease including underwriting, leasehold fee simple appraisals, surveys, topographical surveys consolidations, excavation, studies, recordings, etc. shall be borne by applicant or lessee. In the event of lessee's failure to perform any obligation under a lease, DPL may (but shall not be obligated to) expend funds held in lessee's account (including security deposits) to satisfy such obligation to the extent feasible (e.g., to procure surveys, appraisals, or insurance).

(e) Rental Rates.

Rent derived from public lands shall be based on the value of the property, and actually computed and collected on that basis; provided, that the DPL shall, within the limits set by fiduciary duty and the provisions of Public Law 15-2 and 20-84, and have discretion in negotiating basic rents and additional rents upward taking into account changing economic conditions and other relevant trends and factors including other land transactions deemed substantially similar to the proposed lease. For the avoidance of doubt the Secretary of DPL may determine that a property's true value is greater (but not less than) an appraised value determined by independent appraisal.

(1) New Leases – shall include new leases, and renewals.

(2) Basic rent shall be based on the value of the fee simple title to the property. It is the policy of DPL to collect at least 5% of a property's value each year for the term of the lease as base rent.

~~However, base rent for all large development that will require more than 2 years to construct will not exceed \$4Million annually, which can be decreased by an amount mutually agreed upon by the parties during the development's permitting and construction period.~~ DPL may cap the base rent at \$4 million for a large development project that will require more than two years to complete if DPL determines that the capital investment in the project will be no less than \$36 million and will benefit the economic development of the Commonwealth.

(3) In no event shall the rent in subsequent years be less than the amounts in previous years of the lease.

(4) Properties shall be re appraised and basic rent adjusted upward to market every five years based on an updated appraisal. For the purpose of determining basic rent, the value in subsequent periods shall include all improvements on the property less the value of improvements made by the lessee during the term of the lease.

(5) New Leases – shall be based on the value of the fee simple interest including improvements (if any).

(6) Extensions – shall be based on the appraised value of the fee simple interest including improvements less the value of improvements made by the lessee since the inception of the lease.

(7) Renewals – shall be treated as new leases for purposes of determining rent.

(8) Additional Rent – Percentage of Business Gross Receipts – due to the scarcity of public lands and in accordance with its fiduciary duties owed to its beneficiaries, DPL shall charge additional rent that allows its beneficiaries to participate in the revenues generated as a

TITLE 145: DEPARTMENT OF PUBLIC LANDS

result of the lease. This rent shall be charged as a percentage of lessee's business gross receipts (BGR) and shall also apply to the BGR of lessee's subtenants, concessionaries and others permitted to engage in commercial activity upon the leased premises. DPL may cap the additional rent due at \$5 million for a large development project that will require more than two years to complete if DPL determines that the capital investment in the project will be no less than \$36 million and will benefit the economic development of the Commonwealth. ~~However, additional rent for all large development that will require more than 2 years to construct shall not exceed \$5 Million annually.~~ For the sake of clarity, BGR includes enterprise BGR, not just BGR derived from parts of the enterprise situated on public lands. The additional rent per year for every year of the lease term shall be as follows:

Business Gross Receipt Payment Schedule

Tier	Annual BGR Amounts		% of BGR	Minimum Per Tier		
	From	To				
1	\$ -	\$50,000.49	3.00%	1.50%		
2	\$50,000.50	\$100,000.49	2.89%	1.45%	\$1,500	\$750
3	\$100,000.50	\$200,000.49	2.78%	1.39%	\$2,890	\$1,445
4	\$200,000.50	\$400,000.49	2.67%	1.34%	\$5,560	\$2,780
5	\$400,000.50	\$800,000.49	2.56%	1.28%	\$10,680	\$5,340
6	\$800,000.50	\$1,600,000.49	2.44%	1.22%	\$20,480	\$10,240
7	\$1,600,000.50	\$3,200,000.49	2.33%	1.17%	\$39,040	\$19,520
8	\$3,200,000.50	\$6,400,000.49	2.22%	1.11%	\$74,560	\$37,280
9	\$6,400,000.50	\$12,800,000.49	2.11%	1.06%	\$142,080	\$71,040
10	\$12,800,000.50	and Over	2.00%	1.00%	\$270,080	\$135,040

(9) Passive Uses – Rent for standalone leases of public lands for use as parking area or activities that supplement the actual enterprise shall be basic rent and additional rents as outlined in this subsection. Additional rent shall be assessed based on the ratio of public lands to lessee's other lands ~~being used for the same purpose~~ on the BGR of the entire enterprise supplemented by the public lands (e.g. Lessee's ~~existing ground parking space~~ private land area is 10,000 square meters. Lessee wants to expand parking area by leasing 400 square meters of public lands. The ratio of public lands for use as ~~additional parking area~~ is $400 / (500 + 400) \cdot 10,000 = 44.4\%$ ~~4.0%~~. Rent will therefore be assessed at basic rent, plus ~~44.4%~~ 4.0% x applicable % of BGR x BGR).

(10) All rental amounts payable under all lease agreements and reimbursement of costs incurred by DPL as a result of enforcing the lease shall be fully assessed and collected from the Lessee.

(11) Lease rental payments shall be collected when due or timely pursuit of default provisions of the lease agreement shall be made.

(12) Past due rental payments of any amount shall bear interest at one and one half percent (1.5%) per month compounded monthly, from the date it becomes due until fully paid.

(13) Application of Rent Payments – Rent payments shall be applied in the following order (with oldest receivables in each category being credited first):

- (i) Outstanding cost reimbursements due to DPL first.
- (ii) Penalties due second.
- (iii) Past due interest third.
- (iv) Rent last.

TITLE 145: DEPARTMENT OF PUBLIC LANDS

(f) Construction Quality, Maintenance, Repairs, Alterations.

(1) Construction repairs and alterations shall be in good workmanlike manner and in compliance with applicable laws, regulations, ordinances, and building codes.

(2) Maintenance – Lessee shall maintain its leased premises in the level of condition at industry standards of similar facilities for the duration of the lease.

(3) Alterations – Lessee shall inform DPL of any proposed alterations or improvements exceeding 1.00% of the total cost of the facility or will result in the reducing the value of the property by more than 1.00% shall be subject to DPL's prior approval. Proposed alterations shall be in line with or enhance to existing operations and lessee shall submit pro forma financial statements showing the additional revenues (or revenue reduction) anticipated as a result of the alteration. DPL may require additional documentation for a proper assessment.

(g) Financing – Submission by lessee (and related party if any portion of the operations will be continuously funded by the related party) of the following periodically as required in the lease agreement: audited financial statements, annual reports of lessee, related parties, and subtenants, and CNMI BGR tax filings from lessee.

(1) No later than sixty days after lessee's fiscal year, financial statements audited by a certified public accountant certified in the United States comparing financial information of the past two years including any restatements on its profit and loss and cash flow statements, change in ownership and owner's equity, and balance sheet.

(2) Applicants and lessees with less than \$500,000 in BGR may submit management prepared financial statements together with a certified tax transcript for the corresponding period in lieu of audited statements.

(3) Publicly held corporations and corporations required to issue annual reports to their shareholders shall submit their annual report to shareholders to DPL at the time of issuance. Lessees shall submit to DPL all periodic reports required by the CNMI Department of Commerce before the filing deadline.

(4) Financial statements from lessee and subtenants shall include a schedule of gross receipts indicating sources and deductions in support of the gross receipts fee and any other documents DPL may deem necessary to properly determine lessee's compliance with conditions or covenants of the lease.

(5) Submit CNMI BGR tax filings upon filing but no later than one tax period after the filing deadline.

(h) Guarantees. The following guaranties and security are required for all public lands leases:

(1) Guarantees from all related parties to guaranty lessee's obligations under the lease and funding of the proposed development.

(2) Formal written resolutions authorizing the guarantee for each guarantor other than individual guarantors.

(3) Performance bond, completion bond, deposit, stand by letter of credit, guarantee of payment, any finance document, or a combination thereof covering 100% of development cost. The performance bond, completion bond, deposit, stand by letter of credit, or combination thereof covering 100% of the development costs must be submitted to DPL for its approval, such approval being in the sole discretion of DPL.

(i) Assignment and Subleases – Leases shall not be assigned or subleased in part or in whole without the prior written consent of the DPL, ~~which shall not be unreasonably withheld or not exceed ninety days upon submission of all required documents which standards must be clearly~~

TITLE 145: DEPARTMENT OF PUBLIC LANDS

~~provided by the DPL.~~

- (1) Proposed assignees and sublessees shall be subject to the same eligibility requirements, qualifying factors, and level of scrutiny as lessees.
- (2) Leases of less than five years from date of execution or within five years from date of expiration shall not be assignable.
- (3) In no instance shall the deposits of applicant or lessee be refunded until assignee or subtenant deposits equal or greater amounts with DPL.
- (4) Lessee and assignee or subtenant shall provide DPL a complete and accurate copy of their proposed assignment agreement and/or sublease showing the total consideration given for or in connection with the assignment or subleasing transaction.
- (5) DPL shall charge a fee of 25% of the value of the monthly/annual sublease fee or assignment fee, if any.

(j) Renewals, Extensions – DPL will consider proposals to renew or extend leases no sooner than the latter of the completion of construction or two years after the commencement date of the lease agreement, and thereafter, at least two years prior to the expiration of an existing lease. Such consideration shall be based on the lessee's performance under its existing lease.

(1) Consideration for renewal and extension shall be based on lessee's performance on its existing lease and subject to the same eligibility requirements, qualifying factors, and level of scrutiny as new lessees. Lessees with more than three late payments within the previous 24-month period shall be ineligible for renewal or extension.

(2) Base rent for renewals shall be based on the appraisal of the property including improvements.

(k) Mortgage.

(1) The lessee and its permitted successors and assigns may, subject to the express prior written approval of the DPL, mortgage its lease and its interest in the property provided that no holder of any mortgage of the lease, or any one claiming by, through or under any such mortgage shall, by virtue thereof, except as otherwise specified in the lease agreement acquire any greater rights hereunder than the lessee.

(2) No mortgage of the lease or the lessee's interest in the leased property, in whole or in part, by the lessee or the lessee's successors or assigns shall be valid, unless:

(i) At the time of the making of such mortgage, there shall be no default under any of the agreements, terms, covenants and conditions to be performed by the lessee under the lease;

(ii) The mortgage shall be subject to all the agreements, terms, covenants and conditions of the lease;

(iii) The mortgage shall reserve to the DPL prior right, and in the event of lessee's default under the same and after notice of the same character and duration as required to be given to Lessee, to correct the default or to purchase the same and terminate the lease.

(3) The mortgage shall contain the following provisions: The consent by the DPL to an assignment, transfer, management contract, or subletting may be granted, denied or made subject to such conditions as the DPL finds it in the best interest of its beneficiaries.

(4) All proceeds from the facility secured by the mortgage shall be used ~~solely~~ solely for the improvement ~~and operation~~ of the leased property.

(l) Termination, Recapture.

(1) Notice shall be given to lessees who are in material default as follows: 1st notice with 30 days to cure, final notice with 15 days to cure, and notice of termination effective immediately. (2)

TITLE 145: DEPARTMENT OF PUBLIC LANDS

DPL may terminate a lease agreement that remains in default forty five days after the 1st notice has been delivered unless otherwise stated in these regulations for reasons including without limitation:

- (i) Failure to consistently and significantly reduce past due rents, fees, or taxes or other charges required to be paid by lessees;
 - (ii) Other material defaults due to non performance including without limitation failure to complete development in accordance with the development plan and projections upon which a lease is based;
 - (iii) Abandonment; and
 - (iv) Use of the property other than lessee's proposed purpose and as stated in the lease.
- (3) DPL may recapture all or portions of properties under lease in the event the use of the property is not consistent with the proposed development as stated in the lease or in the event of under-utilization of public lands when such lands may have a higher and better use via notice to lessee.

(m) Holdover.

- (1) If a lessee fails to vacate the leased property upon the expiration, termination or cancellation of its lease, Lessee shall be deemed a holdover tenant.
- (2) The fee during any holdover period shall be not less than 150% of the latest basic rent amount, and additional rent.
- (3) Payment of the holdover fee shall in no way constitute a limitation upon any rights or remedies the DPL may be entitled to pursue for violation of the lease, for trespass or illegal possession or for any other cause of action arising out of the holdover tenant's failure to vacate the premises including the right to evict the holdover tenant without court action, and the cost thereof to be paid by the holdover tenant.
- (4) The lessee shall be responsible, at its sole cost and expense and even after termination of the lease, for removing any person or entity, authorized or unauthorized by the lessee, from the premises who may have been on the premises prior to the termination of the lease and continues to occupy a portion of the premises thereafter. The failure of the lessee to remove the person or entity from the premises at the end of the lease constitutes a holdover.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 39 Com. Reg. 39605 (May 28, 2017); Amdts Proposed 39 Com. Reg. 39351 (Mar. 28, 2017); Adopted 38 Com. Reg. 37440 (Jan. 28, 2016); Emergency and Proposed 37 Com. Reg. 37247 (Nov. 28, 2015) (effective for 120 days from Nov. 28, 2015).

Commission Comment: The Commission struck the figures "(60)" from subsection (g)(1) and "(45)" from subsection (l)(2) as mere repetitions of words. The Commission removed a colon after "following" in the first paragraph; inserted periods after "etc" in subsection (d)(6) and at the ends of subsections (e)(9)(13)(i)-(iv), (g)(2), (j)(2), (k)(3), and (m)(1); changed brackets in subsection (e)(9) to parentheses; and changed "five year from" to "five years from" in subsection (i)(2).

§ 145-70-115 Lease Form

All leases shall be in a form substantially similar to that set forth in Appendix A below. All leases shall be in the form set forth in Appendix A below.

Modified, 1 CMC § 3806(b), (d).

History: Adopted 38 Com. Reg. 37440 (Jan. 28, 2016); Emergency and Proposed 37 Com. Reg. 37247 (Nov. 28, 2015) (effective for 120 days from Nov. 28, 2015); Emergency and Proposed 37 Com. Reg. 37247 (Nov. 28, 2015) (effective for 120 days from Nov. 28, 2015)

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 Joseph C. Reyes, Vice Chairman
 Ramon M. Dela Cruz, Secretary
 Alvaro A. Santos, Treasurer
 Diego M. Songao, Public Relations

COMMISSION ORDER NO: 2019-003

**Order Confirming Stipulated Agreement in DEI 18-0024-I
 (Executive Director v. Imperial Pacific International (CNMI), LLC)**

For good cause determined at the June 27, 2019 public meeting of the Commonwealth Casino Commission, which was duly publicly noticed, and based on the authority granted by the laws of the Commonwealth (including but not limited to Public Laws 18-56 and 19-24) and the Regulations of the Commonwealth Casino Commission (“Commission”), NMIAC Chapter 175-10.1, the Commission hereby finds and **ORDERS AS FOLLOWS:**

1. WHEREAS, Public Law 4 CMC §2314(b)(2) authorizes the Commission to promulgate regulations as may be necessary to properly supervise, monitor and investigate to ensure the suitability and compliance with the legal, statutory and contractual obligations of owners, operators, and employees of casinos; and
2. WHEREAS, based in part on the foregoing authority, the Commission enacted §175-10.1-560 of the CNMI Casino Regulations dealing with the minimum bankroll which the casino licensee must maintain. Pursuant to §175-10.1-560(a), the Commission may “adopt or revise a bankroll formula that specifies the minimum bankroll requirements applicable to the casino gaming licensee, along with instructions for computing available bankroll. The formula adopted by the Commission may require the licensee to maintain a number of days of cash on hand, utilize a debt-to service ratio, or utilize any other ratio the Commission deems fit”; and
3. WHEREAS, information came to the attention of employees of the Commission’s Audit, Compliance, and Enforcement & Investigations Divisions that the casino licensee, Imperial Pacific International (CNMI), LLC (“IPI”) may not be in continuous compliance with the applicable minimum bankroll requirement as ordered by the Commission; and
4. WHEREAS, Investigators of the Commission’s Division of Enforcement & Investigations, in conjunction with employees of the Commission’s Division of Audit, investigated and compiled evidence sufficient to lead them to believe that violations of the Commission’s regulations, more specifically §175-10.1-560(a), did in fact occur; and
5. WHEREAS, As part of the investigation, enforcement, and resolution process, the Executive Director utilized the stipulation authority granted him by §175-10.1-2535(c) to stipulate the occurrence of offenses and applicable offense levels, to reach the stipulated agreement that was presented to the Commission in the June 27, 2019 regular meeting, and specifically conditioned on acceptance by the Commission;

6. WHEREAS, The Executive Director found, and the Commission recognizes, the massive effects of Super Typhoon Yutu as mitigation for the alleged offenses; and

7. WHEREAS, The Commission has considered the Stipulated Agreement, the positions of the parties, and the best interests of the people of the CNMI, and has determined, for reasons discussed at the public meeting held on June 27, 2019, that the interests of justice will best be served if the Stipulated Agreement is confirmed in its entirety; **NOW, THEREFORE,**

8. IT IS HEREBY ORDERED that the Stipulated Agreement presented to the Commission in the public meeting held on June 27, 2019, including all consideration of all kinds, including but not limited to all payments, duties, waivers, and forbearances, is confirmed in its entirety; and

9. IT IS HEREBY FURTHER ORDERED that the casino licensee, shall (if it has not yet done so) immediately tender the full settlement amount of Two Hundred Twenty Thousand Dollars (\$220,000.00) in check form to the Executive Director, who shall cause the check(s) to be deposited to the General Fund of the CNMI government without undue delay; and

10. IT IS HEREBY FURTHER ORDERED that the casino licensee, shall ensure that all minimum bankroll requirements are continuously met as required by applicable Commonwealth Regulation and Commission Order; and

11. IT IS HEREBY FURTHER ORDERED that the casino licensee, shall ensure that all Casino Key Employees with responsibility for compliance with applicable laws and regulations are retrained and certify that they understand the requirements of applicable federal and Commonwealth of the Northern Mariana Islands ("CNMI") laws and the Commission Regulations generally, and specifically those concerning minimum bankroll requirements. IPI shall provide to the Executive Director documentation of such retraining and certificate of understanding on or before July 1, 2019; and

12. IT IS HEREBY FURTHER ORDERED that the Chairman or the Executive Director shall take steps necessary to ensure that this Order is published in the Commonwealth Register without reasonable delay; and

13. IT IS HEREBY FURTHER ORDERED that this Order is to take effect immediately or at the earliest time allowed by law, and shall remain in effect until it is repealed or replaced by subsequent Order of the Commission.

SO ORDERED this 27th day of June, 2019.

Signature: 

JUAN M. SABLAN
CHAIRMAN



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In the Matter of:

Zaji O. Zajradhara,

Complainant,

v.

S.W. Corporation,

Respondent.

Labor Case No. 19-002

ORIGINAL
7/11/19

ORDER OF DISMISSAL

An Order to Show Cause Hearing was held on July 11, 2019 at 9:00 a.m. in the Administrative Hearing Office. Complainant Zaji O. Zajradhara (“Complainant”) was present and unrepresented by counsel. Respondent S.W. Corporation (“Respondent”) was present and represented the company’s registered agent and translator Jin Koo Cho.¹ The Department’s Enforcement, Monitoring and Compliance Section (“Enforcement”) was also present and represented by Jerrick Cruz.

During the OSC Hearing, Complainant was ordered to show cause why the complaint for a violation of the CNMI employment preference statute should not be dismissed for failure to state a claim. In order to prevail on a claim for damages under the employment preference statute, a complainant has the burden to prove all four elements of the statute: (1) that he was qualified for the job; (2) that his job application was rejected by the respondent/employer without just cause; (3) *the respondent/employer then hired a foreign national worker for that positions* and; (4) the respondent/employer failed to

¹ Mr. Cho represented that the company’s president was off-island due to a medical emergency. Mr. Cho further represented that he was authorized to represent the company. Mr. Cho shall file a signed written authorization on or before July 11, 2019 at 9:00 a.m.

meet the 30% workforce objective requirement. 3 CMC § 4528(a) (emphasis added).² In this matter, Enforcement's written determination following investigation indicated that Respondent cancelled the Job Vacancy Announcement ("JVA") in question and did not hire anyone for the announced position. Failure to hire a foreign worker, much less anyone, is fatal to the alleged claim.³ Based upon witness testimony and written evidence admitted during the OSC Hearing, the undersigned finds that a foreign worker was not hired in connection to the JVA alleged in the complaint. Further, the business decision to cancel a JVA and forego hiring is not a violation or regulated by the Department.

In consideration of above, Complainant subsequently filed a hand-written Motion to Dismiss the complaint in Labor Case 19-002. Accordingly, this matter is hereby **DISMISSED** and the Administrative Hearing is vacated.

So ordered this **11th** day of July, 2019.

/s/
Jacqueline A. Nicolas
Administrative Hearing Officer

² "A citizen or CNMI permanent resident or U.S. permanent resident who is qualified for a job may make a claim for damages if an employer has not met the requirements of 3 CMC § 4525, the employer rejects an application for the job without just cause, and the employer employs a person who is not a citizen or CNMI permanent resident or U.S. permanent resident for the job." 3 CMC § 4528(a); *see also* NMIAC § 80-20.1-455(f).

³ "It is well established precedent that a respondent's failure to hire a foreign worker over a U.S. citizen, U.S. permanent resident, or CNMI permanent resident is fatal to a complainant's claim for damages under the employment preference statute." *Zajradhara v. Woo Jung Corporation*, LC-18-059 (Administrative Order issued May 16, 2019 at 7, ¶ 20) *citing* *Zajradhara v. SPN China News Corporation*, LC-17-021 (Administrative Order issued July 12, 2018 at 4) ("There are several problems with Complainant meeting the elements of this claim, based on the facts of this case. Most important is the fact that Employer never hired a foreign national worker, or anyone to fill the advertised position. The gravamen of the statutory violation of 3 CMC § 4528(a) is that Employer has hired a foreign national worker over a qualified U.S. citizen [or permanent resident]. In this case where no one was hired for the vacant job, Complainant cannot prove this important element of the offense."); *see also* *Zajradhara v. Haitian Construction Group*, LC-17-052 (Administrative Order issued May 25, 2018 at 4) ("Complainant Failed To Prove that Employer Had Filled the Vacant or Renewed Positions with Foreign National Workers; Therefore, Complainant Cannot Prevail under 3 CMC § 4528(a)").

not discoverable upon the last-occurring event. In such instance no labor complaint may be filed more than six months after the date a complainant of reasonable diligence could have discovered the actionable conduct. . . .

3 CMC § 4962(b). “The hearing officer may, after notice and opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit.” 3 CMC § 4947(a); *see also* 3 CMC § 4938(d)(4). The Department’s employment regulations further provide, “if the complaint is not resolved at mediation, a hearing officer may then examine the complaint for timeliness. If the complaint is not timely filed, the hearing office *shall* dismiss the complaint with prejudice.” NMIAC § 80-20.1-465(e) (emphasis added).

III. FINDINGS

1. On June 3, 2019, Complainant filed a labor complaint for unpaid commission against Respondent.
2. The Complainant claim for unpaid commission allegedly occurred between May 2018 and September 2018. Specifically, the Complainant alleges, in part, “[i]t’s been more than 1 year” since the commission was earned.
3. Upon review of the allegations in the Complaint, the undersigned issued an Order requiring Complainant to show that the alleged claims fell within the applicable six month statute of limitations. As ordered, Complainant was required to file the additional information by June 20, 2019. Complainant was duly served a copy of the Order on June 11, 2019.
4. As of the date of this Order, Complainant failed to file the additional information, as ordered.
5. Accordingly, the undersigned finds that Complainant was given notice and an opportunity to respond, yet failed to act. The undersigned further finds that Complainant’s failure to provide additional information warrants reliance solely on the allegations, as written, in the Complaint.

Order (For Publication)

LC-19-042

NUMBER 07

6. Based on the allegations in the Complaint, Complainant's claim(s) for unpaid commission began to accrue sometime between May 2018 to September 2018. Using the latest possible date, the last occurring event that is the subject of the Complaint was Complainant's last day of employment. Intake documents indicate that Complainant's last day of employment was September 12, 2018.
7. Based on the allegations and information provided, Complainant's claim falls outside the six-month statute of limitations.

IV. CONCLUSION

Accordingly, the above-mentioned complaint is **DISMISSED** with prejudice.

So ordered this **28th** day of June, 2019.

/s/

Jacqueline A. Nicolas
Administrative Hearing Officer